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

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AFRICA

NORTH AFRICA

Libya

'Milestone': UNSC Backs New Libyan Interim Government (Marsad Libya)

February 10, 2021

The United Nations Security Council has unanimously agreed to support the new interim government in Libya, praising the move as "an important milestone" in the conflict-ridden North African country's political process.

In a statement drafted by Britain, the 15-member body called on "the interim executive authority to agree swiftly on the formation of a new, inclusive government," and to "launch a comprehensive national reconciliation process."

The Security Council also stressed the need to respect the ceasefire observed since October, and to proceed with "the withdrawal of all foreign forces and mercenaries from Libya without further delay."

Libyan delegates at the UN-facilitated talks in Switzerland on Friday selected an interim executive to lead the oil-rich country until December elections.

The delegates chose Abdul Hamid Dbeibah, a businessman from the western city of Misrata, as Libya's new prime minister, and elected a three-member presidential council at the end of five days of talks, which took place within a framework known as the Libyan Political Dialog Forum comprised of 75 participants picked by the UN.

All candidates for the new government vowed to honor a plan to hold presidential and parliamentary elections on December 24, and gave written pledges. None of them will be allowed to run for office.

Libya has been grappling with unchecked violence since the overthrow of former dictator Muammar Gaddafi in 2011 during an operation backed by the Western alliance of NATO.

Since 2014, two rival seats of power have emerged in Libya, namely the UN-recognized government based in the capital Tripoli, and another camp based in the eastern city of Tobruk, backed militarily by armed rebels.

The country descended into unprecedented chaos last year after the so-called Libyan National Army (LNA) under rebel commander Khalifa Haftar moved toward Tripoli to seize the city. They were repelled by government forces.

The conflict has escalated into a regional proxy war fueled by foreign powers pouring weapons and mercenaries into the country.

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Democratic Republic of the Congo

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Repression in DR Congo on a rise: HRW (Anadolu Agency) By Rodrigue Forku
January 28, 2021

The government in the Democratic Republic of Congo (DRC) has increasingly cracked down on the media and activist groups during its two years in office, Human Rights Watch said Thursday.

The rights groups said President Felix Tshisekedi's administration has threatened, arbitrarily arrested and detained and prosecuted dozens of journalists, activists and others deemed critical to the government.

"People in Congo shouldn't have to fear harassment or arrest for criticizing or peacefully protesting government policy," said Thomas Fessy, senior Congo researcher at Human Rights Watch.

"Two years on, Tshisekedi's commitments to respecting rights are starting to sound like broken promises," said Fessy.

"Once again, condemn[ed] these rights violations," DRC's Human Rights Minister Andre Lite told Human Rights Watch. "Whereas freedom should be the principle and detention the exception, we tend to make arrest before investigating in Congo

and, unfortunately, detention has become the rule. When a state official, whatever their rank, is responsible for an assault on freedom, they must be questioned and prosecuted.”

Between January and July 2020, HRW documented 39 cases of threats, harassment, and arbitrary arrest and detention related to media freedom, dissent and peaceful protest, according to Human Rights Watch.

The United Nations Joint Human Rights Office (UNJHRO) said Wednesday that it documented 7,909 human rights violations and abuses in DRC, which represents an average of 659 violations per month in 2020. It said the numbers are up 21% from 2019.

Tshisekedi has been in power for two years and has been faced with a political and security crisis.

The resource-rich country has seen an increase in rebel attacks that try to control the country’s minerals resources.

DR Congo: Repression Escalates (Human Rights Watch)

January 28, 2021

President Felix Tshisekedi’s administration in the Democratic Republic of Congo has increasingly cracked down on the media and activist groups during its two years in office. Despite some initial steps to advance a human rights agenda, the government has threatened, arbitrarily arrested and detained, and prosecuted several dozen journalists, activists, and others deemed critical of the government.

“People in Congo shouldn’t have to fear harassment or arrest for criticizing or peacefully protesting government policy,” said Thomas Fessy, senior Congo researcher at Human Rights Watch. “Two years on, Tshisekedi’s commitments to respecting rights are starting to sound like broken promises.”

Human Rights Watch interviewed 83 people by phone between January 2020 and January 2021, including victims of abuse, lawyers, activists, and journalists. The researchers found at least 109 cases of arbitrary arrests and harassment over the past year. Many victims were journalists, who faced intimidation, threats, and sometimes beatings. Intelligence agents from the National Intelligence Agency (Agence nationale de renseignements or ANR) were involved in at least 16 cases.

In the most recent case, eight young pro-democracy activists from the citizen movement Lucha were detained for one month in the northeastern town of Beni after participating in a December 19 march calling for peace in the area and denouncing the lack of civilian protection. They faced 10 years in prison on trumped-up charges of “sabotage and violence against state security guards.”

“They took us to a room [at the police station] and sat us on the floor,” one of the activists told Human Rights Watch. “Police who were outside but close to the window fired teargas into the room. We had no choice but to try to escape. I don’t know how but some of us managed to open the door. I fainted once outside.”

Following a public outcry, a military court acquitted them on January 20.

On August 20, in Lodja, in the central province of Sankuru, soldiers and the police stormed the office of the privately owned Radio Losanganya and arrested Hubert Djoko, a journalist, and Albert Lokongo, a radio technician, accusing them of supporting the governor’s longstanding political rival. They took them to the stadium where the governor was speaking.

“They whipped us and had us repeat what we said on air,” said Djoko. “The governor then gave the order to take us to the police station. In the morning, the governor sent two motorcycles to parade us across town to show we had been arrested while his supporters shouted: ‘We must kill them!’” Djoko and Lokongo said they were both beaten in custody. They were accused of incitement to tribal hatred and civil disobedience, and released on August 22. On September 16, their editor, François Lendo, was also arrested and detained for 11 days on charges of “contempt for the governor.”

In Kinshasa, on November 16, the intelligence services arrested a popular singer, Elisabeth Tshala Muana, a longtime member of former president Joseph Kabila’s political party, and detained her for 24 hours following the release of her single “Ingratitude.” She was accused of targeting Tshisekedi, though no names were featured in the song. The authorities banned her song from the airwaves.

The crackdown over the past year is in stark contrast with Tshisekedi’s first year in office, which was marked by a significant decline in political repression compared with Joseph Kabila’s administration, Human Rights Watch said. In 2019, Tshisekedi released most political prisoners, and Congolese living in exile were allowed to return to the country. However, security forces did arbitrarily detain and beat peaceful protesters in some instances during that year.

Few security and intelligence officials implicated in human rights abuses under former President Joseph Kabila were held to account, and many continue to hold positions of authority. Impunity for past repression only fuels the continuation of the same abusive tactics, Human Rights Watch said.

Congo's human rights minister, André Lite, told Human Rights Watch by phone that he "once again, condemn[ed] these rights violations.... Whereas freedom should be the principle and detention the exception, we tend to make arrest before investigating in Congo and, unfortunately, detention has become the rule. When a state official, whatever their rank, is responsible for an assault on freedom, they must be questioned and prosecuted."

The Congolese government is obligated under international human rights law to respect and uphold the right of everyone in the country to peacefully protest and freely receive and disseminate all types of information. Regional and international partners should press Congo to protect the rights to peaceful expression and assembly.

The authorities should end the harassment of journalists and media outlets and drop all charges against those held for exercising their basic rights. Congo ranked among the world's 30 worst countries violating press freedom in 2020, according to the World Press Freedom Index, despite Tshisekedi's pledge to advance the media into "a real fourth estate." The government should also repeal criminal defamation laws and take concrete measures to protect journalists in line with regional and international human rights standards.

Tshisekedi should be outspoken in defense of human rights and take action against provincial governors who seek to punish those critical of their policies. Intelligence agents and other security personnel should fully comply with international human rights standards relating to arrest, detention, and due process. Military courts should not try civilians. When serious violations occur, the authorities should promptly and impartially investigate and take appropriate disciplinary or legal action against those responsible, regardless of position or rank.

"Two years into the new administration, the crackdown on free speech and peaceful protest is intensifying," Fessy said. "Congo's international partners should publicly and privately raise concerns about escalating repression in the country with the president and his advisers."

Cases of Abuse, Repression

Between January and July 2020, Human Rights Watch documented 39 cases of threats, harassment, and arbitrary arrest and detention related to media freedom, dissent, and peaceful protest.

Since July, Human Rights Watch has documented an additional 65 cases. This list is not exhaustive.

Kinshasa Province

On July 9, a court sentenced Henry Maggie, the vice president of the youth league for former president Joseph Kabila's People's Party for Reconstruction and Democracy (PPRD), to 18 months in prison for contempt of the president, for suggesting in a media interview that Tshisekedi had not won the 2018 elections. An appeals court later added an extra six months to this sentence. Maggie said he was only informed of the new sentence in October. He has been in prison ever since his arrest in May.

On October 1, prosecutors summoned Pascal Mulegwa, a journalist with Radio France Internationale (RFI), in Kinshasa in a criminal defamation case brought against him by a senator and former minister, José Makila, over a story in which Mulegwa quoted a nongovernmental organization report accusing the plaintiff of embezzlement. Mulegwa's trial, which started on December 22, has been suspended pending an appeal.

Pius Romain Rolland Ngoie, a journalist for Radio Télévision Groupe Avenir (RTGA), was arrested on December 22, and charged with criminally defaming Fabrice Puela, a member of parliament. He is in Kinshasa's central prison in pretrial detention

On November 28, national intelligence agency officers arrested Barnabé Wimana Isombia Milinganyo, head of the Rally of Congolese Leaders (Rassemblement des leaders Congolais) party, after a television broadcast and immediately took him to court. He was tried and sentenced on the same day to three years in prison and fined US\$10,000 for "insulting the head of state and threats of attack." Although his criticism of the president on the television program raised possible incitement issues, his due process rights were violated. His appeal is ongoing.

Matadi, Kongo Central Province

In July, a group of seven lawyers, activists, and journalists fled to Kinshasa from their hometown of Matadi, in the western province of Kongo Central, where they faced threats, beatings, and abduction attempts. Roukiya Mpaka, Rachidi Malundama,

Samantha Mushiya, Guylain Kiangabeni, Tristan Mavungu, Erick Ngoma, and André Misumbu took part in protests prompted by a sex scandal involving the provincial vice-governor and called for the governor's resignation. The provincial prosecutor subsequently issued arrest warrants against some of them, on charges of contempt toward officials and contempt of President Tshisekedi. They have so far stayed away from Matadi for fear of arrest.

Tshikapa, Kasai Province

On October 10, national intelligence officers arrested Farly Kalombo, a journalist for Réveil du Congo, a community radio station, following his reporting on alleged human rights violations, including by the National Intelligence Agency, in and around the town of Ilebo. He said that the officers stole his belongings and forced him to board a barge to Kinshasa, where he is living in precarious conditions, unable to return home.

Kisangani, Tshopo Province

On July 28, police arrested Elly Munganga, Patrick Twaeni, Ilengi Ndembe, Ruphin Wema, and Henri Belafekaka, human rights defenders, as they demonstrated against mismanagement by the provincial authorities, calling for the governor to resign. They were held at the prosecutor's office and released without charges on July 30.

Goma, North Kivu Province

On December 18, the police arrested Josué Wallay Akuzwe, Djemba Uchu, Placide Itula, Emma Mwinuka, and Daniel Kikuni, all activists with Lucha RDC-Afrique, after they demonstrated for security and peace in the province. They were held for four days in a cell at the prosecutor's office before being transferred to Goma's central prison for 10 days. They were not informed of the charges or motives that prompted their arrest. They were released on January 1.

Bukavu, South Kivu Province

On December 1, police allegedly beat several journalists – Jérémie Matabaro, Prince Cikala, Bertin Bulonza, Emmanuel Deward Chuma, and Claude Musengero – as they covered a student protest. The police confiscated Matabaro's equipment, and he and Cikala were injured.

Patrice Lwabaguma, Patrick Nyamatomwa, and Gédéon Fikiri Kanigi, all activists, were arrested on July 20 and accused of threatening state security, after flags of a so-called "Kivu Republic" were raised in Bukavu earlier that month. They remain in detention at Bukavu's central prison while awaiting a verdict from the court. Lwabaguma had initiated a petition calling for the release of Tshisekedi's former chief of staff, Vital Kamerhe, who had been sentenced to 20 years in prison for corruption.

South Kivu: An Endless flight (Reliefweb)

January 28, 2021

In the last two years, the unrest in eastern Democratic Republic of the Congo has forced thousands of people to flee their homes. Many have found refuge on the other side of the border between North and South Kivu, where they share limited resources and land with equally vulnerable communities.

"We heard that there was peace in Katasomwa, so we decided to come here," says Justin, a displaced person in this remote area of Kalehe Territory, South Kivu, where there is no basic infrastructure. "Many people were killed along the way. Since we got here, in July, we have had trouble finding food. We are constantly under threat from heavy rain and the shelters we live in can burn down at any time. Our lives are miserable."

As Justin speaks, a straw hut is burning a few yards away. Nobody moves. There is nothing to do but let it burn. In a few seconds, the few possessions of one of the 957 displaced households on this site in Katasomwa go up in smoke.

Originally from Masisi in North Kivu province, Justin had no choice but to flee with his family and thousands of other people. Fighting between the national army and Kinyarwanda-speaking armed groups over the past two years has caused more than ten thousand people to cross the provincial border into South Kivu.

"They threatened us at night. They burned our houses down," says Justin. "They kept hitting us and even attacked some people with machetes."

Staggering death rates

Most of the displaced people in Mushunguti, Ramba and Bushaku are women and children. After the ordeal of life on the road and the living conditions in displacement sites such as Katasomwa, they fall sick very quickly. Diarrhoea, acute respiratory infections and intestinal parasitosis are widespread and many children are severely malnourished.

The arrival of displaced populations has been a challenge for the fledgling health system. The Katasomwa health post is run by motivated staff but it lacks adequate means.

"Displaced women avoided coming to the health post because they have no money to pay for care," says head nurse Esther Isabayo Benimana. "Many gave birth in the camp, and some died that way."

MSF is responding to the dire health situation in these highlands by providing emergency medical assistance. "We first concentrated on the groups with the highest death rates — mostly children under 15 and pregnant women," says MSF emergency medical officer David Namegabe. "Maternal mortality in the area is very high. We also targeted all surgical emergencies."

David's words are cut off by the sound of heavy hammering. MSF logistics teams are rehabilitating the health post in Katasomwa, as well as other medical facilities in Mushunguti, Ramba and Bushaku.

People in the area have not had any immunisation in more than three years. MSF, in collaboration with the health authorities, organised a multi-antigen vaccination campaign. In the three areas, around 7,000 children were vaccinated against common diseases such as measles.

"We don't understand why we are constantly forgotten"

The needs remain high and exacerbate inequalities that had been affecting the area long before the arrival of the displaced people. The Pygmy communities were forced out of the Kahuzi Biega forest, where they had been living for generations until the park became a Unesco world heritage site. They are now subjected to discrimination.

"Any child can steal but it's always the entire Pygmy community that gets blamed if something goes missing," says Roza Nyirakongomani, a representative of this nomadic community. "People say it's the Pygmies who steal. Why? Because we don't have regular activities. Our girls get raped. They leave in the morning to try to earn money but come back empty-handed. They are just taken by force. Sometimes we even know who did it but we can't take them to court because we don't have the money to pay for a trial."

These often-ignored communities warmly welcome any aid that can be offered. "We don't understand why we are constantly forgotten," says Roza. "It pains us."

To respond to the needs of the most isolated communities and take some of the burden off health facilities, MSF has identified one member in each village to be a volunteer health worker. The volunteers should be able to provide basic health and medical care and refer people to the nearest hospital in Chigoma if need be.

After theoretical training, each volunteer receives a bundle containing a notebook, pens, rubber boots and medication. This basic package will enable them to improve the health status of their fellow community members.

Different lifestyles in the remote Mushunguti, Ramba and Bushaku areas has created mistrust towards the minority displaced and Pygmy communities and stigmatised them. Their rights, which are constantly violated, need to be protected. They also need better access to healthcare, education, justice and work so they can live decently and give their children a better future.

Thousands flee eastern DR Congo due to conflict (Anadolu Agency) By Rodrigue Forku
January 29, 2021

Unrest in the eastern part of the Democratic Republic of Congo has forced thousands of people to flee their homes in the past two years, Doctors Without Borders (MSF) said Thursday.

The humanitarian group said that because of the conflict, many people have found refuge on the other side of the border between North and South Kivu provinces, where they share limited resources and land with equally vulnerable communities.

"We heard that there was peace in Katasomwa, so we decided to come here," MSF quoted Justin, a displaced person in this remote area of Kalehe Territory in South Kivu, as saying.

"Many people were killed along the way. Since we got here, in July, we have had trouble finding food. We are constantly under threat from heavy rain and the shelters we live in can burn down at any time. Our lives are miserable," he said.

The arrival of displaced populations has been a challenge for the fledgling health system. The Katasomwa health post is run by motivated staff, but it lacks adequate means.

“Displaced women avoided coming to the health post because they have no money to pay for care,” said head nurse Esther Isabayu Benimana. “Many gave birth in the camp, and some died that way.”

MSF said it is responding to the dire health situation in the area by providing emergency medical assistance.

“We first concentrated on the groups with the highest death rates – mostly children under 15 and pregnant women,” said MSF emergency medical officer David Namegabe, adding maternal mortality in the area is very high.

Several rebel groups including the Ugandan Allied Democratic Forces are very active in eastern DRC.

The Pygmy ethnic group is also being targeted and has been subjected to discrimination.

MSF said Pygmy communities were forced out of the Kahuzi-Biega Forest, where they had been living for generations until the park became a UNESCO World Heritage Site.

The modus operandi of these rebels is atypical: peasants are killed with knives, generally in the evening in the bush, returning from the fields or in the village at nightfall. The illicit exploitation of natural resources continues to be a root cause and driver of conflict in the east of the country, according to the UN.

Most of the militia groups have set aside their political demands and are involved in mineral trafficking.

Human rights: Widespread attacks in DR Congo may amount to crimes against humanity (UN News)

February 2, 2021

At least 849 civilians were killed in ADF attacks last year in Irumu and Mambasa territory, located in Ituri province, and in Beni territory in North Kivu province, according to a report published on Tuesday.

The group is also accused of injuring 62 civilians and sexually abusing four women in the second part of the year. Violations by Congolese forces

Congolese security and defence forces were also found to have committed violations in operations against the ADF in 2020, according to the report by the UN Joint Human Rights Office in the country (UNJHRO), which is in French.

Overall, some 47 civilians were killed, and 27 women and 22 children were sexually abused, while 126 people were arbitrarily arrested.

The ADF also carried out several reprisal attacks against civilians in areas previously under its control during the second half of the year, resulting in massive displacement.

The report further documents an increase in the number of civilians abducted into forced labour, with 534 people kidnapped, 457 of whom are still missing.

Armed attacks continue

The violence has continued into the new year. Unknown men attacked the Twa community in Walese Vonkutu, located in Irumu territory, on 13 January, killing at least 14 people, including two pregnant women.

“Given the widespread and systematic nature of the attack directed against the civilian population, some of the documented human rights abuses may amount to crimes against humanity,” said Marta Hurtado, an OHCHR spokesperson in Geneva.

“The violence takes place in a context of impunity, where few human rights abuses and violations and violations of international humanitarian law are duly investigated and prosecuted. An ADF attack on Beni prison in October 2020 – that led to the escape of 1,300 inmates escaped – was a blow to accountability in the country.”

Recommendations for justice The report contains several recommendations for the DRC authorities, including to ensure security forces act according to international human rights law and international humanitarian law.

Protection mechanisms for civilians, especially during military operations, must also be enhanced.

The authorities also should work with neighbouring countries, particularly Uganda, to ensure perpetrators affiliated with the ADF who seek refuge in their territories are found and brought to justice.

Suspected Islamists kill 10 in eastern Congo machete attack (Reuters) By Erikas Mwisi Kambale
February 7, 2021

Suspected Islamists killed 10 people in a raid on a village in eastern Democratic Republic of Congo and kidnapped several others, local authorities and a witness said.

The attack, in which assailants used machetes, occurred on Friday night in the village of Mabule, around 25 km (16 miles) south east of Beni, the sources said.

“They killed 10 people here without any reason,” said Muhindo Mbela, a survivor of the massacre.

It was not yet clear who carried out the attack, though local authorities blamed the Allied Democratic Forces (ADF), a Ugandan armed group active in eastern Congo since the 1990s.

The group killed around 850 people last year, according to U.N. figures.

“They simply finished off the victims with machetes,” said Mambo Kitambala from a local civil rights group.

Reprisal attacks against civilians increased sharply since the army began an operation against the ADF in November 2019, dislodging it from several bases in mountainous jungle near the Ugandan border.

“We confirm the attack on the village of Mabule by armed men we have identified as the ADF,” said Donat Kibwana, the administrator of Beni territory.

Islamic State has claimed responsibility for several suspected ADF attacks in the past, but U.N. experts have not found any direct link between the two groups.

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

How Troops Overran Terrorist Camps, Killed 60 Insurgents in North-east (This Day Live)
February 7, 2021

Troops backed by the Air Task Force of Operation Lafiya Dole, at the weekend, overran some terrorist camps in the North-east, killing over 60 insurgents. Coming after a recent visit to Borno State by the new service chiefs, the soldiers might have been buoyed by the visit.

The battle with the insurgents, however, triggered an exodus of refugees from four local government areas of Borno into Yobe State.

But the Northern Elders Forum (NEF), yesterday, called for the arrest and prosecution of any Fulani herdsman that broke the

law. And the Christian Association of Nigeria (CAN) advised the federal government to seek assistance from the United States and Israel in the fight against insurgency.

Nigerian troops, backed by jets, took control of several camps of ISIS-linked jihadists, with two senior commanders escaping after several other ranking militants were killed, two military sources told AFP.

The troops overran Islamic State's West Africa Province (ISWAP) camps in an area straddling Yobe and Borno states in the North-east after a month-long military operation, the sources said.

The operations were on-going when President Muhammadu Buhari replaced his four top military commanders after months of pressure over his government's failure to end the over a decade-long Islamist insurgency in the country.

On Wednesday, soldiers overran Dole camp, the last jihadist stronghold in the so-called "Timbuktu triangle", the two military officers said.

"With the fall of Dole, the whole area is now under the effective control of Nigerian troops," said one of the officers.

The jihadists have been in control of the area since 2013, when they seized it and established a strong presence especially, in the Talala area, which became the second largest ISWAP camp outside the group's Lake Chad stronghold.

Last month, troops took over Talala after a fierce battle in which six soldiers were killed by a suicide bomber, who detonated his explosive-laden vehicle among troops, military sources told AFP.

"It was a tough battle," said the second source on the Dole raid, noting, "The route leading to Dole was mined by the terrorists and troops accessed it on foot, engaging the terrorists in fierce battle with air support."

Several hostages were rescued from the camps while dozens of vehicles seized from kidnapped hostages were recovered, the sources said. Two high profile ISWAP commanders, Modu Sulum and Ameer Modu Borzogo, fled along with some fighters during intense fighting while other commanders were killed, said the second source.

Escaping fighters were believed to have fled to Lake Chad, which straddles Nigeria, Chad, Niger and Cameroon, where the group maintains camps on the islands dotting the freshwater lake, said the two military officers.

In another front, troops reclaimed five camps from the jihadists in Kidari, Argude, Takwala, Chowalta and Galdekore villages, where the jihadists used suicide bombers to try to stave off troops advance.

"We lost some soldiers and several were injured in the suicide attack but the soldiers managed to subdue the terrorists," said the second source, without giving details of the casualties.

Meanwhile, the Theatre Commander of Operation Lafiya Dole, Major General Faruk Yahaya, urged Nigerian troops to sustain the military offensive against Boko Haram fighters, in the North-east.

Visiting the troops after they killed no fewer than 60 Boko Haram terrorists in a weeklong operation codenamed, Tura Takai Bango, Yahaya made the call during his operational tour of military formations to commend troops fighting in Bama axis, Pulka, thrusting into deep Boko Haram and ISWAP camps and enclaves in Sambisa Forest.

In recent weeks, the troops had crushed terrorists, who attempted to invade Gamboru Ngala and also stormed "Timbuktu Triangle", a notorious enclave of Boko Haram in the heart of Sambisa Forest.

The visit of the commander came on the heels of the visit of the new service chiefs led by the Chief of Defence Staff, Major General Lucky Irabor. They had visited the theatres of war, military formations and commanders and were briefed on the state of affairs in the general area.

A Nigerian governor's call for mercenaries to support the counter-insurgency revives questions about a controversial practice. (Institute for Security Studies) By: Teniola Tayo

February 8, 2021

Following Boko Haram's brutal attack on dozens of farmers in Nigeria's Borno State last November, the state governor called on federal authorities to enlist mercenaries to counter the terror group's activities in the Lake Chad Basin. This reflected popular wariness about the ability of countries in the region to defeat the insurgents alone.

Using mercenaries against Boko Haram isn't a new idea in the region, but it raises tricky questions. Cameroon's infamous Rapid Intervention Battalion, trained by Israeli mercenaries under Eran Moas, has been involved in fighting the extremists.

It's uncertain whether Chad and Niger have engaged the services of mercenaries but their citizens appear to be working as guns for hire in other countries.

In December 2014, Nigeria's government recruited South African mercenaries to stop Boko Haram attacks on its north-eastern cities before the 2015 elections. A report at the time by the International Centre for Investigative Reporting (ICIR) mentions at least three private military companies' involvement. These are Conella Services, Pilgrims Africa, and Specialised Tasks, Training, Equipment and Protection International (STTEP).

The position of Nigeria's current administration on mercenaries is clear. President Muhammadu Buhari condemned the move even before assuming office. Using private contractors to deliver military services goes against the African Union's Convention for the Elimination of Mercenarism in Africa, which Nigeria ratified in 1986. It's also contrary to the United Nations' International Convention Against the Recruitment, Use, Financing and Training of Mercenaries, which the country signed in 1990 but never ratified.

Conella Services confirmed its contract with Nigeria to provide training and combat operations. In a recent interview with Arise News, a Conella Services representative confirmed that they were contracted by Nigeria's Office of the National Security Adviser to carry out training and combat operations against Boko Haram. He said his company sought to fill counter-insurgency knowledge and experience gaps in the Nigerian military. This included, for example, how to fly a plane at high speeds and low altitudes in the dark.

According to ICIR's investigation, in 2015 about 147 South African mercenaries and 163 specially trained Nigerian soldiers formed the 72 Mobile Strike Force special unit. This unit reportedly recovered control of major territories in the first few months of 2015, making some remarkable gains against Boko Haram. Eeben Barlow, famous mercenary and STTEP representative, detailed the 'relentless pursuit' approach that was supposedly key to overpowering the insurgents.

While issues of non-payment apparently forced the private military companies to leave by April 2015, this intervention is believed to have marked a turning point in Nigeria's fight against Boko Haram. One could arguably conclude that mercenaries should be invited back to support Nigeria's counter-insurgency. However, other intervention scenarios provide a more nuanced understanding.

During Nigeria's Civil War from 1967 to 1970, using mercenaries was common practice by both the Biafran secessionists and the Nigerian military. Some scholars suggest that these mercenaries contributed to prolonging the war.

Mercenaries have a chequered history in Africa and experience shows the dangers of using them. Trying to avoid killing their counterparts, mercenaries on the Nigerian side deliberately spared the Uli Airstrip, which had become a lifeline for the Biafran side. Also, forcing the closure of the airstrip would have been key to ending the war – and their contracts. Interpersonal relationships and personal enrichment therefore took priority in their war efforts.

The profit-driven motivations of mercenaries and the companies hiring them should never be underestimated, and their private contractor status also makes it difficult to hold them accountable. There are allegations that mercenaries have also been recruited by Boko Haram.

Mercenaries have a rich and chequered history in Africa including in countries like Angola, the Democratic Republic of the Congo, Liberia, Libya and Sierra Leone. Experience has repeatedly shown the dangers of resorting to these fighters. Still, they have enduring appeal to some African governments, most recently in Mozambique.

The argument that mercenaries allow states to use foreign expertise without foreign influence doesn't hold. It's common for governments to endorse their nationals' involvement as soldiers for rent in overseas conflicts as a way to expand influence without accountability.

The argument that mercenaries bring foreign expertise without foreign influence doesn't hold. It is important to note that in 2015 South Africa's government publicly expressed disapproval that its citizens were providing mercenary services in the Boko Haram conflict. It is illegal for South Africans to participate in mercenary activities in other countries.

Using hired guns can also undermine morale in national armies. Mercenaries are usually paid much more than local soldiers which can contribute to resentment. The elevated status granted to these external fighters can be seen as undermining local efforts. Involving mercenaries can also introduce a global dimension to local conflicts, where using mercenaries of one nationality prompts the involvement of rival nations.

Whether mercenaries should again be recruited in the war against Boko Haram remains a valid question. Victory in the war against extremism in the Lake Chad Basin has been slow to materialise and attacks are recorded weekly. South African mercenaries appear eager to return to the region, with the Conella representative saying, 'We would like to come back and finish the work that we started in Nigeria.'

Some analysts believe mercenaries will keep their strategic relevance for counter-insurgency in contexts like the Boko Haram crisis because of their agility, knowledge and expertise. However there are concerns over accountability, as well as the short- and long-term distorting effects they may have on a region's defence architecture. They are also expensive – local defence forces could use these resources more sustainably.

Instead of reverting to using mercenaries, countries in the Lake Chad Basin region should intensify efforts to build the capacity of their national forces and strengthen regional cooperation.

Since 2015, the Multinational Joint Task Force created by states in the region to combat Boko Haram has recorded meaningful gains that could be improved on. With training support from legitimate foreign armies, this is a more viable approach to the region's security needs. It should also form part of a comprehensive counter-insurgency strategy that goes beyond military might.

Army chief: We'll bring in Chadian, Cameroonian soldiers to help end insurgency (The Cable)

February 8, 2021

Ibrahim Attahiru, the chief of army staff, says Nigeria will partner with Chadian and Cameroonian troops to end the insurgency in the country.

Speaking when he addressed troops at the Army Supercamp 1 Ngamdu, Yobe state, on Monday, Attahiru said his mission is to tackle the insurgency and that he foresees the war ending soon.

"The successes recorded recently by Operation Tura Takaibango shall be cashed in to bring an end to the insurgency," Attahiru said.

"This war will be brought to an end soon. We shall do this in tandem with the forces from the Republic of Cameroon. We shall be bringing in the Chadians to ensure the annihilation of the insurgents in the north-east soonest."

The army chief said the challenges being faced by the troops will also be addressed "with military effectiveness".

"I have been briefed by your commanders about the lack of fighting equipment. I know of the lack of kits too. We are making tremendous efforts to get your boots, uniforms and protective gears in a couple of weeks," he said.

"I know the issue of overstay in the mission area has been a major problem. We will not do that almost immediately, but I can assure you that in a matter of months, we shall have a standard rotation plan that most of you will have to leave the theater of operations to be replaced by other soldiers to continue with the war. I see this war ending soon."

Attahiru also asked the troops to put in greater efforts in the fight against insurgency.

There have been several calls to the federal government to seek foreign help in defeating Boko Haram.

In January 2020, about 1200 Chadian troops deployed in the Lake Chad area in the north-east alongside Nigerien troops withdrew from the area after the end of their mission.

Later in April, the Chadian troops launched an offensive against Boko Haram in the Goje-Chadian area of Sambisa forest, capturing an arms' store believed to be one of the largest owned by the insurgents.

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Mali

Mali: Around 20 UN peacekeepers injured in major attack on MINUSMA base (United Nations)

February 10, 2021

In a statement, MINUSMA said that the 'blue helmets' under fire were able to repel the attackers, who fled after delivering a "robust response". The base was located in Kéréna, in the vicinity of Douentza, where peacekeepers have been carrying out

numerous security operations in recent months, according to head of the mission.

It has been a deadly year so far for those putting their lives on the line from the mission. Five peacekeepers died in one week during attacks in mid-January.

‘Cowardly attack’ Special Representative and MINUSCA chief, Mahamat Saleh Annadif, “strongly condemns this cowardly attack against the peacekeepers”, said the statement, adding that the main objective of the UN security operations has been “to help reduce violence against populations, restore calm in areas where community tensions are reported, and reduce the threat of improvised explosive devices”.

The Malian Government has been seeking to restore stability and rebuild the volatile country’s institutions following a series of setbacks since early 2012 that fractured the country, including a failed coup d’état, renewed fighting between Government forces and Tuareg rebels, and the short-lived seizure of its northern territory by radical extremists.

Last year military leaders staged a coup, and in September, agreed to establish a transitional Government for a period of 18 months, promising fresh elections and a return to civilian rule.

Mali for the Malians The MINUSMA chief has ensured that “all measures” have been taken to ensure the injured blue helmets “receive prompt and appropriate treatment”, according to the press release, and he wished all of those serving in what is the world’s most dangerous peacekeeping operation, a speedy and full recovery.

Mr. Annadif said that operations by MINUSMA troops to secure areas from extremist and other armed groups, were succeeding against “the enemies of peace”, and that the mission remained committed “alongside the Malians, for the Malians.”

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Liberia

Sierra Leone man on trial in Finland for Liberian war crimes (Associated Press) By Jari Tanner
February 3, 2021

A trial has started in Finland for a Sierra Leone man charged with committing serious war crimes, including several murders, and crimes against humanity during Liberia’s bloody second civil war from 1999 through 2003.

Gibril Massaquoi, who has been living in Finland for more than 10 years, is alleged by Finnish prosecutors to have held a leading position in the Revolutionary United Front, a rebel army in Sierra Leone that was involved in the Liberian civil war in West Africa.

The mask-wearing Massaquoi, known to have used the alias “Angel Gabriel,” was present at the Pirkanmaa District Court in the southern Finnish city of Tampere where the main handling of the case started Wednesday. Finnish media reported the 51-year-old defendant didn’t say anything at the court.

Prosecutors are seeking a life sentence — which is usually around 14 years in Finland — for Massaquoi, who has denied all charges. Those charges include his alleged direct or indirect participation in rapes, murders, cannibalism and using child soldiers during the conflict in Liberia.

Massaquoi was arrested in March last year by Finland’s National Bureau of Investigation in Tampere, a main industrial and university city, where according to Finnish media reports he held a job and had a family with children.

Massaquoi is allegedly the first non-Liberian to be held accountable in connection with Liberia’s brutal first and second civil wars, which are estimated to have killed at least 500,000 people. He ended up in Finland under a witness relocation scheme.

Later this month, the Finnish court, in a rare move, will temporarily relocate to Liberia and neighboring Sierra Leone to hear testimony from dozens of witnesses on the alleged atrocities carried out by Massaquoi himself or by others on his orders.

A verdict in the case is expected next fall.

Prosecution Alleges Gibril Massaquoi Directed Witnesses in War Crimes Trial (Front Page Africa)

By Salla Huusko

February 7, 2021

Prosecutors in the war crimes trial of Gibril Massaquoi alleged Friday that the defendant tried to influence witnesses in the case. State Prosecutor Tom Laitinen told presiding judge Juhani Paiho that a cleaner at the prison where Massaquoi was being held in pretrial detention found handwritten notes in the restroom of the family meeting area, following a meeting Massaquoi had with family on September 30th.

“It turned out that these notes were written by Massaquoi and contained detailed instructions for the witnesses on the case,” Laitinen said. The notes were submitted into evidence with the police pre-trial investigation materials which totalled 3800 pages.

Massaquoi’s lawyer Kaarle Gummerus dismissed the importance of these notes, arguing that his client had been in a state of panic at the time, and that the intention of the notes was to remind people of the events in the early 2000s, not to ask them to lie.

The final day of the first week of the trial in Pirkanmaa District Court in the Finnish city of Tampere was dominated by Massaquoi’s defense. Lead by lawyer Gummerus said the case relied heavily on written evidence – news articles, United Nations reports, the 2009 report by the Truth and Reconciliation Commission of Liberia (TRC) Report, and other documents that Gummerus paint a picture of a man who had no reason – or time – to be involved in atrocities in Liberia.

“We want to bring the entire context to for everyone to see, to show there are many moving parts,” Gummerus said.

Sierra Leonean Gibril Massaquoi, 51, is charged with war crimes and crimes against humanity, including murder and aggravated rape, allegedly committed during the second Liberian Civil War between 1999 and 2003. A former colonel and spokesman in the Sierra Leonian rebel group the Revolutionary United Front (RUF), Massaquoi was an informant in the case brought against Liberia’s former president Charles Taylor at the Special Court for Sierra Leone which eventually convicted Taylor and several other top leaders. Massaquoi moved to Finland in 2008 after the Northern European country signed a law allowing the settlement of informants such as him.

The prosecution against Massaquoi relies on testimonies gathered during the pre-trial investigation carried out by Finland’s National Bureau of Investigation (NBI) in between 2018 and 2020. The NBI was initially alerted of Massaquoi’s alleged past by Swiss NGO Civitas Maxima and its Liberia-based sister organization, the Global Justice and Research Project (GJRP).

On Thursday, Massaquoi’s defense lawyers argued that these organizations may have played a role in influencing witnesses’ narratives. “We ask the court to consider how the witnesses have become involved in the investigation,” the defense lawyers said. “It appears that the majority of them are either directly or indirectly involved with either Civitas Maxima or the GJRP.”

On Friday, the prosecution rejected these claims, saying that witnesses were also found by NBI investigators. “There are 55 individuals who were found entirely independently of these organizations,” prosecutor Laitinen said. “We plan on hearing 20 of those witnesses in this trial.”

The narratives of Massaquoi’s alleged involvement in committing and overseeing atrocities are consistent, Laitinen said. “Regardless of what way the witnesses were found, the common factor is that their stories of Massaquoi’s guilt are very similar,” he said.

Friday was the first day in the trial to feature direct questioning between prosecution and defense, with both interjecting to question the other’s evidence. Defense lawyers argued that newspaper stories submitted into evidence show that Massaquoi was not in Liberia at the time of the alleged crimes. They also said the absence of Massaquoi’s name in the extensive testimonies that made up the 2009 Truth and Reconciliation Commission Report showed that he could not have committed the crimes.

The prosecution challenged the trustworthiness of the media stories that the defense was relying on to establish that Massaquoi was not in Liberia when the alleged crimes took place. Prosecutor Laitinen repeatedly questioned the validity of the media reports, saying that a number of them could have involved journalists not seeing Massaquoi in person, meaning that he could have been anywhere when those interviews were done.

The trial will continue on Monday with the second part of the defense’s written evidence. Massaquoi will testify later in the week. After two weeks, the court will move to Liberia and Sierra Leone to hear witnesses there.

Defence questions timing of alleged events in Monrovia in Massaquoi trial (Premium Times) By Saira Huusko
February 10, 2021

Prosecution and defence went head-to-head on the reliability of news references to Gibril Massaquoi's whereabouts at the start of the second week of the trial against him at the Pirkanmaa District Court in the Finnish city of Tampere.

Sierra Leonean Mr Massaquoi is charged with war crimes and crimes against humanity, including rape and murder, allegedly committed in Liberia during the country's second civil war in 1999-2003. The former spokesman and commander in the Sierra Leonean armed rebel group, Revolutionary United Front (RUF), relocated to Finland in 2008, where he is being tried based on universal jurisdiction.

One of the charges by Finnish State Prosecutor Tom Laitinen centers on murders that Mr Massaquoi allegedly committed and oversaw in the Waterside market area in Monrovia, Liberia. On a number of occasions, the charges allege, Mr Massaquoi and the soldiers under his command killed civilians who were seen stealing supplies from shops at the market. The probable timing of the alleged events is between January and December, 2002, according to Mr Laitinen. Mr Massaquoi's counsel challenged these accounts on Monday, saying that the timing does not align with news of events as they reportedly happened during the civil war. Pointing to articles from CNN and The Guardian, defence lawyer Kaarle Gummerus argued that the kind of turmoil, hunger, and looting described by prosecution happened in Monrovia during the summer of 2003. No such reports exist from the prior year, Mr Gummerus said, even though reporting on events in the region was detailed.

Completing the presentation of nearly 80 different written pieces of evidence on Monday, Mr Massaquoi's defence team argues that their evidence shows Mr Massaquoi was not in Liberia during the time that the alleged crimes took place.

Their list, spanning 1999 to 2003, includes links to news articles, UN reports, and communications with the Office of the Prosecutor (OTP) at the Special Court for Sierra Leone, allegedly proving Mr Massaquoi's presence at various locations around the continent and especially in Sierra Leone's Makeni, the headquarters town of RUF.

Finnish State Prosecutor Tom Laitinen continued to question the validity of the reports, saying that many of them do not provide definitive proof that Mr Massaquoi took part in interviews and hearings in person – and that he could have been anywhere while speaking to the media and INGOs.

The court will hear from Mr Massaquoi himself later this week, after which the court will move to Liberia and Sierra Leone to hear witnesses there.

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EAST AFRICA

Rwanda (International Criminal Tribunal for Rwanda)

Official Website of the ICTR

Archives expose French role in Rwandan genocide (Anadolu Agency) By James Tasamba
January 29, 2021

Experts are urging France to own up its role in the 1994 Rwanda genocide, which saw the killing of about one million members of the Tutsi ethnic group in a span of just 100 days.

Archival evidence now suggests that French military intervention by the late President Francois Mitterand's government in the East African country went so far as to offer protection to perpetrators of the genocide.

Speaking to the media last week, Francois Graner, the research director at the National Center for Scientific Research (CNRS) at Paris Diderot University, said French officials had ignored warning signs of the genocide.

“France also gave intense military support to keep the [genocidal] regime alive. Arms support continued secretly during and after the genocide,” said Graner, who has been studying official archives related to France’s role in the genocide, since the French Council of State opened the archives last June.

“The issue is that France can no longer keep denying its role. They may not acknowledge and say we were not complicit, but historical evidence shows [it was] so,” Tom Ndahiro, a Rwandan genocide scholar, told Anadolu Agency.

In 2016, Rwanda implicated 22 French military officers for their direct role in the genocide.

A 2017 report by Cunningham Levy Muse LLP, a US law firm commissioned by Kigali, said there was strong evidence linking France to the genocide in Rwanda.

The report documented how French officials had facilitated the flow of weapons to Rwanda in the run-up to the genocide.

French troops stationed in Rwanda as part of a UN peacekeeping operation in 1994, under Operation Turquoise, even created a safe zone to help some of the perpetrators to escape to the neighboring Democratic Republic of Congo, according to the report.

Ndahiro said more facts coming out from official French archives corroborate what was already public knowledge.

“Whether France acknowledges or not the facts which are being revealed today and previously show that it was complicit, which doesn’t have to be stated but proven, it has been proven by historical records,” he said.

Strained relationship

The issue of France’s role in the genocide had strained relations between the two countries. In recent times, however, French President Emmanuel Macron has demonstrated a conciliatory approach after he appointed a panel of experts to investigate his country’s role in the genocide.

The arrest of alleged Rwandan genocide financier Felicien Kabuga in France is also seen as a change in French policy, according to analysts.

While the French presidency had said that historians and researchers looking at the period from 1990-1994 would contribute to a better understanding and knowledge, it has not yet reviewed or officially owned up its role in the genocide.

Naphtal Ahishakiye, the executive secretary of Ibuka (remember), an umbrella group for Rwanda genocide survivors' associations, voiced hope that the French panel of experts appointed by Macron will dig up the truth.

Over the years, survivors have testified on France’s role in the genocide, and the latest revelations should further help the panel, he told Anadolu Agency.

France was a close ally of the genocidal government led by then- President Juvenal Habyarimana, whose killing in a plane crash triggered the massacres.

Ndahiro recalled that after Habyarimana’s death, interim President Theodore Sindikubwabo wrote to Mitterrand on May 22, 1994, thanking France for their “moral, political and material support.”

“That letter by Sindikubwabo is more testimony of French complicity,” said Ndahiro.

“It is upon the government of France to own up,” he added. “It’s not about Rwanda accusing France but its [own] version of history. When you get involved in genocide you owe an apology to humanity, the whole world because the crime of genocide is against humanity.”

Pursuit of justice

Ismael Buchanan, senior lecturer at the University of Rwanda, asked Paris to demonstrate cooperation in the pursuit of truth and justice. But he suggested that the issue should not affect their bilateral diplomatic relations.

“It is up to both countries to work toward strengthening their bilateral cooperation,” he said, adding that while Rwanda can keep the channels open, on other matters it is important to pursue justice and accountability.

According to Ndahiro, Paris granting access to the archives is a good beginning showing there is a political will. He said that certain individuals in France were opposed to the archives becoming public so as to remain in denial mode.

“Whether France will make an official apology or show their concern in another way is something to look forward to, but the most important thing is public acknowledgment,” said the scholar.

When It Comes to Rwanda, Don't Believe Everything You See in the Movies (Foreign Policy) By

Mathilde Mukantabana

February 10, 2021

In his recent Foreign Policy article on the protagonist of the popular Hollywood film Hotel Rwanda, Anjan Sundaram adds his name to the list of commentators who have chosen the court of public opinion to absolve Paul Rusesabagina—a man who stands accused of multiple counts of terrorism.

While the screenplay written by Keir Pearson and Terry George does make for compelling drama, it diverges significantly from the reality and the lived experience of the survivors of the genocide against the Tutsi who sought refuge at the Hotel des Mille Collines in 1994.

It is not my duty to litigate in these pages; I will leave that to Rwanda's independent and internationally recognized judiciary. But it would be a betrayal of the truth to allow for uncritical, one-sided narratives pushed by several journalists—and supported by Rusesabagina's public relations machine—to run rampant. I would therefore like to draw the attention of the media to an often neglected side of the story.

According to numerous accounts from survivors, the popular portrayal of Rusesabagina—the erstwhile manager of the Hotel des Mille Collines, or “Hotel Rwanda”—is patently false. In a *Le Monde* investigation, the survivor Cyrille Ntaganira told journalists how when “Rusesabagina came to tell us we had to pay,” he was only able to stay when one of his roommates “signed an IOU with him.” Another survivor, Immaculée Mukanyonga, claimed that Rusesabagina withheld food and water to those unable to pay, forcing guests to drink chlorinated pool water. In his comprehensive book *Inside the Hotel Rwanda*, Edouard Kayihura—a genocide survivor who spent 100 days as a refugee in the Hotel des Mille Collines and was later the official in charge of prosecuting crimes against humanity in Rwanda—corroborates these testimonies and adds more, including the allegation that lists of hotel guests and their room numbers were passed on to Hutu Power radio stations by Rusesabagina.

Accounts from some foreign officials who were posted in Rwanda in 1994 and spent extensive time at the Hotel des Mille Collines during the genocide align with the allegations above. These include the United Nations peacekeepers Gen. Romeo Dallaire and Capt. Amadou Deme. Both have expressed disgust at the film. Dallaire has said it was “not worth looking at” because it was troops with the United Nations Assistance Mission for Rwanda “who stayed in Rwanda ... who saved the people at the Hotel Mille Collines—not the hotel manager, Paul Rusesabagina.” To Deme, the film's portrayal of events is “repulsive for its untruthfulness.”

When confronted with these facts, Sundaram's opinions do not stand up to scrutiny. The article fails to discuss the facts surrounding the trial, including Rusesabagina's admission that he helped found the National Liberation Front (FLN), which the Rwandan government regards as a terrorist group. This makes Sundaram's premature dismissal of the trial as a “Kafkaesque farce” irresponsible, at best. Rusesabagina is charged with founding and supporting the FLN, which has openly claimed responsibility for murdering innocent Rwandans. Not only has Rusesabagina publicly admitted that he helped form the FLN, but he also called for FLN troops to “use any means possible ... against the Kagame army.”

Sundaram sees no issue with “[a]rmed groups seeking to overthrow Kagame” being “attracted to Rusesabagina as a figurehead.” His disregard for the suffering of ordinary Rwandans, who have tragically lost their lives at the hands of terrorist groups like the FLN, is unethical and dangerous. All over the world, such groups and their leaders have been tracked down and brought to justice. There is no reason Rwanda should be an exception.

The author's incomplete assessment of the facts is again evident in his discussion of Rwanda's economic transformation, which has been roundly praised by economists such as Paul Collier. Because the hard-fought nature of our nation's unprecedented journey from devastation to development does not fit with his narrative, Sundaram goes to considerable lengths to undermine it. He cites an academic disagreement between the World Bank and a group of professors as proof that “Kagame had manipulated economic growth.” Rather than addressing the nuanced academic debate around how to weight the consumer price index in Rwanda, Sundaram creates a fiction in which the entire World Bank is apparently under the finger of Rwanda, which is manifestly absurd.

The unprecedented growth, falling poverty, and declining inequality that we have accomplished as a nation are dismissed. Instead, Sundaram rewrites reality, stating that it is “tragic,” but somehow inevitable, that Rwandans allegedly “now confront the prospect of even more violence.” One hopes he is merely misguided, rather than malicious, in implicitly validating the ideologies of terrorist groups masquerading as liberation movements.

Rwanda's government welcomes outside voices, just as we welcome strong partnerships with other nations based not on deference but on cooperation. In our commitment to national self-reliance, we accept that we will not always be perfect. But we ask that the international perception of our history and sovereign recovery be based on objective fact, not on one-sided and selective reporting.

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EUROPE

The Court of Bosnia and Herzegovina, War Crimes Chamber

Official Court Website [English translation]

Six Bosnian Serb Ex-Soldiers Tried for Deadly Village Attack (Balkan Transitional Justice) By Marija Tausan
February 3, 2021

Ex-servicemen Pero Radic, Bozo Vidovic, Petko Tomic, Branko Studen, Vlado Ristanovic and Milan Mijic went on trial for crimes against humanity on Wednesday at the Bosnian state court in Sarajevo.

The six defendants are accused of involvement in an attack in May 1992 on the village of Jusici, near the city of Zvornik, where several dozen people were killed and other Bosniak residents forcibly relocated.

"The local residents of Jusici became victims of their closest neighbours... They surrendered their weapons and remained unarmed. They trusted their neighbours," prosecutor Zorica Djurdjevic said in her introductory statement.

Besides the murders and forcible relocations, the defendants are also charged with involvement in unlawful detentions, as well as with setting property on fire and destroying it.

The indictment describes the violence on May 27, 1992, when Jusici was shelled by Bosnian Serb forces, houses were burned down, civilians were seized from basements and imprisoned at a school, men were murdered and women and children were expelled.

The first prosecution witness will be called on March 3.

Bosnian Serb ex-police officer convicted of torturing civilians during war (Jurist) By Valeria Negron
February 5, 2021

The Belgrade higher court on Tuesday found Bosnian Serb Milorad Jovanovic guilty of torturing prisoners while working as a police officer during the Bosnian War. He was convicted and sentenced to nine years in prison.

The charges stem from an incident in 1992 where Jovanovic and his superior officers forcibly removed non-Serb civilians from their homes prior to confining them in the Simo Miljuš Memorial Museum in Lušci Palank. There they were tortured in an attempt to extract information from them. In addition to physical torture, civilians were forced to convert to the Orthodox religion and "kiss the boots" of Jovanovic. As a result of this torture, one civilian died.

Judge Beraha Nikicevic said that the testimony was compelling and consistent. The Judge added that the court looked at both mitigating and aggravating circumstances in coming to their conclusion, including Jovanovic's age and the fact that he is a family man without prior convictions. This was balanced against the aggravating circumstances, including the brutal way the victims were treated when they had done nothing to deserve mistreatment.

This conviction may still be appealed.

Bosnian Serb War Criminal Asks UN Court for Early Release (Balkan Transitional Justice) By Emina Dizdarevic
February 9, 2021

Radoslav Brdjanin, the wartime political leader of the short-lived Autonomous Region of Krajina in northern Bosnia, who is serving a 30-year sentence for crimes against humanity, has again asked the Mechanism for International Criminal Tribunals in The Hague to grant him early release.

The six defendants are accused of involvement in an attack in May 1992 on the village of Jusici, near the city of Zvornik, where several dozen people were killed and other Bosniak residents forcibly relocated.

“The local residents of Jusici became victims of their closest neighbours... They surrendered their weapons and remained unarmed. They trusted their neighbours,” prosecutor Zorica Djurdjevic said in her introductory statement.

Besides the murders and forcible relocations, the defendants are also charged with involvement in unlawful detentions, as well as with setting property on fire and destroying it.

The indictment describes the violence on May 27, 1992, when Jusici was shelled by Bosnian Serb forces, houses were burned down, civilians were seized from basements and imprisoned at a school, men were murdered and women and children were expelled.

The first prosecution witness will be called on March 3.

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International Criminal Tribunal for the Former Yugoslavia (ICTY)

Official Website of the ICTY

Authorities against release of war criminals serving sentences in Estonia (ERR) February 9, 2021

The Tartu County Court on Tuesday discussed the release from prison of Dragomir Milošević and Milan Martić, war criminals serving jail sentences in Tartu Prison, under electronic surveillance, but both the prosecutor's office and the prison opposed their release.

The issue of the early conditional release of both men was discussed in the county court, but in separate hearings. The court examined the views of the prison and the prosecutor's office and heard the convicts.

In both cases, Tartu Prison did not support the early conditional release of the prisoner under electronic surveillance. The prison would only support this if the convicted person is deported or handed over to a foreign country. The prosecutor's office also did not support the early release of the men.

The court will decide on the possible release of the men no later than March 8.

In reaching its decision, the court must also take into account the position of the president of the International Residual Mechanism for Criminal Tribunals on early release. Article 8 (2) of the Enforcement Agreement provides that the president is to state whether an early release, pardon or commutation of sentence is appropriate and the state that received the application shall take note of the position received and reply to the president before taking any decision. Pursuant to paragraph 3 of the same article, the president of the international tribunal may, after receiving a reply, request the transfer of the sentenced person to another state or to the international tribunal.

78-year-old Milošević, convicted by the International Criminal Tribunal for the Former Yugoslavia (ICTY) as a war criminal, is a former Bosnian Serb commander of the Sarajevo-Romanija Corps (SRK) of the Army of Republika Srpska (VRS) which besieged Sarajevo for three years during the Bosnian War.

The tribunal found the former general guilty of a violation of the laws and customs of war and crimes against humanity. He was convicted on multiple counts of terror, murder and inhumane acts committed during the campaign of sniping and shelling which resulted in the death and injury of a great number of civilians in Sarajevo.

On December 12, 2007 the tribunal sentenced him to 33 years of imprisonment. Milosevic appealed the sentence and the tribunal's appeals chamber ruled to reduce the sentence to 29 years.

Milošević has been serving his sentence in Tartu Prison since March 22, 2011.

66-year-old Martić was the last president of the unrecognized republic of Serbian Krajina between 1994 and 1995 during the Croatian War of Independence and a war criminal convicted by the ICTY.

Martić was convicted of war crimes by the ICTY in 2007 and sentenced to 35 years in prison.

Martić has been serving his sentence in Tartu Prison since June 2009.

Estonia and the tribunal have entered into an agreement on the enforcement of court decisions, according to which Estonia will, if necessary, accept convicted persons to serve their sentence in Estonia at the request of the tribunal.

In addition to the aforementioned, serving his sentence in Tartu Prison is also 53-year-old Milan Lukić, a Bosnian Serb war criminal who led the White Eagles paramilitary group during the Bosnian War. He was found guilty by the ICTY in July 2009 of crimes against humanity and violations of war customs committed in the Visegrad region of Bosnia and Herzegovina during the Bosnian War.

He was charged with killing Bosnian Muslims in the Visegrad region and sentenced to life in prison.

Since February 2014, Lukić has been serving his sentence in Tartu Prison in accordance with the agreement between the Estonian government and the United Nations on the enforcement of judgments of the ICTY.

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Domestic Prosecutions In The Former Yugoslavia

Bosnian Serb Soldiers' Crimes Against Humanity Sentences Upheld (Balkan Transitional Justice)

By Albina Sorguc
February 2, 2021

The Constitutional Court rejected Momir and Petar Tasic's claim that they were not given a fair trial and upheld the verdict sentencing them to 14 years and five years in prison respectively for crimes against humanity.

The court's ruling, issued on January 12, said that "the disputed verdicts were explained and clear, the way the facts were determined and evidence assessed did not give an impression of arbitrariness, and nothing pointed to the violation of the right to a fair trial as a whole; the decision was not based on unlawful evidence, nor were the appellants deprived of the right to a defence".

Momir Tasic was found guilty of involvement in the forcible disappearance of six Bosniak civilians and of raping a woman in the Visegrad area in June 1992, while Petar Tasic was convicted of involvement in the forcible disappearance of the six Bosniaks.

The prosecution alleged that they arrested, tortured and abused the Bosniaks and then took them in the direction of the western Serbian town of Uzice, after which they disappeared.

Both men were members of the Visegrad Brigade of the Bosnian Serb Army.

A third defendant, Mirko Tasic, was acquitted of all charges at the original trial.

Serbia Convicts Bosnian Serb Ex-Policeman of Torturing Prisoners (Balkan Transitional Justice) By
Milica Stojanovic
February 2, 2021

Belgrade Higher Court found Milorad Jovanovic guilty on Tuesday of torturing non-Serb civilian prisoners who were being detained at the Simo Miljus Memorial Museum in Lusci Palanka in the Sanski Most area of Bosnia and Herzegovina in the summer of 1992, and sentenced him to nine years in jail.

“The fact that [Jovanovic] kicked the injured parties and beat them with his fists and baton was primarily established by the court from the testimonies of the witnesses, all of whom consistently described the blows they received, how they turned black and blue, and how they fainted,” said judge Vinka Beraha Nikicevic.

Beraha Nikicevic said the court took into account as aggravating circumstances “the gravity and consequences of the crime and the display of ruthlessness towards the victims, who did not contribute in any way towards the way they were treated”.

She said that the mitigating circumstances were that Jovanovic was young at the time that the crime was committed, that he had no previous convictions and that he has a family.

According to the indictment, Bosnian Serb reservist policeman Jovanovic, together with his commander Slavko Vukovic, who has since died, and other unnamed police officers, forcibly brought non-Serbs from villages near Sanski Most in June and July 1992 and imprisoned them in the museum in Lusci Palanka.

In order to get evidence about the possession of weapons or information about a group allegedly resisting Serb troops, Jovanovic hit prisoners with his fists, a shotgun and other objects, kicked them, tied them to a chair or a beam on the ceiling and beat them.

He also forced one of the prisoners, Dedo Dervisevic, to be baptised as Orthodox, and made him crawl on the floor and kiss his boots.

Dervisevic died as a result of the beating.

At the beginning of the trial, Jovanovic denied that he beat or hurt prisoners. He said that he did hit one civilian prisoner several times but, he insisted, the blows were “not strong” and the victim was not injured as a result.

Former prisoner Hajro Besirovic testified at Belgrade Higher Court in November 2018. According to a hearing report by the Belgrade-based Humanitarian Law Centre NGO, Besirovic said that Jovanovic, who he knew from before, “interrogated me and on that occasion beat me with a police baton” at the Simo Miljus museum.

Jovanovic admitted he hit Besirovic three times and apologised to him, but said that he had done so on the orders of his commander, otherwise he would have been sent to the battlefield.

Jovanovic’s indictment was issued in 2015 in Bosnia and Herzegovina and Serbia took over the case in 2017.

Tuesday’s verdict was a first-instance ruling and can be appealed.

Bosnia Jails Fighters for Using Father and Son as Human Shields (Balkan Transitional Justice) By
Albina Sorguc
February 2, 2021

The Supreme Court in Bosnia’s Federation entity upheld a verdict finding wartime Serb fighters Slobodan Bogdanovic and Goran Sladoje guilty of committing crimes against civilians in Sarajevo’s Grbavica neighbourhood in 1992, and sentencing them to two years in prison each.

The verdict said that the two men, as members of Bosnian Serb military and police forces, physically abused a man and his son, Bajro and Suad Besic, in Grbavica.

They then took them to the front line in Sarajevo’s Jewish Cemetery and used them as human shields. Suad Besic was killed at the cemetery.

Bogdanovic and Sladoje were also convicted of participating in the physical abuse of another man, a crime motivated by ethnic intolerance, and of stealing his property.

The Supreme Court's ruling rejected an appeal from the men's defence and upheld the lower court's verdict, which was handed down in June 2019, according to the ruling that was published on the Sarajevo Cantonal Prosecution's website on Tuesday.

Bosnian Serbs Given Deadline to Revoke War Criminals' Honours (Balkan Transitional Justice) By Danijel Kovacevic
February 3, 2021

High Representative Valentin Inzko, the international overseer of Bosnia and Herzegovina's peace agreement, has sent a letter demanded that Republika Srpska National Assembly, the parliament in the Serb-dominated entity, annuls honours that it awarded last October to people convicted of war crimes within "a deadline of three months, by the end of April 2021".

"Among those awarded were all former National Assembly speakers and members of Republika Srpska's first presidency, including Radovan Karadzic, Momcilo Krajisnik and Biljana Plavsic, whose actions shocked the world during the armed conflict and caused unimaginable human suffering," says the letter addressed to Nedeljko Cubrilovic, speaker of the Republika Srpska parliament.

"As you know, Karadzic, Krajisnik and Plavsic were convicted of war crimes by the International Criminal Tribunal for the Former Yugoslavia," adds the letter, which BIRN has seen.

Inzko writes in the letter that "the glorification of war criminals... directly hurts and provokes those who suffered the consequences of the war", as well as jeopardising prospects for reconciliation.

He notes that a plaque at a student dormitory honouring Karadzic, which caused a political storm, was taken down in December after his daughter Sonja Karadzic-Jovicevic called for its removal to end the controversy.

"This creates an extraordinary opportunity for the National Assembly of the Republika Srpska, led by you, to continue on this path to show political maturity, moral responsibility and future orientation, by honouring the victims and correcting the shame of October 24, 2016, by revoking the charters with decorations awarded to convicted war criminals Karadzic, Krajisnik and Plavsic, thus you personally and the institution under your leadership would put yourself on the right side of history," Inzko wrote.

The letter does not specify what action Inzko might take if the deadline for the annulment of the honours is not met.

In initial reactions to Inzko's letter, Bosnian Serb political representatives indicated that they will not comply with his request.

"The Republika Srpska parliament, of course, will not accept what he is asking for. Some will applaud, some will not. But when it comes to Republika Srpska, it is clear to you what the attitude is there," Mirko Sarovic, the leader of the Serbian Democratic Party, told Bosnian media on Wednesday.

Radovan Karadzic, the wartime president of Republika Srpska, was sentenced to life in prison by the UN court in The Hague in March 2019 for the Srebrenica genocide, persecuting Bosniaks and Croats throughout Bosnia and Herzegovina, terrorising the population of Sarajevo and taking UN peacekeepers hostage.

Biljana Plavsic, also a former president of Republika Srpska, plea-bargained with the Hague court in 2003 and was sentenced to 11 years in prison for war crimes. In October 2009, she was released after serving two-thirds of her sentence.

Momcilo Krajisnik, the former speaker of the Republika Srpska parliament, who died in September 2020 as a result of complications caused by COVID-19, was sentenced to 20 years in prison in March 2009.

In September 2013, when he was released, he was given a hero's welcome on his return to Republika Srpska.

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Turkey

UN urges Pakistan, 56 others to reclaim citizens from Syria (Dawn) February 9, 2021

UN rights experts urged 57 states on Monday to repatriate nearly 10,000 of their citizens – women and children associated with fighters of the militant Islamic State group – held in camps in northeast Syria in “sub-human” conditions without legal process.

Under international law, these states have a duty to repatriate their citizens and, if there is evidence, to prosecute adults for war crimes or other offences at fair trials in their domestic courts, the experts said.

Some 9,462 foreign women and children are among more than 64,600 people detained at al-Hol and Roj camps, run by Syrian Kurdish authorities, where the majority of residents are Iraqi and Syrian nationals.

“The matter is one of extreme urgency,” Fionnuala N Aolin, UN special rapporteur on protecting human rights while countering terrorism, told a news briefing after the independent experts issued a joint statement.

She said she had conveyed her demands in detailed letters to every concerned country, including Pakistan, India, Bangladesh, Australia, Belgium, Britain, Canada, China, France, Germany, Russia, Switzerland, Turkey, and the United States.

“These women and children are living in what can only be described as horrific and sub-human conditions... The conditions in these camps may reach the threshold of torture, inhuman and degrading treatment under international law,” N Aolin said.

Some women had been “groomed online” as brides of Islamic State fighters, while children “had no say in what brought them there”, she said.

The United Nations said last month it had received reports of 12 Syrian and Iraqi nationals being murdered in the first half of January at al-Hol camp, which holds internal refugees and families of IS fighters.

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Kosovo Specialist Chambers

Prosecution and Defense Clash over Start of Trial against Former KLA Commander (Exit News) By Die Morina van Uijtregt
February 1, 2021

The Hague-based Specialist Prosecutor’s Office (SPO) suggested on Monday for the trial against the Kosovo Liberation Army former commander, Salih Mustafa, to begin by March, but the defense asked for a longer time to prepare for the case.

The Prosecution team announced that the disclosure process is now “largely completed” and it will be finalized by February 15, therefore the trial against Mustafa according them should begin “as early as March, 2021”.

Mustafa’s lawyer, Julius Von Boné said that defense needs much longer time, as they need to interview witnesses.

He added that the prosecution had years to prepare the case, while the defense is being under “lot of pressure in order to file something quickly”.

The prosecutor said that August, as suggested by the defense for the completion of investigations, is unacceptable.

Salih Mustafa himself was not present before the court, after he notified in a written form the Specialist Chambers of his absence.

A week ago, the Kosovo Specialist Chambers (KSC) extended detention for him. Risk of flight, risk of obstructing the progress of Specialist Chambers proceedings and risk of committing further crimes, were listed as reasons why the pre- trial Judge, Nicolas Guillou ordered Mustafa’s continued detention.

Salih Mustafa was Commander of a BIA guerrilla unit, which operated within the Llap Operational Zone of the KLA. He is the first Kosovo citizen to be before the Specialist Chambers with a confirmed indictment. His was the first arrested by The Hague-based court in late September.

The indictment against Mustafa was confirmed on 12 June 2020, charging him on the basis of individual criminal responsibility and superior criminal responsibility with crimes committed by certain KLA members against persons detained

at the Zllash detention compound.

He is charged with arbitrary detention, cruel treatment, torture and murder. He pleaded not guilty on each count.

The Kosovo Specialist Chambers and Specialist Prosecutor's Office were established in August 2015, by the Kosovo Parliament to investigate crimes allegedly committed during and just after the war 1998- 2000.

The Chambers are part of Kosovo's judicial system but staffed by internationals and located in The Hague.

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Azerbaijan

Turkish-Russian Center Begins Monitoring Nagorno-Karabakh Truce (Radio Free Europe) January 20, 2021

A joint Turkish and Russian observation center to monitor a cease-fire between Armenia and Azerbaijan over the Nagorno-Karabakh region started operations after an opening ceremony with senior defense officials in attendance on January 30.

Azerbaijani Defense Minister Zakir Hasanov and deputy defense ministers from regional powers Turkey and Russia were there to launch the center, in the Agdam region, according to Azerbaijan's state news agency Azertac.

Turkish Defense Minister Hulusi Akar announced on January 29 that one Turkish general and 38 personnel would be stationed at the center.

Turkish officials had already said the observation center would be located in Agdam, which was captured from ethnic Armenian forces occupying it for decades during a six-week flare-up of the conflict. Monitoring of the cease-fire will be aided by drones.

"Our activities will intensify with the work of this joint Turkish-Russian center and we will fulfill our duty to defend the rights of our Azerbaijani brothers," Akar said in a statement posted on the Defense Ministry's website.

Turkey and Russia agreed to form a joint observation center shortly after Moscow in November brokered a cease-fire agreement that ended fierce fighting between Armenia and Azerbaijan over the breakaway region of Nagorno-Karabakh. Turkey was a major backer of Azerbaijan in the conflict.

Turkish Major General Abdullah Katirci and Russian Major General Viktor Fyodorenko will reportedly command their respective contingents at the center.

Under the cease-fire agreement, a chunk of the Azerbaijani territory of Nagorno-Karabakh and all seven districts around it were placed under Azerbaijani administration after almost 30 years under the control of ethnic Armenians.

Around 2,000 Russian peacekeepers are also deployed along frontline areas and to protect a land link connecting Nagorno-Karabakh with Armenia.

UN Human Rights Experts Call For Release Of Captives From Nagorno-Karabakh Conflict (Radio Free Europe) February 01, 2021

Human rights experts at the United Nations have called for the "prompt" release of prisoners of war and other captives by Armenia and Azerbaijan from their recent conflict in the breakaway region of Nagorno-Karabakh.

The UN Human Rights Office of the High Commissioner in Geneva said in a statement on February 1 that the two countries should also move quickly to return the bodies of those killed to families for burial "with due respect for cultural customs."

"Everyone deprived of their liberty for reasons related to the conflict should be returned to their homes, and relatives of those killed must be able to receive the mortal remains of their loved ones, in line with the cease-fire agreement signed on November 9, 2020," the experts said.

"Failure to disclose information on the fate and whereabouts of missing persons and refusal to hand over the remains of the

deceased may amount to enforced disappearance, which both Azerbaijan and Armenia have committed to preventing,” they added.

Armenia and Azerbaijan fought a fierce six-week battle over the region until signing a Moscow-brokered deal to halt the hostilities on November 9.

Under a cease-fire agreement, a chunk of Nagorno-Karabakh and all seven districts around it were placed under Azerbaijani administration after almost 30 years of control by ethnic Armenians.

More than 4,700 people were killed in the flare-up of violence and the UN expert group said many are still unaccounted for.

“We are alarmed at allegations that prisoners of war and other protected persons have been subjected to extrajudicial killing, enforced disappearance, torture, and other ill-treatment,” the experts said.

“No exceptional circumstances whatsoever -- whether a state of war, internal political instability, or any other public emergency -- may be invoked as a justification of torture and enforced disappearances,” they said. “Such acts, when perpetrated in armed conflict, may also constitute war crimes.”

The experts added that they were also “seriously alarmed” at reports that corpses were desecrated and called on both sides to “treat dead bodies with dignity.”

“We appeal to the authorities of Armenia and Azerbaijan to carry out thorough, prompt, independent, and impartial investigations into allegations of serious human rights violations committed during the conflict and its aftermath in order to hold perpetrators to account and provide redress to the victims. These actions will facilitate truth, reconciliation, and healing,” the experts said.

Azerbaijan Sues Armenia At European Court Over Nagorno-Karabakh (Radio Free Europe) February 09, 2021

BAKU -- Azerbaijan has filed a lawsuit against Armenia with the European Court of Human Rights (ECHR), accusing Yerevan of human rights violations during its almost 30-year occupation of the breakaway Nagorno-Karabakh region and seven adjacent districts, and during the 44-day conflict over the disputed region in 2020.

A member of Azerbaijan's parliamentary committee on legislation policies, Kamal Cafarov, said on February 8 that Baku also accused Yerevan of not undertaking measures to find out the fates of some 3,800 Azerbaijani nationals who went missing during the initial war over the breakaway region in the 1990s.

In addition, in its lawsuit Azerbaijan raised the issue of Armenia's alleged use of ballistic missiles, white phosphorus munitions, and cluster munitions during shelling of Azerbaijani towns and villages located far from the conflict zone last year.

According to Baku, such shelling resulted in the deaths of 93 civilians, including 12 children and 28 women, while 423 civilians were injured and 264 apartment blocks and 9,294 private houses were destroyed.

Nagorno-Karabakh belongs to Azerbaijan, but its territory and seven Azerbaijani districts surrounding it were controlled until early November 2020 by ethnic Armenian forces from the early 1990s.

The two sides have skirmished regularly over the years, but In September, Azerbaijan launched a military offensive that resulted in Baku regaining control of the surrounding districts, and parts of Nagorno-Karabakh itself.

The sides agreed to a Russia-brokered cease-fire on November 10, resulting in in the deployment of 2,000 Russian peacekeeping forces to the conflict zone.

Yerevan has not officially commented on the European Court case.

Armenia launches criminal cases against 10,000 soldiers for desertion in war (Azernews) By Vafa Ismayilova
February 11, 2021

Armenia’s law-enforcement agencies have launched criminal cases against over 10,000 people on charges of desertion during the war with Azerbaijan last year, namely for abandoning their combat positions and fleeing the battlefield.

The preliminary investigation agencies call for interrogation the people who left their posts or fled during the war.

It is still unclear which decision will be adopted with regard to 10,000 people against whom legal proceedings have been launched.

It should be noted that in late January, a group of Armenians who joined the war as volunteers gathered outside the Armenian Defence Ministry demanding an explanation of why they, like the others, have not been paid compensation so far. One of the protesters said that about 2,700 people are in the same situation - they are not registered in any of the military units, but all of them took part in the hostilities.

According to official reports, 3,439 Armenian soldiers died during the Second Karabakh War with Azerbaijan. Some Armenian analysts believe that Armenia's military losses in the recent war with Azerbaijan are much higher than the official figure presented by Yerevan. Earlier, the Caspian Defence Studies Institute estimated that Armenia's losses in the war reached 6,000 servicemen, while the number of injured made up 8,000.

From November 13 to the present day, bodies and remains of 1,371 Armenian soldiers have been found on the territories of recent hostilities.

Azerbaijan's losses in the 44-day-war with Armenia are 2,855, according to the information provided by the Azerbaijani Defence Ministry on January 18. In addition, 50 Azerbaijani soldiers are still missing.

Armenia and Azerbaijan started the second war over Azerbaijan's Nagorno-Karabakh region on September 27. Six weeks of fighting ended with the signing of a Russia-brokered peace agreement on November 10.

The deal stipulates the exchange of prisoners as well as bodies of soldiers following the war. The peace agreement also stipulated the return of Armenian-occupied Kalbajar, Aghdam and Lachin regions to Azerbaijan's control. Before the signing of the agreement, Azerbaijan had liberated around 300 city centres, settlements and villages, including historic Shusha city.

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MIDDLE-EAST

Iraq

Grotian Moment: The International War Crimes Trial Blog

Mass grave discovery highlights Iraq's impunity gap for worst crimes (The New Arab) By Belkis Wille
February 5, 2021

Since 2016, I have visited over a dozen camps across Iraq housing families accused of having a father, husband, or son affiliated with the Islamic State group (IS).

I have spent dozens of hours sitting in the tents of women struggling to figure out how they could get out of the camp, where they were effectively being confined by security forces as punishment for what their relative might have done, so they could offer their children the chance to have a normal life. While all these interviews have been heart-breaking, my visit to Ishaqi camp is the one that has haunted me the most.

In early December 2018, after hours of negotiations, a unit of the Popular Mobilization Forces (PMF or Hashad, nominally under the control of the prime minister) finally let me into the infamous camp in Salah al-Din governorate.

Unlike other camps, it had no presence or services from international or local organisations. The fighters themselves were the camp's "management". Most organisations that tried to enter the camp had been turned back by the fighters, who ran the site as a prison. Of the more than 400 residents, I saw only about 30 men, all older than 60. At one point I was able to slip away from the fighter assigned to monitor my interviews. The moment he was out of earshot, women stopped talking about the

horrific camp conditions, including the lack of fuel and the chronic diseases, and instead started rapidly firing names at me - dozens and dozens of names of men.

They said that a month after security forces brought them to the camp there was a nearby bombing. Afterward, the fighters promptly rounded up all 52 men in the camp between the ages of 17 and 57, accusing them of some link to the bombing, and took them away, along with a few younger boys. Their family members never heard from them again or knew their fate.

For 30 minutes, all I did was write down names, including of boys as young as 10. Before I left, at the request of the women, I tore the filled pages out of my notebook and hid them in my pocket so that the guards would not find them if they searched me.

A few weeks ago my heart sank when I saw a local news article that dispelled any hope that the men whose names I had taken down may be alive, perhaps in a secret prison somewhere. The authorities had just discovered a mass grave next to the camp, which apparently contained the remains of more than 50 people, including children as young as 8 or 10.

I am losing track of the number of times I have documented allegations of killings in Iraq, only to read in the news several months or years later that a mass grave was discovered right where the killings allegedly occurred. And yet, I cannot remember a single time where any mass killings by Iraqi forces were investigated.

Until late 2020, tens of thousands of Iraqis, mostly women and children, were living in camps, some that functioned as de facto prisons, because the government and their local community wanted to punish them for their relative's perceived roles in IS by preventing them from returning to a normal life.

This changed in October, when the government moved to close all camps across the country, stripping the families of access to food, water, shelter, and health care, and leaving them with nowhere to go and no men left to earn a living.

The authorities closed Ishaqi camp in November. The residents were freed but as with many of the others freed from the camps, other units of fighters are controlling their villages and are not allowing them to return home. So they have been left to fend for themselves. Women across Iraq in the same position have told me and others that they feel unsafe and are at risk of sexual violence.

The mostly women and children who were held prisoner in Ishaqi camp for years deserve to go home, or make a new home elsewhere, and the government should be throwing its full might behind protecting and supporting them.

But these former residents also deserve to know what happened to their loved ones, and impunity for abusive security forces needs to end. The Iraqi authorities can begin to address this apparent atrocity by opening a credible investigation into the incident, starting by locating the former camp residents, many of whom are currently living in squalid conditions in an abandoned train station nearby, to interview them about the details of their relatives' disappearance and take DNA samples to help identify the remains of those found in the mass grave.

The international community has a role to play too. In 2017 the United Nations Security Council decided to create a team, UNITAD, to help the Iraqi government document and prosecute the grave crimes committed by IS, including by exhuming mass graves in Iraq. But it chose to exclude from UNITAD's mandate investigations into the grave crimes that Iraqi security forces committed in the battle against IS.

One-sided justice in Iraq will not serve anyone's interests, and the families from Ishaqi camp deserve justice for abuses against their loved ones just as much as every victim of IS does. The international community needs to have the courage to push as hard for judicial investigations into these abuses as well.

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Syria

Several killed as bomb blast hits Afrin in northern Syria (Al-Jazeera) January 30, 2021

At least five people have been killed and more than 20 wounded when a car bomb detonated in the northern Syrian town of Afrin, according to the Turkish defence

ministry.

The ministry said in a statement the explosion took place on Saturday in an industrial site at the centre of the town and wounded 22 people.

Turkey's state-run Anadolu Agency said the death toll was six, citing local sources in the region, adding that at least 25 people have been wounded.

There was no immediate claim of responsibility, but the Turkish defence ministry blamed the attack on Syrian Kurdish People's Protection Units (YPG) fighters.

Ankara regards the YPG as a "terrorist" group tied to the outlawed armed Kurdistan Workers' Party (PKK) group inside its own borders, and has staged multiple incursions into Syria in collaboration with Syrian rebels it backs to push YPG and ISIL (ISIS) fighters from the Turkish frontier.

Afrin was largely cleared of YPG fighters in 2018 through a military operation by Turkey, but the town and other parts of the region are regularly rocked by such bombings.

Ankara now retains a large military presence in the area, deploying thousands of troops in the last rebel enclave in Syria.

The PKK, designated a "terrorist" group by Turkey, the United States and the European Union, took up arms against the Turkish state in 1984. More than 40,000 people have been killed in the conflict, focused in southeast Turkey.

13 killed in car bombs, shooting in northern Syria (AP) January 31, 2021

One Syrian was killed on Sunday and four injured after Kurdish security forces opened fire at pro-government demonstrators in a northeastern city, state media said.

The state news agency SANA said the Kurdish forces opened fire at demonstrators protesting the siege on their neighborhood in Hassakeh city. The area is known as the security square and is controlled by government forces.

Separately, two car bombs went off two hours apart in the northwestern town of Azaz and another village some 50 kilometers (30 miles) away. The explosions in the areas controlled by Syrian opposition fighters allied with Turkey killed six civilians, including one child in Azaz, and six fighters at a checkpoint in a village near the town of al-Bab, first responders known as Syrian Civil Defense and opposition media reported.

Turkey and allied Syrian fighters control large parts of northern Syria, and are at odds with government forces and Kurdish-led forces, who are considered terrorists by Ankara. The opposition-controlled areas are scene of recurrent attacks that are rarely claimed by any one side. The Syrian Civil Defense said it responded to 11 explosions in northwestern Syria since the start of January, before Sunday, where at least 11 people were killed.

A video of the rally in the northeastern city of Hassakeh showed dozens of men gathering in a street on a rainy day as fire rang out over their heads. The men began chanting: "With our souls, our blood we sacrifice for you Bashar," in reference to the Syrian President Bashar Assad.

A Kurdish-run news agency, Hawar, said security forces at a checkpoint in the city had come under fire, prompting its members to respond to the source of fire. The clashes led to the death of a government security member, the agency said.

The different accounts could not be immediately reconciled or independently verified in the city where both security forces have presence.

The Kurds, Syria's largest ethnic minority, have carved out a semi-autonomous enclave in Syria's north since the start of the civil war in 2011. In the area, they run their own affairs and control most of the country's oil resources.

In both Hassakeh and Qamishli cities, they share control with government forces— which have presence in security zones, near the airport and in some neighborhoods. Both cities have a sizeable Kurdish population. Tension occasionally erupts between the two sides, but the Kurdish forces have more presence and control there. In recent weeks, Kurdish forces have imposed a siege on government neighborhoods in Hassakeh and to a lesser degree in Qamishli.

In Hassakeh, the Kurdish forces prevented flour from entering the government-controlled areas, forcing bakeries to shut down in the last week. Fuel and water have also been prevented from passing through checkpoints erected around the neighborhoods. Amid the tension, the two sides have conducted arrest campaigns against each other's supporters and security members.

There was no immediate comment from the Kurdish forces. But Kurdish officials have previously said they were reacting to government troops which have imposed a siege and are harassing Kurdish-dominated neighborhoods in the northwestern Aleppo province where government is in control.

The Kurdish forces are backed by the U.S-led coalition, with which they fought Islamic State militants in Syria and ended their territorial control of large parts of the country in a military campaign that ended in 2019.

The U.S-led coalition still has forces in Kurdish-controlled areas in Syria, citing continued joint efforts to weed out the militants' remnants. The presence of US troops is another reason for tension between the Kurdish and government forces.

Russia, which conducts patrols in northeastern Syria and is a main backer of the Syrian government, has offered to mediate between the Kurdish forces and the government.

The Britain-based Syrian Observatory for Human Rights said government forces have besieged Kurdish areas in northwestern Aleppo for month— preventing foods and medical supplies from entering. The Kurdish forces responded by imposing a siege in on government areas in the two cities for the last 21 days.

The Observatory said it is not clear if the person killed in the protest was a civilian or member of the government security forces.

Killings Spike at Syrian Displacement Camps, Raising Fears of IS Resurgence(VOA News) By Jeff Seldin
February 08, 2021

A surge in violence at one of the biggest displaced persons camps in northeastern Syria is sparking renewed fears that the Islamic State terror group maintains a worrisome grip on the region.

Humanitarian officials and researchers say the al-Hol camp, home to about 62,000 mostly women and children, has been plagued by at least 18 murders since the start of the year, including 12 in the first two weeks of January.

According a report Monday by the pro-Kurdish Rojava Information Center (RIC), at least half of the killings were executions in which the victims appear to have been beheaded, and that many of the attacks appear to be linked to IS.

"Undoubtedly, ISIS has a lot of influence with the camp," Charles Flynn, a RIC researcher, told VOA, using another acronym for the terror group.

In one case, Flynn said an Iraqi elder was publicly beheaded for working with the Asayish, the Syrian Democratic Forces (SDF) who provide security for al-Hol, and that other killings have been "claimed by active ISIS members who reside there."

"There seems to be internal courts and councils of ISIS members who decide the fate of these victims and others," he said.

The sudden spike in violence has alarmed United Nations' officials, who have warned the killings "indicate an increasingly untenable security environment."

U.N. officials said the 18 killings so far this year contrast with a total of about 35 at al-Hol for all of 2020, while RIC researchers recorded only two such murders this past December.

The influence IS appears to be exerting over developments at al-Hol has likewise gotten the attention of U.S. military commanders.

"This is an alarming development with potentially generational implications," U.S. Central Command's Gen. Kenneth "Frank" McKenzie warned Monday during a virtual address to the Middle East Institute. "Unless the international community finds a way to repatriate, reintegrate into home communities, and support locally grown reconciliation programs we will bear witness to the indoctrination of the next generation of ISIS as these children become radicalized," McKenzie said. "Failing to address this now means ISIS will never be truly defeated." Of the approximately 62,000 displaced persons still living in the al-Hol camp, more than half are children under the age of 12. "The recent increase in violent events at the camp underscores that the camp is no place for any child to grow up," U.N. OCHA spokesperson Danielle Moylan told VOA Monday. "Durable solutions for all residents – whether Syrian, Iraqi, or from another country – are needed." Intelligence from U.N. member states has also raised growing concerns about al-Hol.

"Some detainees see Hawl [sic] as the final remnant of the 'caliphate,'" according to a report issued last week.

"Minors are reportedly being indoctrinated and prepared to become future ISIL operatives," the report added, referring to IS by one of its other acronyms.

The Autonomous Administration for North and East Syria (AANES), which works with the SDF to maintain al-Hol, has been working to help the camp's 24,000 displaced Syrians return home. But the effort has been slow, with just over 800 leaving the camp as of late last year.

On Monday, a group of U.N. human rights experts sent letters to 57 countries, including to members of the U.S.-led coalition, calling on them to immediately repatriate nationals who are being held at al-Hol.

"Thousands of people held in the camps are exposed to violence, exploitation, abuse and deprivation in conditions and treatment that may well amount to torture or other cruel, inhuman or degrading treatment or punishment," they wrote. Counterterrorism officials and experts who study IS have warned operatives have consistently sought to use poor conditions at camps like al-Hol in an effort to strengthen the terror group's brand.

There are likewise concerns about the dozen or so makeshift prisons in northeast Syria, which hold about 10,000 IS fighters, including about 2,000 fighters from outside Syria and Iraq.

While the SDF continues to guard the prisoners with guidance and resources from the U.S.-led coalition, the prisoners "largely govern themselves," warned U.S. Central Command's Gen. McKenzie, who added any breakout could fuel IS's efforts to regenerate.

More broadly, U.S. officials have told VOA that despite ongoing pressure, IS has managed to expand its influence in parts of Syria and Iraq.

U.S. officials have estimated IS has anywhere from 14,000 to 16,000 fighters across Iraq and Syria, though intelligence from U.N. member states puts the figure at about 10,000.

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Yemen

Biden Administration Ends US Involvement in War against Yemen (CATO Institute) By Doug Bandow
February 8, 2021

Secretary of State Antony Blinken announced what is likely to be just the first reversal of many Trump administration policies, in this case Washington's slavish subservience to the Saudi royal family. Indeed, Blinken's immediate predecessor, Mike Pompeo, ended his disreputable tenure with a final, and highly dishonest, gift to Riyadh: designating Saudi Arabia's Yemeni opponents as "terrorists."

The label was meant to further impede the operation of Yemen's government, dominated by a religious and political faction known as Ansar Allah or the Houthis. They had committed no terrorist acts, nor even provided money and personnel for terrorist attacks, as had the Saudis for 9/11. However, for years the legal designation has been applied for political purposes, as in this case.

Humanitarian groups warned Pompeo that the legal ramifications of the declaration would make it impossible for them to work, but that mattered little to him. After all, he spent his entire time as secretary helping the Kingdom of Saudi Arabia commit multiple war crimes and create a humanitarian disaster in Yemen. Indeed, Pompeo's posture in office was a permanent genuflect toward Riyadh and the palace of Mohammed bin Salman, the Saudi crown prince. For unknown, and perhaps unknowable, reasons – cynics suggested hope for future investment opportunities – the Trump administration's policy simply was Saudi Arabia uber alles.

The Biden administration's good news goes further, however.

The Obama and Trump administrations made Americans active accomplices to Saudi (and Emirati) war crimes by supporting the aggressive war against Yemen. That nation, one of the poorest on earth, had been racked by internal conflict for most of its

relatively short life. (In fact, there were two Yemens to start, but that is another story.) The Houthis fought the central government for years. Arab Spring protests resulted in the ouster of Yemen's long-serving president in 2012, but he soon joined with the Houthis and together they defenestrated his successor. At which point the KSA and United Arab Emirates joined in a "coalition," aided by mercenary states paid to join the conflict (for instance, Sudan) to reinstate the "legitimate" but unpopular former president, then living in exile in Riyadh.

This was Yemeni politics at its worst, with no moral significance (every participant in the saga was vile, brutal, corrupt, self-serving, callous, and more). Nor was American security implicated – previous governments had worked with the U.S. against al-Qaeda in the Arabian Peninsula. The Houthis were, if anything, even more anti-AQAP. America got involved because the Obama administration, including Biden and at least seven of his current top aides, sought to assuage Saudi concerns over the nuclear deal with Iran by helping the royals slaughter Yemeni civilians. Such is how Washington has always shamelessly sucked up to the pampered royals.

Washington has an obligation to do what it can to atone for its murderous sin of making the Saudi/Emirati war its own.

True, that's not how MbS and his criminal gang explained it, but it turns out that the Saudi military does little well, other than bomb weddings, funerals, school buses, markets, and the like. Thousands of civilians have been killed directly, the vast majority by Saudi and Emirati airstrikes. (The Houthis also are none-too-gentle, but their worst weapon against civilians, undifferentiated artillery bombardments, has killed far fewer civilians.) Even deadlier have been the indirect impacts of the war, particularly the "coalition" blockade, bolstered by multiple air attacks on commercial sites.

This all occurred in a land that was poor and underdeveloped to start. The UN's Comprehensive Report of the Group of Eminent International and Regional Experts on Yemen cited "the suffering of millions caught in its grip. ... Yemen remains a tortured land, with its people ravaged in ways that should shock the conscience of humanity."

An estimated quarter of a million people have died. Some 4.3 million have been displaced. Malnutrition and disease stalk the land, as the civilian infrastructure to meet health and other social needs, never good, has been ravaged. The United Nations declared that "humanitarian crisis in Yemen remains the worst in the world." In late 2019 the UN explained: "An estimated 24 million people – close to 80 per cent of the population – need assistance and protection in Yemen With famine threatening hundreds of thousands of lives, humanitarian aid is increasingly becoming the only lifeline for millions across the country."

Yet the Obama and Trump administrations provided generous support for the forces most responsible for this hardship. The US sold both the KSA and UAE warplanes, serviced by US personnel, refueled (initially) by US tankers, guided by US intelligence, and armed by US manufacturers. If a country wanted to kill someone, it knew who to call: Washington. The US was an accomplice to mass murder in Yemen every step of the way.

On and on this went, as the Trump administration spared no expense or principle in subordinating US values and interests to the one of the few remaining absolute monarchies on earth. Indeed, President Donald Trump essentially subcontracted US Mideast policy to Riyadh. Nothing was too much to do for the Saudi Royals, even carrying out a counterproductive economic war against Iran, which nearly set the Middle East ablaze. Critics wondered what hold MbS had over Trump to win such unthinking fealty.

However, last week the new president, who appears to believe that basic decency should infuse policy formation, announced in his speech at the State Department: "We're also stepping up our diplomacy to end the war in Yemen, a war which has created humanitarian and strategic catastrophe. ... Diplomacy will be bolstered by US AID working to ensure that humanitarian aid is reaching the Yemeni people who are suffering an unendurable devastation. This war has to end, and to underscore our commitment, we're ending all American support for offensive operations in the war in Yemen, including relevant arms sales."

The latter is particularly important. The UN's Group of Experts explained: "the parties to the conflict continue to show no regard for international law or the lives, dignity, and rights of people in Yemen, while third states have helped to perpetuate the conflict by continuing to supply the parties with weapons." America is the most important third state, not Iran. Indeed, Washington's complaints about Iranian involvement in Yemen are risible, given US backing for the aggressors who are responsible for most of the attacks on civilians. Support which, warned the State Department, could make American officials liable for prosecution for war crimes.

It is critical that the US not be misled by calls to essentially turn Yemen into another endless war. For instance, Varsha Koduvayur, with the Foundation for Defense of Democracies, argued that the "US must not abandon Yemen to Iran" and "must take into account the very real threat posed by Iran's co-optation of the Houthis."

However, the administration should not be fooled by such tropes pedaled by Riyadh. Ansar Allah, though malign, is no threat to America. And it has never been a tool of Tehran. Indeed, the group (unfortunately) ignored Iran's advice not to seize Sanaa. Theologically the Houthis are more moderate than the intolerant Wahhabism promoted by the Saudis around the world,

including in Yemen (and America!). And the movement relies heavily on Tehran for weapons because it has no other choice, facing a wealthy aggressor amply supplied by the world's greatest arms merchant, America.

Ending US participation in the war is not enough. Observed Farea al-Muslimi of Chatham House: "The Gulf countries already have a lot of weapons, so the decision is symbolic in a lot of ways." Having essentially subsidized the conflict for six years, Washington should actively push for peace. Helpful is the fact that Timothy Lenderking, tapped by Biden to be a special envoy for the conflict, admitted last year that the Houthi movement "had a legitimate role to play in Yemen." However, the country is Humpty Dumpty after falling off the wall; the fractures go well beyond the Houthis and the government they ousted. Indeed, it isn't clear that it is possible to revive a united Yemen, especially after the Emiratis encouraged separatist factions in the south.

The administration should urge allied powers to halt weapons sales to Riyadh and press the UN Security Council to ban Yemen-related sales to the Saudis and Emiratis (who have backed away from active participation in the conflict). Washington also should talk with Iran on the issue – separate from but building on America's planned return to the Joint Comprehensive Plan of Action on the nuclear issue.

Moreover, the US and Europeans should press for a larger dialog involving Riyadh and Tehran. Realizing that Washington is willing to press the KSA should attract Iran; realizing that the administration will not shill for the royals as did President Donald Trump should give an extra push to the Kingdom. De-escalating hostilities will not be easy but would dramatically reduce pressure for American military involvement in the region.

Indeed, it is vital that the administration not leave the rest of the U.S.-Saudi relationship unchanged, as Biden appears ready to do. Immediately after promising to end American participation in the Yemeni war, the president added: "Saudi Arabia faces missile attacks, UAV strikes, and other threats from Iranian supplied forces in multiple countries We're going to continue to support and help Saudi Arabia defend its sovereignty and its territorial integrity and its people." Moreover, on Friday Blinken called the Saudi foreign minister. State Department spokesman Ned Price said reported that they "discussed regional security, counterterrorism, and cooperation to deter and defend against attacks on the Kingdom."

However, the attacks cited by the president came only after the KSA fomented U.S. sanctions against Iran, invaded Yemen, and targeted civilians. The Saudi royals expected a short campaign and apparently were shocked when the Yemenis had the bad manners to shoot back. The Saudis thought being an al-Saud means never having to be accountable. The other mentioned threats respond to Saudi threats. There is no chance of Iran becoming a pacific power without a corresponding end to the Kingdom's belligerence.

Moreover, defense is what tens of billions of dollars' worth of arms sales, separate from the Yemen conflict, were supposedly for. With the KSA allied with UAE and well-armed Egypt, as well as increasingly with Israel, the royals should be able to organize their own defense. Of course, in the past the royal regime appeared to assume that weapons payments were actually the informal price of American personnel being sent to act as bodyguards, but Biden should inform the royals that US service men and women will not be hired out as de facto mercenaries.

Doing so is especially inappropriate for a regime so antithetical to American values and principles. Saudi Arabia long was the closest example of a totalitarian state, even more so than North Korea: not the slightest political liberty, not the slightest religious toleration, and extensive and arbitrary social controls. Under MbS the last finally has loosened, but he tightened the first while delivering only rhetoric on relaxing the second. Indeed, the crown prince ostentatiously imprisoned women who had protested the ban on women driving as he lifted the prohibition. His most ostentatious crime was turning the Istanbul consulate into an abattoir in which Jamal Khashoggi, a critical journalist and US resident, was murdered and dismembered.

Saudis contributed generously to al-Qaeda with both money and volunteers – 15 of 19 9/11 hijackers were Saudis. The government largely looked the other way until the group was foolish enough to strike at the monarchy. Then the royals' survival instincts kicked in and they destroyed the organization.

Since then the Saudis have been an effective if still untrustworthy ally against terrorism. That is one reason to retain a civil relationship with the Kingdom, along with its still abundant oil reserves. However, the US no longer should treat the regime with special gentleness while ignoring its crimes at home and abroad. And America certainly should no longer underwrite the Kingdom's terrible war crimes against a people who have done nothing against America.

Radhiya al-Mutawakkil, head of the human rights group Mwatana, observed: "Yemen was never good. But the situation was never bad like this." Washington has an obligation to do what it can to atone for its murderous sin of making the Saudi/Emirati war its own. To his credit Biden has taken the critical first steps. However, much more is necessary to bring some measure of justice and peace to Yemen.

UK approved \$1.9bn of arms sales to Saudi Arabia since ban lifted (Al-Jazeera) February 9, 2021

The United Kingdom signed off on arms exports worth nearly 1.4 billion pounds

(\$1.9bn) to Saudi Arabia between July and September last year following the lifting of a ban on weapons sales to the Gulf country – a move critics slammed as “immoral” amid the continuing war in Yemen.

The publishing of the figures by the UK's Department for International Trade on Tuesday came days after new United States President Joe Biden said his country was ending all support “for offensive operations” by a Saudi Arabia-led military coalition fighting Yemen's Houthi rebels, including “relevant arms sales”.

The announcement prompted mounting calls for the UK – the US's main ally – to do the same, but British officials have so far refused to follow suit.

The UK's previous moratorium on arms sales to Saudi Arabia came into effect in June 2019 after its High Court issued a landmark ruling forcing officials to pause sales amid concern the weapons would be used in violation of international humanitarian law.

A subsequent government review concluded there had been “isolated incidents” of possible violations by Saudi forces in Yemen, but “no clear risk” of future serious breaches. Officials announced in July 2020 that the UK would resume arms sales to Saudi Arabia – its biggest weapons buyer – in the wake of the review's findings.

In the three-month period following the restart, the UK authorised weapons exports worth 1.39 billion pounds (\$1.9bn), according to the government figures. The category of arms including missiles and bombs accounted for 1.36 billion pounds (\$1.88bn) of the sales, although the figures did not state which manufacturers received the export authorisations.

Anti-arms trade campaigners slammed the sales as “shocking” and said the figures “illustrate the UK government's determination to keep supplying arms at any cost”.

“UK-made weapons have played a devastating role in the Saudi-led attacks on Yemen, and the humanitarian crisis they have created, yet the UK government has done everything it can to keep the arms sales flowing,” Sarah Waldron, a spokesperson for the Campaign Against the Arms Trade (CAAT), said in a statement on Tuesday.

“Now even the US is curbing its arms sales, while the UK government is continuing to fuel the war,” CAAT's Waldron said. “They must change course now and work to support meaningful peace.”

Martin Butcher, international aid group Oxfam's conflict adviser, said UK politicians had “once again ... put profit before Yemeni lives” and branded the arms sales documented on Tuesday as “immoral”.

“Arms exports to Saudi Arabia should stop immediately,” Butcher said in a statement. “Yemen is living through the world's largest humanitarian crisis, with two-thirds of the population reliant on food aid and yet people are profiteering from the misery caused by these arms sales.”

Al Jazeera contacted the Department for International Trade for comment on the criticisms levelled against the government. In response, a spokesperson said the UK operates “one of the most comprehensive export control regimes in the world”.

“The government takes its export responsibilities seriously and rigorously assesses all export licences in accordance with strict licensing criteria,” the spokesperson said. “We will not issue any export licences where to do so would be inconsistent with these criteria.”

The conflict in Yemen started in 2014 when the Houthis seized large swaths of the country, including the capital, Sanaa.

The war escalated in March 2015, when the Saudi Arabia-led coalition intervened in an attempt to restore the government of President Abd-Rabbu Mansour Hadi.

The coalition has been assisted by several Western powers, including the UK and the US. According to CAAT, the UK has authorised arms sales worth 6.8 billion pounds (\$9.3bn) to Saudi Arabia since March 2015.

Both sides in Yemen's conflict have since been accused of war crimes during fighting that has killed more than 110,000 people to date, including in excess of 12,500 civilians, according to the Armed Conflict Location and Event Data project.

Peace talks aimed at resolving the conflict have been stalled since late 2018, despite repeated efforts by United Nations officials to revive negotiations and end what it calls the world's largest humanitarian crisis.

According to the UN, 80 percent of Yemen's 30 million people depend on humanitarian assistance to survive.

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Special Tribunal for Lebanon

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

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Israel and Palestine

Israel/Palestine: ICC Judges Open Door for Formal Probe (Human Rights Watch) February 6, 2021

The International Criminal Court (ICC) judges' decision on February 5, 2021 confirming the court's jurisdiction over the situation in Palestine opens a long-awaited path to justice for Israeli and Palestinian victims of serious international crimes, Human Rights Watch said today. The judges' decision responds to a request made on January 22, 2020, by the ICC Office of the Prosecutor to confirm the scope of the court's mandate in Palestine.

The Office of the Prosecutor is now expected to open a formal investigation. It said it was analyzing the judges' decision and would then decide next steps guided by its mandate and obligations under the ICC treaty.

"This pivotal ruling opens the door for an investigation that may lead to those most responsible for serious crimes one day answering for their actions at a fair trial," said Balkees Jarrah, associate international justice director at Human Rights Watch. "It's high time that Israeli and Palestinian perpetrators of the gravest abuses – whether war crimes committed during hostilities or the expansion of unlawful settlements – face justice."

On December 20, 2019, the Office of the Prosecutor concluded a nearly five-year-long preliminary inquiry into the Palestine situation and determined that all the necessary criteria to proceed with a formal investigation of alleged serious crimes by Israelis and Palestinians in that territory had been met. In May 2018, Palestine had formally asked the ICC prosecution to initiate an investigation into allegations of serious crimes committed on its territory and affirmed its commitment to cooperate with the court.

Because of Palestine's request, the Office of the Prosecutor did not require judicial authorization to move forward with an investigation but it nonetheless sought guidance from the court's judges on the ICC's territorial jurisdiction. Specifically, the office asked the court's judges to confirm that the territory over which the ICC can exercise its authority comprises the West Bank, including East Jerusalem, and Gaza.

In addition to written submissions from Palestine and various victims, 43 other amicus briefs were submitted to the court for its consideration, including by various academics, civil society groups, intergovernmental organizations, and a number of countries. Although it was invited to make submissions, Israel did not formally engage in the judicial proceedings.

Since 2016, Human Rights Watch has called on the ICC prosecution to pursue a formal Palestine investigation given strong evidence that serious crimes have been committed there. The grave nature of many of the violations and the pervasive climate of impunity for those crimes make an ICC investigation necessary, Human Rights Watch said. The ICC, a court of last resort, can step in only when national authorities cannot or do not genuinely pursue cases, as the Office of the Prosecutor found in this case.

The ICC judges' decision comes after the court faced unprecedented pressure from the previous US administration, Human Rights Watch said. In September 2020, then-President Donald Trump imposed sanctions on two ICC officials, including its

prosecutor, Fatou Bensouda. The June 2020 executive order authorizing such sanctions followed nearly two years of escalating threats by the former US administration to thwart ICC investigations in Afghanistan and Palestine that could probe conduct by US and Israeli nationals.

On the same day that the Office of the Prosecutor announced it would seek a ruling on the court's territorial jurisdiction, Israel's attorney general released a memorandum contesting the ICC's mandate. Prime Minister Benjamin Netanyahu later called for sanctions against the court and its officials. Israel signed but has not ratified the ICC's treaty, and in 2002, it announced that it did not intend to become a member of the court.

The administration of US President Joe Biden has indicated it would review the sanctions but has yet to rescind the Trump executive order setting them in place. This is in spite of clear opposition expressed by ICC member countries to the sanctions, including key US allies. The US State Department spokesperson, Ned Price, said during a February 5 briefing that the administration is reviewing the ICC's decision and has "serious concerns about the ICC's attempts to exercise jurisdiction over Israeli personnel."

Human Rights Watch has opposed the Trump executive order as a threat to the rule of law, the court, and its work in bringing justice to victims.

ICC member countries should voice their support for the court and stand ready to protect the court's mandate against any action to undermine the court's independence and block a Palestine investigation, Human Rights Watch said.

For over 50 years, Israeli governments have transferred their citizens into the Occupied Palestinian Territory, even though such transfers to occupied territories are unlawful under international humanitarian law. The settlements that they engender are at the core of a system that dispossesses, severely discriminates against, and systematically violates the human rights of Palestinians, Human Rights Watch said. Since 2017, the Israeli government has ramped up the construction of new settlements in the West Bank. The ICC treaty classifies as a war crime an occupying power's transfer of its own civilians "directly or indirectly" into territory it occupies.

The alleged crimes at issue at the ICC are not limited to unlawful settlement-related activity, Human Rights Watch said. Human Rights Watch documented unlawful attacks, including war crimes and apparently deliberate attacks on civilians and civilian infrastructure, during the 2014 hostilities in Gaza that killed more than 1,500 civilians in the Gaza Strip. Israeli forces carried out many of these attacks, which also damaged hospitals and other critical infrastructure, and destroyed the homes of more than 100,000 Palestinians.

Palestinian armed groups launched thousands of rockets and mortars indiscriminately toward Israeli population centers, killing 5 Israeli civilians and wounding 36, and causing thousands of civilians in communities near Gaza to temporarily leave their homes.

More recently, Human Rights Watch concluded that Israeli forces' repeated use of lethal force in the Gaza Strip since March 30, 2018, against Palestinian demonstrators who posed no imminent threat to life based on unlawful orders from senior officials may amount to war crimes. A United Nations inquiry on the 2018 Gaza Protests found that members of the Israeli security forces shot at "unarmed protesters, children and disabled persons, and at health workers and journalists performing their duties, knowing who they are."

The members of the commission of inquiry concluded that Israeli forces and their commanders may have committed war crimes and crimes against humanity, and authorized the UN human rights chief, Michelle Bachelet, to grant the ICC access to a confidential file shared with her office of people implicated in the Gaza violations.

In October 2018, Human Rights Watch published a report concluding that the systematic practice of arbitrary detention and torture by Palestinian authorities in the West Bank and Gaza of peaceful critics and opponents may amount to a crime against humanity prosecutable at the ICC.

Impunity for these and other alleged serious crimes remains the norm. Both Israeli and Palestinian authorities have taken inadequate steps to investigate alleged serious crimes and to hold members of their forces accountable. These failings highlight the importance of the ICC Office of the Prosecutor proceeding with a formal investigation into the situation in Palestine, Human Rights Watch said.

The ICC treaty officially went into effect for Palestine on April 1, 2015. The court has said this gives it jurisdiction over the territory occupied by Israel since 1967, namely Gaza and the West Bank, including East Jerusalem. On January 1, 2015, the Palestinian government gave the court a mandate back to June 13, 2014, to cover the 2014 hostilities in Gaza. The court has jurisdiction over crimes against humanity and war crimes committed in this territory.

"The ICC has a critical role to play as a court of last resort in situations like Palestine where recourse to domestic justice has

been foreclosed,” Jarrah said. “The court’s member countries should stand ready to fiercely protect the ICC’s independence in the face of ongoing pressure and hostility to an investigation of Israeli and Palestinian conduct.”

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ASIA

Afghanistan

Biden faces calls to secure release of U.S. man in Afghanistan (NBC News)

January 30, 2021

WASHINGTON — As the Biden administration considers whether it should pull remaining U.S. troops out of Afghanistan in the coming months, some fear for the fate of an American who could be left behind: an abducted contractor believed held by a Taliban-linked militant group.

On the one-year anniversary of Mark Frerichs’ abduction, family members and other supporters are urging the Biden administration not to withdraw additional troops without the Navy veteran being released from captivity. Frerichs was abducted one year ago Sunday while working in the country on engineering projects. U.S. officials believe he is in the custody of the Haqqani network, though the Taliban have not publicly acknowledged holding him.

“We are confident that he's still alive and well,” his sister, Charlene Cakora, said in an interview with The Associated Press. “We don't have any thinking that he's dead or that he's injured.”

For U.S. diplomats, Frerichs' captivity is a piece of a much larger geopolitical puzzle that aims to balance bringing troops home, after a two-decade conflict, with ensuring regional peace and stability. Biden administration officials have made clear that they are reviewing a February 2020 peace deal between the United States and the Taliban, concerned by whether the Taliban are meeting its commitment to reduce violence in Afghanistan.

The Trump administration, which had made the release of hostages and detainees a priority, ended without having brought home Frerichs, who is from Lombard, Illinois. He is one of several Americans the Biden administration is inheriting responsibility for, including journalist Austin Tice, who went missing in Syria in 2012, as well as U.S. Marine Trevor Reed and Michigan corporate executive Paul Whelan, both of whom are imprisoned in Russia.

It is unclear to what extent, if at all, Frerichs' fate will be complicated by the declining American military presence in Afghanistan committed to by the Trump administration. Days before President Joe Biden took office, the Trump administration announced that it had met its goal of reducing the number of troops in Afghanistan to about 2,500, part of a broader plan to remove all forces by May.

The Biden administration must determine how to handle that commitment.

New Secretary of State Antony Blinken held his first call Thursday with Afghan President Ashraf Ghani and told him the administration was reviewing the peace deal. A State Department description of the conversation did not mention Frerichs. Separately, the Pentagon said the Taliban's refusal to meet commitments to reduce violence in Afghanistan is raising questions about whether all U.S. troops will be able to leave by May.

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Frerichs' supporters are concerned that a drawdown of military personnel from Afghanistan leaves the U.S. without the leverage it needs to demand his release.

"Further troop withdrawals that are not conditioned upon the release of American hostages will likely make it harder to subsequently secure their release," the two Democratic senators from Illinois, Tammy Duckworth and Dick Durbin, wrote Biden in a letter provided to the AP.

In an interview, Duckworth said she wrote Biden and Blinken to stress "that this needs to be a priority, that we need to bring him home." She said Lloyd Austin, the new defense secretary, had given assurances that any negotiations about military presence would include discussion about detainees "as opposed to us just unilaterally pulling out of there."

Representatives of the James W. Foley Legacy Foundation, which advocates for hostages, told new national security adviser Jake Sullivan in a conversation during the presidential transition period about concerns that Frerichs and Paul Overby, an American writer who disappeared in Afghanistan in 2014, weren't adequately prioritized during discussions with the Taliban, according to the organization's executive director, Margaux Ewen.

The State Department is offering \$5 million for information leading to Frerichs' return.

"American citizen Mark Frerichs has spent a year in captivity. We will not stop working until we secure his safe return home," said State Department spokesman Ned Price.

Frerichs remains in Afghanistan despite a year of steady diplomatic negotiations, including peace talks in November with then-Secretary of State Pompeo and Taliban and Afghan negotiators. The U.S. and Taliban signed a peace deal last February, but much to the family's frustration, Frerichs' return was not made a predicate for the agreement even though he had been abducted weeks earlier.

"I don't want any troops to start packing up and heading out until Mark gets home safely, because I don't think we really have a leg to stand on once they're all out of there," Cakora said. "You don't leave Americans behind, and I just really want to make sure that he's home safe."

Blinken told reporters Wednesday that the Biden administration wanted to take a detailed look at that deal, saying, "We need to understand exactly what is in the agreement" before deciding how to proceed. He said the administration had asked Trump's special envoy for Afghanistan, Zalmay Khalilzad, to remain on the job for continuity's sake.

In his call with Ghani the following day, according to the State Department, Blinken expressed "robust diplomatic support" for the peace process but said the U.S. was reviewing the peace deal to assess whether the Taliban were living up to their commitment to "cut ties with terrorist groups."

There were other internal government discussions in the Trump administration.

The Taliban had asked for the release of a combatant imprisoned on drug charges in the U.S. as part a broader effort to resolve issues with Afghanistan. The request prompted dialogue between the State Department and the Justice Department about whether such a release could happen, though it ultimately did not, according to a person familiar with the matter who was not authorized to discuss the private discussions and spoke on condition of anonymity.

It is unclear whether those conversations will pick up in the new administration.

A Justice Department spokeswoman declined to comment

U.N. Report Describes Widespread Torture of Prisoners in Afghanistan (Democracy Now)

February 4, 2021

A new U.N. report says nearly one-third of all prisoners in Afghanistan have been tortured or mistreated. The forms of torture include beatings, suffocation, electric shocks, as well reports of "enforced disappearances." Over half of the claims in the U.N.'s "Torture Report" come from Kandahar province.

In other news about Afghanistan, a Congress-appointed bipartisan panel is advising the U.S. to slow down its withdrawal from Afghanistan. The panel's report says the May 1 withdrawal goal, established in a 2020 agreement between the U.S. and Taliban forces, could lead to more unrest and potentially a civil war.

Five killed in Kabul as attacks increasingly target civilians (Reuters) By Abdul Qadir Sediqi
February 9, 2021

KABUL (Reuters) - Five government employees were killed in two separate attacks in Afghanistan's capital on Tuesday, officials said, the latest in a series in which civilians have been targeted.

Unknown gunmen opened fire on a vehicle carrying employees of a provincial rural economic development department in southern Kabul, killing four people.

The head of the department was among those killed as they headed back to the central province of Maidan Wardak where their department was based, a spokesman for the national rural rehabilitation department said.

A foreign affairs ministry vehicle was hit by a roadside bomb in eastern Kabul, killing the driver, the ministry said in a statement.

Almost daily deadly attacks with small, magnetic bombs attached to the undercarriages of vehicles, roadside explosive devices and shootings are unnerving Afghan officials, activists and journalists.

The attacks are concentrated in urban centres and come as protracted peace talks take place in Doha between Taliban militants, fighting since 2001 to regain power, and Afghan government officials.

Taliban spokesman Zabihullah Mujahid told Reuters in a text message that Tuesday's attacks "had nothing to do with us".

A number of Western embassies recently said in a statement, before Tuesday's bloodshed, that the Taliban were responsible for "the majority of this targeted violence".

U.S. President Joe Biden's administration is reviewing how to handle the peace process, including a troop withdrawal agreement Washington signed with the Taliban under previous President Donald Trump.

Afghanistan girls' high school severely damaged in airstrike and fighting (Norwegian Refugee Council)
February 10, 2021

Recent fighting between Afghan security forces and armed opposition groups has destroyed a girls' high school in Faryab province in Northern Afghanistan. The destruction of the school has robbed more than 3,000 students of their classrooms. "The recent fighting shows yet again the high risks and dangers for students in Afghanistan wanting to receive an education," said Astrid Sletten, Afghanistan Country Director for the Norwegian Refugee Council (NRC). "All parties to the conflict must protect civilians and civilian infrastructure, including schools."

Jan Bibi Uoz Bashi Girls' High School in Qaisar district of Faryab province in Northern Afghanistan was at the centre of an airstrike and intense fighting between Afghan security forces and armed opposition groups on Sunday 7 February. The fighting shattered the boundary wall, meant to protect it from the conflict, damaged the school's walls and windows and destroyed almost all school equipment, according to local sources. Thankfully, as the school was not open on the day of the attack, no students or teachers were harmed in the fighting as far as the NRC is aware.

Jan Bibi Uoz Bashi Girls' High School was recently rehabilitated by NRC with funding from Norway.

"This fighting has cruelly disrupted the education of more than 3,000 girls who attend the school daily. Ongoing attacks on schools across the country threaten to reverse the tremendous gains made on girls' education in recent decades," said Sletten.

Despite efforts to rebuild the public education system since 2001, nearly half of all school-aged children in Afghanistan are

out-of-school, 60 per cent of them girls. Insecurity negatively affects school attendance, with higher rates of out-of-school children in the most affected provinces. Girls, who are already less likely to go to school in Afghanistan, have been particularly impacted by the violence.

Norwegian Refugee Council carries out informal education programmes for children and youth from displaced families as well as the host communities. Afghanistan remains one of the deadliest countries in which to receive an education. The UN verified 155 attacks against schools between July 2019 and July 2020, while unofficial reports are significantly higher.

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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

War crimes trials: Judgment of 9 accused on Feb 11 (Dhaka Tribune)

February 9, 2021

A three-member judicial panel led by Justice Mohammad Shahinur Islam, the chairman of the tribunal, set the date on Tuesday

The International Crimes Tribunal will announce verdict against nine accused including Khalilur Rahman of Mymensingh, in a case lodged over crimes against humanity during the war of liberation, 1971 on February 11.

A three-member judicial panel led by Justice Mohammad Shahinur Islam, the chairman of the tribunal, set the date on Tuesday, confirmed Advocate Abdus Sattar Palowan.

Shahidur Rahman and Rezia Sultana Chaman represented the prosecution in the case, while Advocates Abdus Shukur Khan and Abdus Sattar Palowan stood for the accused.

The prosecution hoped for the maximum punishment.

Among 11 accused in this case, two died during the trial.

On March 4, 2018, the tribunal framed charges against 11 people in Mymensingh with the murder of four people, detention of nine people, robbery, arson, kidnapping, torture, and extortion.

According to the case statement, they committed these crimes in Sadhua village of Niguari union of Pagla police station and Rouha village of Tangab union of Gafargaon upazila of Mymensingh district.

The investigation against the accused started on October 16, 2014.

The accused- Mohammad Khalilur Rahman Mir, Mohammad Samsuzzaman alias Abul Kalam, Mohammad Abdullah, Mohammad Rois Uddin Azadi alias Akkel Ali and Abdul Latif of Sadhua village are in jail.

Meanwhile, two other accused Mohammad Abdul Malek Akand alias Abul Member and Nurul Amin Shahjahan died during the trial.

Besides, other four accused of the case - AFM Faizullah, Md Abdur Razzak Mandal, Sirajul Islam, and Mohammad Alim Uddin Khan are absconding.

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War Crimes Investigation in Myanmar

Myanmar: Military Coup Kills Fragile Democracy (Human Rights Watch)

February 1, 2021

(New York) – Governments worldwide should together demand that the Myanmar military respect the results of recent national elections and relinquish power, Human Rights Watch said today. Military authorities are holding dozens of activists and National League for Democracy (NLD) officials incommunicado, raising concerns about their possible mistreatment in custody.

On February 1, 2021, the Myanmar military arrested the civilian leaders of the national and state governments and announced a one-year “state of emergency.” The military arrested leader Aung San Suu Kyi, President Win Myint, and several dozen other senior officials in early morning raids in the capital, Naypyidaw. The officials were in Naypyidaw for the lower house of parliament to convene after the November 2020 national elections, which the NLD won by a large margin. The military also detained NLD officials and civil society activists in other parts of Myanmar, and cut telecommunications and the internet.

“Myanmar’s new military junta should immediately and unconditionally release all detainees, rescind the state of emergency, and recognize the duly elected parliament,” said Brad Adams, Asia director. “The global community should finally act in a coordinated and sustained way to defend the Myanmar people’s fundamental freedoms and right to choose their leaders, and impose targeted sanctions and other measures to reverse military abuses.”

The military has repeatedly alleged without evidence widespread election and voter irregularities during the November elections. It claimed that the Union Election Commission (UEC) and the NLD failed to address the concerns of opposition political parties, ethnic groups, and the military, and failed to “properly perform their duties but also neglected to conduct a free, fair and transparent election.” Although some voting irregularities were noted early in the process, domestic election observers in a joint statement on January 29 said the “results of the election were credible and reflected the will of the majority of the voters.”

On January 29, the military refused to rule out seizing control of the government, though it later said that it would abide by the constitution. On February 1, the military invoked an article of the military-drafted 2008 constitution that allows it to declare a state of emergency and take control of all three branches of government. Vice-President Myint Swe, a member of the military-backed opposition party, replaced President Win Myint after his arrest. As acting president, Myint Swe then signed the authorization for the declaration of the state of emergency, transferring power to the commander-in-chief, Sr. Gen. Min Aung Hlaing. The military announced the state of emergency would last for one year, after which, it said, new elections would be held.

The authorities should immediately end arbitrary limits on freedom of expression, information, assembly, and association, Human Rights Watch said. Everyone has the right to publicly assemble and peacefully protest against the military’s actions. The authorities should avoid using force to disperse protests, regardless of whether they deem the protests unlawful. The Myanmar military has a long history of using excessive force to crack down on peaceful assemblies, raising concerns about the risk to protesters of further violations, including to the health and safety of activists, journalists, and other critics of the military.

The military junta cut internet and phone lines across large parts of the country, and throttled other communications such as 3G mobile networks prior to the military’s announcements on Myanmar state media. International law requires governments

to ensure that any restrictions to information online are provided by law, are a necessary and proportionate response to a specific threat, and are in the public interest. Officials should never use broad, indiscriminate shutdowns to stop the flow of information or to infringe on people's ability to express political views. By maintaining a blanket or even partial shutdown, Myanmar is contravening international human rights standards that require internet-based restrictions to be both necessary and proportionate.

The military commander-in-chief, Sr. Gen. Min Aung Hlaing, is credibly and directly implicated in crimes against humanity committed during the military's "clearance operations" against Rohingya Muslims in 2017, as well as war crimes and crimes against humanity committed during military operations against the Kachin, Shan, Rakhine, and other ethnic minorities.

Several members of the military-installed government announced on February 1 are also credibly implicated in serious rights abuses. Lt. Gen. Tun Tun Naung, the junta's appointee for border affairs, oversaw war crimes and serious abuses against civilians as the commander in Kachin State in 2013. Lt. Gen. Soe Htut, minister of home affairs since 2020, was previously on the European Union sanctions list for human rights abuses related to his role leading the military's southern command. Gen. Mya Tun Oo, the new defense minister, has held the military's third ranking role as the chief of general staff since August 2016, including during the 2017 ethnic cleansing campaign against the Rohingya.

Coordinated international and multilateral actions in response to the coup should include targeted economic sanctions on the military itself, its leadership, and its vast economic holdings, which provide the military with its revenue, as well as embargoes on military arms and equipment, Human Rights Watch said. Joint actions by concerned governments should be accompanied by clear statements about what the junta must do to avoid these measures, including immediately and unconditionally releasing all those arbitrarily detained, restoring democratic institutions that existed before the state of emergency, accepting the November election results, and convening the lower and upper houses of parliament.

"China, Russia, Japan, and other countries have long blocked coordinated international action to promote rights, justice, and accountability in Myanmar, but they now should be pressed to reassess their failed policies," Adams said. "The military's outrageous assault on democracy, following atrocities against the Rohingya, should be a clarion call for the world to act as one to finally get the military out of politics and put the interests of Myanmar's people ahead of all other considerations."

Myanmar: UN Security Council must act urgently, hold military accountable (Amnesty International)
February 2, 2021

Ahead of the UN Security Council's emergency closed meeting on Myanmar today, Amnesty International's Deputy Director of Advocacy Sherine Tadros said:

"What we are witnessing in Myanmar didn't just suddenly happen. You cannot leave perpetrators of grave crimes under international law on the loose and then act surprised when they trample human rights again.

"Yesterday, an emboldened military took years of international inaction as a quiet signal that they could oust the civilian government and embark on a spree of baseless arrests without any real consequences.

"Will Security Council members continue to only talk to each other, and behind closed doors, or finally act firmly to prevent further rights violations and the very real threat of a worsening human rights crisis? Had the Security Council acted decisively and strongly from day one, we might not be in a situation where the lives and liberty of people across Myanmar are now at even greater risk.

You cannot leave perpetrators of grave crimes under international law on the loose and then act surprised when they trample human rights again.

Sherine Tadros, Deputy Director of Advocacy "As we have said before, the Security Council must impose targeted financial sanctions against Commander-in-Chief Senior General Min Aung Hlaing and other military leaders responsible for atrocity crimes against various ethnic minorities across the country, including the Rohingya. The Security Council must also impose a comprehensive global arms embargo on Myanmar, and crucially, refer the situation in Myanmar to the International Criminal Court.

"This is a critical time requiring immediate action from the Security Council, including holding an open session on Myanmar and unequivocally condemning the arrests and other human rights violations by the military. Finally, the Council must demand the immediate release of all those detained in Monday's raids, if they are not promptly charged with a crime recognized under international law."

Background

The UN Security Council will hold an emergency closed meeting on Myanmar on Tuesday 2 February at 10am EST in response

to yesterday's coup in Myanmar.

Since yesterday the military has imposed a state of emergency under the authority of the Commander-in-Chief, Senior General Min Aung Hlaing and has detained scores of elected civilian officials, other senior political figures as well as political activists and human rights defenders. Telecommunications blackouts have been imposed in parts of the country.

In a 2018 report, Amnesty International named Senior General Min Aung Hlaing among those responsible for crimes against humanity perpetrated as part of a widespread and systematic attack against the Rohingya population in northern Rakhine State.

Last year the military continued to commit serious human rights violations and violations of international humanitarian law, including war crimes, against ethnic minority groups in Chin, Kachin, Rakhine and Shan States while eluding accountability. Amnesty uncovered evidence of indiscriminate air strikes that killed children, as well as torture and arbitrary detention.

A UN Fact-Finding Mission on Myanmar in 2018 has called for Senior General Min Aung Hlaing to be investigated and prosecuted for genocide, crimes against humanity and war crimes.

Coup in Myanmar: What can the UN do? (Swiss Info) By Julia Crawford
February 9, 2021

The UN Human Rights Council has called a special session this Friday on Myanmar, amid increasing concern about the situation and warnings issued to the country's military coup leaders.

On February 1, Myanmar leader, Aung San Suu Kyi, and members of her party were detained by the military which declared a year-long state of emergency. The coup came following a general election which Ms Suu Kyi's National League for Democracy (NLD) party won by a landslide.

Among the many voices of condemnation comes one from the Independent Investigative Mechanism for Myanmar (IIMM), a Geneva-based UN evidence-gathering body for serious crimes in Myanmar. Can this organisation actually make a difference?

"I sincerely hope for a peaceful resolution of the current crisis and I note calls made by the Secretary-General to the military leadership to resolve any differences through political dialogue," IIMM head Nicholas Koumjian said in a statement. "However, should serious international crimes and violations of international law be committed, rest assured, the Mechanism will collect the evidence and, in accordance with our mandate, we will build case files to facilitate criminal trials to hold those responsible to account in international, regional or national courts."

In the absence of justice for crimes notably against Myanmar's Rohingya Muslim minority, the IIMM was set up by the UN Human Rights Council in September 2018 to gather and preserve evidence for possible international or national trials in the future. A 2018 UN report said Myanmar's army chief Min Aung Hlaing, who is now in charge of the country, and five other top military officials should be prosecuted for "genocide, crimes against humanity and war crimes".

Although concentrated particularly on alleged genocide against the Rohingya, the IIMM's mandate is wide and ongoing, covering "the most serious international crimes and violations of international law committed in Myanmar since 2011". It cannot bring trials itself, but says it is sharing evidence with the International Criminal Court, which has opened an investigation in relation to Myanmar, and with the International Court of Justice, where the small West African state of Gambia has brought a genocide case against Myanmar.

In a February 4 statement the UN Security Council expressed "deep concern" over the military takeover in Myanmar. It called for the immediate release of elected leader Aung San Suu Kyi and President Win Myint. This is a watered down version of a previous proposed statement which was blocked by China, a long-time ally of neighbour Myanmar.

There have been plenty of condemnations and warnings, including from Swiss UN envoy to Myanmar, Christine Schraner Burgener. She fears that in coming days civil unrest and clashes between Suu Kyi's NLD party and the military-supported Union Solidarity and Development Party (USDP) could result in the situation becoming more volatile.

UN High Commissioner for Human Rights Michelle Bachelet said on February 1 that she was "gravely concerned" about the situation in Myanmar. "Given the security presence on the streets in the capital as well as in other cities, there are deep fears of a violent crackdown on dissenting voices," she said. "I remind the military leadership that Myanmar is bound by international human rights law, including to respect the right to peaceful assembly, and to refrain from using unnecessary or excessive force." The UN Human Rights Council has also announced it will hold a special session on Myanmar on February 12. It is being held at the request of the UK and European Union, but their request is supported by 47 states, including Switzerland and the US, which has pledged to re-engage with the Human Rights Council under the new administration of Joe Biden.

NGOs also welcomed the move. Human rights group Amnesty International, for example, said the special session was a welcome first step but called for concrete action. “It is critical that the international community uses all the tools at its disposal to respond to the Myanmar military’s assault on human rights,” said Amnesty International. “Myanmar’s military leadership includes alleged perpetrators of crimes against international law, and they cannot be allowed to continue to commit abuses unchecked.”

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AMERICAS

North & Central America

Balancing the US Approach to the ICC (Just Security) by Brian L. Cox

February 10, 2020

With the recent expiration of Donald Trump’s presidency, much of the global community seems ready to close the chapter of instability and unpredictability that defined U.S. foreign policy under the Trump administration. One aspect of Trump’s foreign policy was a rekindling of the conflict, which waxes and wanes depending on the prevailing domestic political climate, with the institution of the International Criminal Court (ICC).

As the Biden administration develops a new direction in American foreign policy, the ICC is similarly engaged in the endeavor to chart a new institutional course. As Todd Buchwald recently summarized in *Just Security*, “the Court is at an inflection point in its history.” With the nascent reset of U.S. foreign policy in the making, relations specifically between the United States and the International Criminal Court are at an inflection point as well.

This post examines some considerations that may be useful in the endeavor to build a more balanced U.S. approach to the ICC. Because an assessment of America’s foreign policy interests in relation to the ICC depends to some degree on how the Court emerges from its own current inflection point, the analysis addresses suggestions regarding both the future direction of the ICC and of America’s approach to the ICC.

First, the current U.S. posture toward the ICC is outlined to set the stage for the assessment that follows. With the current posture briefly assessed, two central factors in the effort to develop a more balanced approach – complementarity and the role of international criminal law – are evaluated. A separate, overarching obstacle to developing a balanced approach to the Court is that many narratives suggesting closer alignment with the ICC constitute advocacy branded as objective policy prescriptions; however, an evaluation of these narratives is beyond the scope of the present article. Future work may take up this topic.

Current Posture: Adoption and Implementation of EO 13928

While the approach of the Trump administration was initially to “provide no support in recognition to” the ICC, then-Secretary of State Mike Pompeo signaled a more hostile stance in May 2020, soon after the ICC Appeals Chamber approved a request submitted by the Prosecutor to investigate the “Situation in Afghanistan” – an investigation that could involve U.S. nationals. This antagonism culminated in the June 2020 issuance of Executive Order (EO) 13928, the title of which does a fair job of summarizing its purpose: Blocking Property of Certain Persons Associated With the International Criminal Court. As one might expect, such an unprecedented move against the ICC sparked a torrent of public discourse – mostly in the form of condemnation – both in the United States and abroad.

When Fatou Bensouda, the Court’s chief Prosecutor, and Phakiso Mochochoko, Head of the Jurisdiction, Complementarity and Cooperation Division, were added to Treasury’s Office of Foreign Assets Control “Specially Designated Nationals” (SDN)

list as authorized by EO 13928, open conflict between the United States and ICC transitioned from an abstract possibility to a practical reality. The implications of the designation reverberate far beyond the two named individuals – who themselves are of course directly affected – as the restrictions adopted by the Executive Order extend to “any foreign person” determined by the government “to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of” any effort by the Court “to investigate, arrest, detain, or prosecute any United States personnel without the consent of the United States.”

The far-reaching nature of the potential sanctions against “any foreign person” found “to have materially assisted” the ICC in its effort to investigate U.S. persons – in practice, for crimes potentially committed in the context of the conflict in Afghanistan – prompted four U.S. law professors with dual nationality to initiate a civil proceeding in federal court to challenge the constitutionality of the Executive Order. While the “conspiracy to violate” provision of the Executive Order (Sec. 5 (b)) could ostensibly be applied against U.S. and foreign nationals, the “materially assisted” provision applies by its terms only to “any foreign person” – so the dual nationality of the four complainants puts them at particular risk of contravening the Order.

However, these risks may now be moot. If the Biden administration follows the pattern of past Democratic administrations, EO 13928 and its associated sanctions will likely be quickly reversed. While it is true that President Joe Biden faces a scenario not encountered by his Democratic predecessors– namely, an active investigation by the ICC that could potentially directly involve U.S. nationals – the president’s prior record and campaign messaging related to foreign policy indicate that the openly hostile approach of the Trump administration will not continue under Biden. Indeed, a State department spokesperson announced days after the inauguration that the administration will “thoroughly review” the sanctions designations.

Biden’s “restoring America’s place in the world” vision is much different from his predecessor’s “America first” approach, and relations with States Party to the Rome Statute – as well as with the Court itself – will reflect that change. As the new course is charted by the Biden administration, the driving factor should be a balanced assessment of how the approach to the ICC will support America’s foreign policy interests. One of the most important factors in that assessment is the manner in which the ICC as an institution operationalizes the complementarity principle reflected in the Court’s founding treaty.

The Canard of Complementarity

While contemporary international criminal law dates back to the end of World War II, at least two main factors set the ICC apart from predecessors such as the post-war and ad hoc tribunals. First, unlike its predecessors, the ICC is a permanent, standing international tribunal. Second, the Rome Statute allows for the ICC Prosecutor to initiate a proprio motu investigation that the Court can then go on to adjudicate without referral from any State (under certain circumstances).

However, the Court’s status as a permanent and self-directed institution is theoretically limited by the complementarity principle, which establishes the role of the ICC as a “court of last resort.” Any application by the Prosecutor to convert a proprio motu preliminary inquiry into a full investigation must be approved by the tribunal; likewise for initiation of a full criminal proceeding. The tribunal is itself bound by the principle of complementarity (noted in Articles 1 and 17 of the Rome Statute). Surely, given these constraints, the ICC truly must operate as a court of last resort. Right?

According to the prevailing perspective, it unequivocally does. The president of the ICC, Dr. Chile Eboe-Osuji, succinctly summarized this role in a June 2020 New York Times opinion piece by asserting that the ICC “is only a court of last resort” and that it is “only when questions of accountability for international crimes have remained unaddressed that international law allows” the ICC to get involved.

In a separate Newsweek interview, Eboe-Osuji states, “If the U.S. considers that it is adequately addressing the allegations of crimes through its own courts, or that they have done that already, then this is the moment to inform the Court and bring that question before the judges. There is a clear legal mechanism for doing that, and so far the United States has not availed itself of that path.”

These reflections distort relevant international law on at least two separate grounds. First, the jurisdictional provisions of the Rome Statute do not oblige a member State to initiate a court proceeding in order to satisfy the State’s obligations pursuant to the treaty. Rather, Article 17 (“Issues of Admissibility”) requires the Court to determine that a case is inadmissible if the relevant state is investigating or prosecuting the offense or if the state has investigated the allegations and declined to initiate prosecution.

To overcome this requirement, the Court would need to determine that the relevant State is “unwilling or unable genuinely to carry out the investigation or prosecution.” (emphasis added) The Rome Statute requires the ICC to determine that a case is inadmissible if a State Party has investigated an allegation and declined to prosecute, “unless the [declination] decision resulted from the unwillingness ... of the State genuinely to prosecute.”

In assessing the “unwillingness” of a State Party to prosecute after an investigation, the Court must determine that “the

national decision was made for the purpose of shielding [an alleged offender] from criminal responsibility for crimes within the jurisdiction of the Court.” While successive administrations have declined to prosecute allegations that are currently being investigated by the ICC, these are legitimate sovereign decisions – and there is no indication that such decisions have been made “for the purpose of shielding” alleged offenders from trial before an international tribunal of which the United States is not a member in the first instance.

The president of the ICC fundamentally misrepresents this complementarity requirement when he claims that the United States must investigate and prosecute alleged offenders in order to satisfy the tribunal. This misrepresentation of international law – here, the plain text of the Rome Statute – pales in comparison to the reflection that there “is a clear legal mechanism” for the United States to demonstrate the validity of the domestic accountability process “before the judges” of the ICC and that the government “has not availed itself of this path.”

In fact, the United States is not obliged to demonstrate anything to judges of an international tribunal established by a multilateral treaty that has not been ratified by the people of the United States. Suggesting otherwise, as the president of the ICC does by asserting that the United States should “bring that question [of domestic investigation and prosecution] before the judges” of the tribunal, represents a fundamental misapplication of international law.

While Eboe-Osuji’s misstatement of the complementarity principle and misapplication of fundamental principles of international law are particularly stark, he is certainly not alone in invoking the status of the ICC as a court of last resort to insist that the United States should justify domestic declination decisions to the Court.

In criticizing the sanctions program authorized by Trump’s executive order, for example, Leila Sadat points out that the ICC “is simply a Court of last resort, which steps in if no State is able or willing to prosecute those accused of committing the most heinous crimes known to humankind.” Likewise, Elizabeth Evenson of Human Rights Watch emphasizes that the ICC “acts as a backstop and a court of last resort when countries themselves fail to – or cannot – achieve justice for their citizens.” Similarly, a letter published by the New York Bar Association criticizing separate letters regarding the ICC published by the House and Senate cites the Rome Statute “complementarity regime” to suggest that if the United States (or, separately, Israel), “were to investigate and/or prosecute the crimes under examination, that would divest the ICC of jurisdiction.” (emphasis in original)

It is worth noting that the first two examples of the complementarity narrative cited directly above misstate the complementarity arrangement reflected in the Rome Statute by describing a requirement to “prosecute those accused” and “achieve justice” – rather than, as the relevant text of the treaty establishes, investigate or prosecute. Although the letter from the NYC Bar Association cited directly above at least correctly describes the “complementarity regime” by citing the requirement to “investigate and/or prosecute,” this observation erroneously suggests that the ICC has any jurisdiction from which it could be divested by a domestic investigation and/or prosecution instituted by a State that has not ratified the Rome Statute in the first instance.

While the above analysis is centered on perspectives related to application of the complementarity principle, thus far the analysis hasn’t addressed whether the United States actually has investigated and/or prosecuted the “crimes under examination” by the ICC. This is a central consideration in the discussion of whether the tribunal would currently be complying with the complementarity principle even if the United States were a State Party to the Rome Statute.

The Investigations

Former ICC Prosecutor Luis Moreno Ocampo offers a useful overview of the investigative efforts that have been performed by the United States involving allegations of offenses that are currently also under investigation by the ICC Prosecutor. Ocampo refers to inquiries by the U.S. Army and the CIA Inspector General, the report published in 2008 by the Senate Armed Services Committee, and the report published in 2012 by the Senate Intelligence Committee.

After referring to these sweeping domestic inquiries in passing, Ocampo notes that President-elect Obama observed during an interview just before taking office that the United States “tortured some folks” but, according to Ocampo, both the Obama and Trump administrations engaged in strategies designed “to protect U.S. operations from any judicial investigation.” This criticism once again mischaracterizes the complementarity arrangement established in the Rome Statute, which renders a case inadmissible if a State investigates or prosecutes – but does not specify a particular type of investigation, nor limit this effect to only “judicial investigation” as suggested by Ocampo.

And that brings us to an assessment of the evidence involving potential abuses committed by U.S. nationals that forms the basis of the application by the ICC Prosecutor to investigate (among other parties) U.S. nationals in the situation in Afghanistan. The initial application makes mention of a number of the investigations already conducted by the U.S. government early in the document – which raises questions about the legitimacy of the inquiry right from the beginning, given application of the complementarity principle.

What follows, as the application lays out the evidence indicating that U.S. nationals may have committed Article 5 crimes, makes a mockery of the Rome Statute complementarity principle. Throughout the report, in page after page after page (35 pages in total, if my count is accurate), the Office of the Prosecutor (OTP) application cites directly to evidence developed in the various investigations conducted by the U.S. government.

Now, it is of course a matter for the Court – and not the Prosecutor – to determine whether a decision by the applicable national government not to prosecute relevant personnel following such national investigations “resulted from the unwillingness or inability of the State genuinely to prosecute.” To give context for what qualifies as an unwillingness to genuinely prosecute, as described above, the relevant factor established in the Rome Statute suggests that the Court should consider whether the investigation was “undertaken or the national decision was made for the purpose of shielding the person concerned from criminal responsibility.”

While the genuineness of a national process is ultimately a matter for the Court to determine, if the Prosecutor is going to rely so heavily on existing national investigations to make the case to initiate a proprio motu ICC investigation then there should be some discussion of the genuineness of these national investigations. Relying on national investigations to make the case for an ICC investigation and then ignoring an assessment of whether the national decision to decline criminal prosecution was made “for the purpose of shielding” is not the action of a “court of last resort” as the ICC is so often described.

What this endeavor constitutes instead, to borrow from the characterization of the U.S. delegation during negotiations that led to adoption of the Rome Statute, is “a Court that exists to sit in judgement on national systems or second-guess each action and intervene if it disagrees.” During negotiations in Rome more than two decades ago, U.S. delegate Bill Richardson warned that “[w]e are not here to create” such a tribunal.

Yet this is precisely the endeavor in which the ICC is currently engaged. It bases the U.S. aspect of the Afghanistan inquiry primarily on national investigations that successive administrations, of both major political parties, have declined to resolve with criminal prosecutions.

The United States is under no obligation to explain to the ICC the decision not to pursue criminal prosecutions involving the matters the tribunal is currently investigating. Moreover, the Prosecutor’s reliance on existing comprehensive national investigations to request authority to initiate a full investigation – without addressing the “purpose of shielding” factor at all – makes a sham of the complementarity principle. The ICC cannot be accurately described as a “court of last resort” in this context.

Rebranding the Role of International Criminal Law

A second consideration in the development of a more balanced U.S. approach to the ICC is the fundamental question: What is the role of international criminal justice as a body of law?

Until recently, the answer to that question was fairly straightforward. As then-ICC President Philippe Kirsch observed in 2006 during remarks delivered to commemorate the 60th anniversary of the Nuremberg Judgement, “Ensuring accountability [in international criminal law] is important in itself, but it is also important because allowing impunity for widespread or systematic atrocities can have serious consequences for international peace.” (emphasis added)

This sentiment was similarly expressed by the U.N. Security Council when adopting the measure that approved the establishment of the first ad hoc tribunal, the International Criminal Tribunal for the former Yugoslavia (ICTY). There, the Security Council expressed a determination to “bring justice to the persons responsible” for committing atrocity crimes. The reason expressed for this resolve is that the Council was convinced that “the establishment of an international tribunal would enable this aim to be achieved [individual accountability] and would contribute to the restoration and maintenance of peace.” (emphasis added) Almost two years later, the Security Council expressed similar sentiments when adopting the resolution that established the second ad hoc tribunal, the International Criminal Tribunal for Rwanda (ICTR).

In the context of the main predecessors to the ICC – the post-World War II tribunals and the later ad hoc tribunals (the ICTY and ICTR) – the unifying factor that allowed sufficient consensus to create the tribunals was a recognition that an international tribunal must be established to correct an inefficiency that existed in prevailing international law. The inefficiency was that in the absence of some sort of functioning domestic adjudicative mechanism, offenders could commit atrocity crimes with impunity and this gap, to borrow from Kirsch’s reflection, can have serious consequences for international peace.

This vision of deterrence in support of international peace and security is by no means the only justification for the body of law we now call “international criminal law” that has emerged since the end of World War II. The preamble of the Rome Statute, for example, recognizes that atrocity crimes “threaten the peace, security and well-being of the world” and the States Parties express therein a determination “to put an end to impunity for the perpetrators of these crimes and thus to contribute to the

prevention of such crimes.”

However, the preamble to the Rome Statute also expresses the resolve to “guarantee lasting respect for and the enforcement of international justice” – that is, justice as its own end, detached from considerations involving the maintenance of international peace. Likewise, the founding treaty establishes the “interests of victims” as a factor for the Prosecutor to consider in deciding whether to initiate an investigation, and the potential for reparations to victims of atrocity crimes is an important factor for the Court to consider during sentencing.

As I noted at the beginning of this section, the primary purpose(s) of international criminal law, and the role of the ICC in exercising that law, are deeply philosophical matters that have very real practical consequences – none of which can be adequately addressed in this post. The point, though, is that as the Court approaches the present inflection point, those responsible for shaping its direction – either directly as part of the institution or indirectly on pages such as these – must reflect on what exactly the role of the tribunal as an institution in international law will be in the future.

If the primary role is to contribute to international peace and security by providing a forum to adjudicate atrocity crimes where no other such forum exists, the ICC will undoubtedly remain as an important asset to the international community writ large. If, instead, the primary role is to deliver “international justice,” then it will increasingly find itself acting as a check on functioning national jurisdictions (as is the case with the U.S. aspect of the “Situation in Afghanistan” and the recently-closed preliminary examination involving the UK) or ruling on declarations of statehood notwithstanding international disagreement, including among Rome Statute signatories (as is the case with the ongoing preliminary examination involving the “State of Palestine”). Adopting this latter role will place the ICC as an institution in peril in the long run.

This is so because, as a treaty-based international institution, the ICC relies on the continued domestic political support of each constituent member – not only for cooperation, but for its very existence. Standing in judgement of functioning national jurisdictions risks eroding domestic political support among the very constituencies upon which the ICC relies for its continued existence. If this support crumbles, the ICC will be ineffective in the pursuit of both international peace and international justice.

Unfortunately, both for the ICC and for the international community, it appears that the current vision is not for the tribunal to correct a gap in existing justice mechanisms but rather to judge the performance of domestic justice systems. While Eboe-Osuji observes that the “ICC does not try countries,” he goes on to assert that “now the ICC is insisting that justice based on evidence must be pursued by somebody, somewhere – if not in the United States or Afghanistan, then at the ICC.”

And the basis for this “insistence”? Eboe-Osuji claims that “there are allegations of gross human rights violations in Afghanistan that victims complain have waited far too long without investigation or prosecution.” While this observation does not account for the extensive investigations conducted by the United States, as discussed above, this reflection by the ICC President is troubling for an even more fundamental reason.

It is true that the ICC is not attempting to put the United States government on trial in the literal sense. However, the tribunal is nonetheless asserting a right to second-guess the sovereign decisions of successive administrations not to initiate criminal prosecutions based on the allegations being investigated by the Court. The role of the ICC is not to supersede functioning domestic processes and insist that its own version of “justice” be implemented by national jurisdictions. This course is inconsistent with the original purpose of international criminal law, and it constitutes a fundamental threat to the continued effectiveness – and even existence – of the Court.

Concluding reflections

The foreign policy of the United States and the institutional vision of the ICC are both at an inflection point. The United States will almost certainly be recalibrating its approach to the ICC – again – under the new administration. The ICC, in turn, will be internalizing and implementing recommendations of the Independent Expert Review published last year in response to the mandate from the Assembly of States Party to “identify ways to strengthen the ICC and the Rome Statute system in order to promote universal recognition of their central role in the global fight against impunity and enhance their overall functioning.” During this period of reflection and internalization, the process of electing the next Prosecutor continues.

If the ICC insists on continuing to operate as a quasi-sovereign to stand in judgment of legitimate national investigation or prosecution processes, the Court can expect continued wariness – and perhaps open hostility depending on the political climate of the day – from the United States. There will be no shortage of voices in a global chorus to decry “perceptions of a double standard at the ICC, with one standard for powerful countries and another for those with less clout” if the ICC departs from its current trajectory of second-guessing legitimate national processes. These voices may influence the institutional direction of the ICC and may likewise advocate in favor of ever-closer alignment with the ICC, but these perspectives do not necessarily constitute sound national policy.

The Rome Statute does not represent a constitutional edict in the “global rule of law” that establishes the ICC as a tool to “catalyze pressure” on a functioning government to pursue prosecutions of alleged atrocity crimes after a thorough domestic inquiry. Scholars and advocates may disagree with individual outcomes in national jurisdictions, but this is a matter of concern for domestic politics – not forum shopping at the ICC. Likewise, an approach that “centers victims’ access to justice” sounds appealing, but it also represents a fundamental shift in the central purpose of international criminal law – which has been, historically, to dissuade violation of peremptory norms by creating an adjudication mechanism in the absence of such a forum and to thereby support international peace and security.

There is a need for genuine and balanced reflection about the path ahead by those at the ICC and in the Biden administration. For the latter, a judicious and objective evaluation of American foreign policy interests is imperative.

On this note, the New York City Bar Association is undoubtedly correct to observe that the “work of” the ICC “is largely aligned with U.S. interests” in general. It is not the institution that poses a “threat to the national security and foreign policy of the United States” in the abstract. Rather, it is the manner in which the jurisdiction of the Court is currently being contemplated to second-guess legitimate sovereign political decisions – with the potential to oblige member States to cooperate with a process to which the United States has not consented – that constitutes the threat to U.S. national security and foreign policy.

A return to the approach by the Obama administration may be the best course for the United States. This policy was described in the 2010 National Security Strategy: “Although the United States is not at present a party to the Rome Statute of the International Criminal Court (ICC), and will always protect U.S. personnel, we are engaging with State Parties to the Rome Statute on issues of concern and are supporting the ICC’s prosecution of those cases that advance U.S. interests and values, consistent with the requirements of U.S. law.”

As the senior legal adviser to the Department of State, Harold Koh described steps the United States undertook to coordinate “with States parties to the Rome Statute on issues of concern” by applying “a pragmatic, case-by-case approach towards ICC issues.” The second National Security Strategy of the Obama administration, published in 2015, similarly expressed the commitment to “work with the international community to prevent and call to account those responsible for the worst human rights abuses, including through support to the International Criminal Court, consistent with U.S. law and our commitment to protecting our personnel.”

Endeavoring to return to a “pragmatic, case-by-case approach” to the ICC is a constructive guiding principle as the new U.S. policy is being developed and implemented. However, the difference between then and now is the current investigation involving the “Situation in Afghanistan” that could purport to stand in judgment of the decision by successive administrations not to initiate criminal prosecutions for the matters being investigated by the ICC.

This will unquestionably affect the calculation regarding what level of cooperation advances “U.S. interests and values” while remaining consistent with America’s “commitment to protecting our personnel.” Nonetheless, by conducting an objective assessment of the Court’s practical and conceptual role in international law and by engaging with States Party and the Court itself, a more balanced U.S. approach to the ICC can be achieved.

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South America

Colombia court charges former FARC commanders with war crimes (Al-Jazeera) January 28, 2021

Colombia’s Special Jurisdiction for Peace (JEP) on Thursday accused eight former commanders of the demobilised FARC fighters of war crimes and crimes against humanity for taking hostages during the country’s internal armed conflict.

This is the first time since the signing of the 2016 peace deal that the JEP has attributed criminal responsibility to former leaders of the Revolutionary Armed Forces of Colombia (FARC), which demobilised to reintegrate with society.

“Depriving people of their freedom and setting conditions for their release, as well as their wellbeing, integrity, and life, was a war crime, especially the taking of hostages,” the JEP said in a statement read by magistrate Julieta Lemaitre.

The former commanders are also charged with other war crimes connected with the treatment of kidnap victims, including murder and torture, among others, Lemaitre said.

Among the accused are former FARC leader Rodrigo Londono – know by the nom de guerre, Timochenko – Pablo Catatumbo, Pastor Alape and Milton de Jesus Toncel. They have 30 days to accept or reject the accusations.

If the commanders accept the accusations, they will face restrictions on their freedoms for five to eight years.

However, if they reject them, they could face up to 20 years in jail per the terms of the peace deal which ended the FARC's part in a conflict that has left 260,000 dead and millions displaced. The JEP is a tribunal created under the 2016 peace deal to prosecute former FARC members and military leaders for alleged war crimes.

There was no immediate response from the former FARC commanders. Last year, former leaders – including Timochenko – sought forgiveness for kidnappings.

FARC fighters used kidnappings to fund their war against the state, while captured military or government personnel were used to pressure authorities into releasing jailed rebels, the JEP said.

Kidnapping victims say they continue to suffer from mental health damage caused by the physical and emotional suffering they were subjected to.

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TOPICS

Truth and Reconciliation Commission

Nepal Communist Party dispute risks further delay in justice for war victims (The Kathmandu Post) By Binod Ghimire

January 30, 2021

While the Nepal Communist Party fight has turned Nepal's politics murky, the one section that seems to fall prey to its leaders' actions is victims of the decade-long armed conflict.

Thousands of victims of the 1996-2006 insurgency, which resulted in the deaths of at least 13,000 people and disappearance of thousands of others, have been awaiting justice for over a decade and a half now, largely due to a lack of will on the part of Nepal's political parties to conclude the peace process.

After a political split in the Nepal Communist Party as a result of Prime Minister KP Sharma Oli's decision to dissolve the

lower house on December 20, the faction led by Oli is now in a bid to woo former Maoist combatants.

On the other hand, Pushpa Kamal Dahal, who leads the other faction along with Madhav Kumar Nepal, has charged Oli with dissolving not only the House but also the peace process—one of the major components of which is ensuring justice for conflict victims.

“So far, except for the transitional justice process, other tasks of the peace process—integration of the Maoist combatants in the Nepal Army and promulgation of the constitution by the Constitutional Assembly—have been completed,” said Dahal last week while addressing a mass gathering organised by his faction to protest against Oli’s House dissolution move. “KP Oli didn’t just dissolve the House of Representatives but his steps have dissolved the peace process and the federal system too.”

At a time when the task of concluding the transitional justice process has been in limbo, Oli’s sudden change of heart for the former Maoist combatants has raised quite an eyebrow among rights defenders and conflict victims.

Many are concerned if the armed conflict, which many want to forget once the transitional justice process is concluded, is emerging as a new tool for the two communist factions in their game of one-upmanship.

Last week, Oli held a meeting with former Maoist combatants, including those who were disqualified from the integration process.

During the meeting, Oli said that the government was committed to facilitating an early conclusion of the transitional justice process. Oli went on to say that he wasn’t a betrayer like Dahal, who was co-chair of the Nepal Communist Party until a little more than a month ago, and that he is committed to providing justice for everyone victimised by the insurgency.

Two days after the meeting, the Oli Cabinet on Monday decided to honour and provide separate identity cards for all those who fought during the armed conflict and were part of the 2006 second people’s movement.

Even though Oli decided to join hands with Dahal in May 2018 to form the Nepal Communist Party, he is one politician who never hesitated to heap scorn upon the latter for leading an armed conflict.

Observers and rights defenders say Oli appears to be using former Maoist combatants, around 15 years after the peace deal, for his political gains.

According to them, both Oli and Dahal are playing dangerous politics against each other and they are trying to make the victims of the armed conflict their pawns.

“Oli’s attempt is purely guided by a motive to expand his vote base,” Kapil Shrestha, a former member of the National Human Rights Commission, told the Post. “When Dahal says that the peace process is in danger due to Oli, the question will be raised as to what he did to conclude it when he was in power.”

Since the 2006 peace deal, Dahal has led the government twice—in 2008 and 2016. But his tenure on both occasions did not last even a year.

The other governments led by various leaders too have failed to do any substantial work to conclude the peace process.

Now with the House dissolved and elections declared, the process is likely to take a back seat.

Ever since he dissolved the House on December 20, Oli has been in a campaign mode for the elections he has declared for April 30 and May 10.

Even though the House dissolution decision is being tested by the Supreme Court, Oli has been constantly making statements that there is no constitutional ground to restore the House and that the elections will take place on the declared dates.

If elections do happen, people will vote on the 91st day from today.

Many say by bringing the former Maoist fighters into his fold, Oli is trying to kill two birds with one stone. Firstly, Oli can expand his vote base by creating an image for himself as a person who cares about the neglected. Second, he wants to send a message that Dahal, who was the commander of the armed conflict, has conveniently deserted those who once were ready to die at his orders.

“Oli is clearly trying to politicise the transitional justice issue,” Govinda Sharma Paudyal, another former member of the National Human Rights Commission, told the Post. “His Saturday’s move is guided by his vested interest—clearly for political gains.”

According to him, Oli might be trying to get the support of the victims of the armed conflict, at least those who have filed complaints at the two transitional commissions—Truth and Reconciliation Commission and Commission for the Investigation of the Enforced Disappeared Persons.

A little over 63,000 cases have been filed with the truth commission while more than 3,000 cases are with the disappeared commission.

Both the commissions were formed in February 2015, nine years after the peace deal. However, for years, it could not accomplish any of its tasks, as it was deprived of both laws and resources.

As the commission officials' tenures ended, the two panels once again fell victim to politicians' interest, as they jostled for installing "their people".

The term of the current office-bearers at the commissions, who were appointed on January 18, last year after "a deal" among Oli, Dahal and Nepali Congress President Sher Bahadur Deuba, is going to end on February 9.

Whether new officials could be appointed remains uncertain, as the country itself is facing uncertainty due to Oli's House dissolution move.

Some even believe Oli's move, especially of trying to appease former Maoist combatants, as his tactic to threaten Dahal with whom his relations have badly soured lately.

Oli has not missed a single opportunity to use scathing words to criticise Dahal, describing him at times as a person whose sole goal has been access to resources and power.

As a leader of the Maoist conflict, Dahal is party to transitional justice.

By promising to address former Maoist fighters' concerns, Oli is also trying to portray himself as the only leader who cares for them. And technically, he won't be wrong to take that credit because despite failed commitments to deliver justice to conflict victims, none, not even Dahal, has made any public commitment towards the disqualified Maoist combatants.

None of the governments so far have recognised the demands of minor combatants.

Lenin Bista, former coordinator of the Discharged People's Liberation Army Struggle Committee, an association of the former minor Maoist combatants, had even filed a petition at the United Nations Office of the High Commissioner for Human Rights in Geneva in 2019 demanding justice for the thousands of former child soldiers left out of the transitional justice process. He demanded that use of child soldiers be treated as a war crime.

"The prime minister has assured us of political placements, jobs and most importantly justice," said Bista. "Monday's decision of the Cabinet is a positive step towards fulfilling his commitments."

Bista and his team, through the national and international forums, have been demanding that the use of child combatants be treated as a war crime.

Thousands of Maoist fighters like Bista were disqualified for being minors during the verification process conducted by the United Nations Mission in Nepal in 2007.

Among the 4,008 disqualified combatants, 2,973 were minors while the remaining 1,035 had joined the Maoist People's Liberation Army after the first ceasefire of May 26, 2006 — six months before the peace deal was signed.

According to Bista, at Saturday's meeting, the prime minister said that he was ready to form a task force to study the concerns of the former child combatants.

Charan Prasai, a human rights activist, said it has become apparent now that Oli is making various attempts to increase his vote base and his recent move of wooing the former Maoist combatants is one of them.

"Oli will use that also to keep the former Maoist faction on the tenterhooks," Prasai told the Post. "While providing justice to the victims is always a welcome move, it, however, shouldn't be guided by malafide intentions."

Amid delay in concluding the transitional justice process and Oli's move of wooing former Maoist fighters, even those who once fought on behalf of Dahal like Kali Bahadur Kham, some say, could put the whole process in jeopardy.

According to Paudyal, the former member of the National Human Rights Commission, when Dahal says the peace process will be derailed, its implied meaning is the transitional justice process is not going to conclude anytime soon.

“The transitional justice process won’t progress unless there is commitment from concerned parties,” said Paudyal. “Such a commitment is unlikely now.”

War Crimes Trial Coming to Liberian Soil (Front Page Africa) By James Harding Giahvue
January 30, 2021

MONROVIA – Liberia is set to host the first war crimes trial connected to the country’s civil war in February.

The Pirkanmaa District Court in Finland announced Thursday that it will begin the trial of Gibril Massaquoi, a Sierra Leonean, for war crimes allegedly committed in Liberia in his role as a commander of the Revolutionary United Front (RUF) between 2001 and 2002 next week. Later in February the court will move to Liberia and Sierra Leone to hear from “several dozen witnesses named in the case” in Liberia, Sierra Leone and Guinea and visits to the scenes of the alleged crimes, the court said in a press release.

Massaquoi, 50, faces charges of murder, aggravated rape, aggravated war crimes and an aggravated criminal case of human rights violations in exceptional circumstances. The trial will return to Finland in May and the case is scheduled for judgement in the Finnish fall.

Massaquoi was arrested in March last year and remanded by Finland’s National Bureau of Investigation (NBI) in Tampere in southern Finland, where he lived. The Finns had been investigating Massaquoi since 2018.

Civitas Maxima, a Swiss-based victims group and its Liberian-based counterpart, the Global Justice and Research Project (GJRP), had first documented Massaquoi’s alleged crimes and presented them to Finnish authorities. Evidence that he was a resident of the northern European country emerged on the internet in 2010, when his name appeared on an article about peace and democracy in a post-conflict setting.

Holding a war crimes trial on Liberian soil is a major development in the campaign for the establishment of a war crimes court for Liberia. Despite the 2009 recommendations of the Truth and Reconciliation Commission, Liberia’s Legislature is yet to pass a law to approve a war crimes court for Liberia.

The head of Civitas Maxima, Alain Werner, celebrated the support given to the Finnish investigators by the governments of Sierra Leone and Liberia.

“This case so far has been an example of great cooperation between national states, and we applaud the governments of Sierra Leone and Liberia for their collaboration during the investigation phase of this case. We also applaud the Finnish authorities as the investigation was a model of efficiency – with many witnesses, including defence witnesses, being interviewed in a very timely manner, and in extremely adverse circumstances with the global pandemic, since the arrest of Gibril Massaquoi.”

While Liberian authorities have dragged their feet on war time justice, Civitas and GJRP have spearheaded an effort by European and American law enforcement to prosecute accused war criminals hiding in exile. This is the fourth such case to go ahead. Mohammed Jabbateh and Thomas Woewiyu were convicted of immigration fraud in relation to their roles in the war in 2017 and 2018, respectively. The trial of Alieu Kosiah, of ULIMO, will continue in Switzerland on February 15.

Formed in 1991, the RUF began collaborating with the National Patriotic Front of Liberia (NPFL), which was founded two years earlier. Together, the two groups destabilized the Mano River basin, killing an estimated 250,000 in Liberia, 50,000 in Sierra Leone and 1,000 in Guinea. Millions of people were displaced in the region.

It is unclear where exactly in Liberia Massaquoi allegedly committed the crimes. However, a 2000 United Nations Panel of Experts report found Massaquoi was in Monrovia. RUF fighters frequented villages along the Liberia-Sierra Leone border.

Liberia’s Truth and Reconciliation Commission (TRC) recorded 86 human rights violations it said were committed by the RUF in the country. That is more than the crimes the commission recorded committed by groups such as the Special Anti-Terrorist Unit (SATU), the National Security Agency (NSA) and the Special Security Services (SSS).

Who is Massaquoi?

Massaquoi was one of the high-ranking officers of the RUF. He joined the group at the age of 21 in 1991 after it raided his village of Pujehun in southern Sierra Leone. The former schoolteacher rose through the ranks of the RUF to become a colonel and then its spokesman. He first led the Alligator Forces of 100 men and later a battalion of 400 rebels. He even accompanied the group’s founder Foday Sankoh to the peace talks in Cote d’Ivoire in 1996. The 2000 UN Panel of Experts report cited him as the fourth man in command of the faction. In May 2000 he played a part in taking 500 UN peacekeepers hostage. He later became an informant for the Special Court for Sierra Leone.

Massaquoi is the third non-Liberian to be prosecuted in connection to the civil war. The first two persons are Chuckie Taylor—the American son of former President Charles Taylor—who is serving a 97-year sentence in the United States for torture in Liberia, and Dutchman Guus Kowenhoven, who was found guilty by a Dutch court in 2017 for adding and abetting crimes committed by the NPFL.

New Narratives journalists will continue coverage of the trials of Massaquoi and Alieu Kosiah in Finland, Switzerland, Liberia and Sierra Leone in collaboration with our local Liberian media partners.

Sierra Leonean man's war crimes, murder trial begins in Finland (yle) February 1, 2021

The trial of a man accused of committing serious war crimes during Liberia's second civil war two decades ago began at Tampere District Court on Monday.

The defendant, Sierra Leonean national Gibril Massaquoi, faces several serious charges including dozens of murders, eight rapes as well as aggravated war crimes and aggravated human rights violations during the years 1999-2003.

The criminal indictment said Massaquoi ordered the murder, torture and mutilation of civilians as well as participating in their cannibalisation.

The victims of the alleged crimes were civilians and unarmed soldiers, including men, women and children, according to the indictment, which was based on an extensive investigation by the National Bureau of Investigation which began in 2018.

Massaquoi was detained by Finnish police in March 2020 and ordered by the court to be held in remand custody.

Massaquoi has lived in the Tampere area for the past 10 years and Yle made the decision to identify him by name due to the fact that he held a high-ranking position in the rebel group Revolutionary United Front (RUF) and because the charges are unusually serious.

Child soldiers, bloody history RUF forces took part in both the Sierra Leonean and Liberian civil wars. The group received support from Liberia's former president and convicted war criminal Charles Taylor, who is currently in prison after he was convicted by the Special Court for Sierra Leone, a UN-backed court set up to deal with serious crimes against civilians during the country's civil war.

The RUF is notorious for its brutal methods of warfare and known for mutilating and torturing its victims. The group also commonly enlisted child soldiers in their activities. Massaquoi is said to have had major influence within the RUF, serving as an assistant to the organisation's leader Foday Sankoh and was also chair of the rebel group in the spring of 2002.

According to the indictment filed by prosecutor Tom Laitinen, Massaquoi stands accused of dozens of murders that were allegedly carried out between 7 January, 1999 and 9 March, 2003. The killings were suspected to have been carried out in different locations in Liberia.

The indictment states that Massaquoi ordered subordinates to murder dozens of civilians and also stands accused of having murdered people himself. The RUF forces actively sought out individuals who were fleeing the war-torn region.

Charges spelled out in detail According to the prosecutor, Massaquoi considered the victims to be traitors. The civilians were then allegedly taken to the village of Kamatahu Hassala where they were locked in a house and then burned alive. Ten children were also thought to have been locked in a kitchen facility and also burned alive.

Several civilians who were looking for food, according to the indictment, were shot to death after breaking into a grocery store.

The prosecutor said Massaquoi ordered his rebel group to butcher their victims' bodies and cannibalised them. The defendant also took part in eating the victims, according to the indictment.

The defendant is also suspected of having violently raped at least eight victims in Kamatahu Hassala and Foya in 2002.

Massaquoi has denied all of the charges and according to his lawyer Kaarle Gummerus, the defendant hadn't even been in Liberia since June 2001.

According to investigations by the Sierra Leone Truth and Reconciliation Commission, Massaquoi was responsible for very serious crimes during the civil war. Due to his role as a witness before the Special Court for Sierra Leone, he was transferred to Finland as part of a witness protection effort.

Life in Tampere The now-roughly 51-year-old Massaquoi moved to Finland in 2007 or 2008 and settled in Tampere shortly

thereafter. He arrived with his family, but he divorced from his wife soon after arriving. The divorce was followed by disputes over child maintenance payments and recognition of paternity.

Massaquoi was ordered to pay child support but his income was insufficient. According to Tampere District Court, the defendant's financial situation continued to be poor and he also had numerous unpaid debts.

Over the years, Massaquoi was a legal resident with a Finnish personal ID number and was registered with authorities at an address in Tampere. He had previously unsuccessfully requested that his name be removed from official registers.

Massaquoi has no criminal record in Finland, but was the victim of a crime in 2012, when he was assaulted while at a terrace in downtown Tampere.

Tenure of two transitional justice bodies to be extended but this is not enough, stakeholders say
(Kathmandu Post) By Binod Ghimire
February 4, 2021

The government has decided to extend the terms of the Truth and Reconciliation Commission and the Commission of Investigation on Enforced Disappeared Persons and the tenures of the commissioners of the two commissions by around six months.

The tenure of the two commissions formed in 2015 to investigate the conflict-era cases of atrocities is expiring on February 9.

Minister for Law and Justice Lila Nath Shrestha said after the consent of Prime Minister KP Sharma Oli, on Sunday he submitted a proposal to revise the Enforced Disappeared Enquiry, Truth and Reconciliation Act-2014 for the extension till July 15.

“As I was not present at Monday’s Cabinet meeting, I formally cannot say if it was endorsed,” he told the Post. “However, I believe it got through because the ordinance was prepared with consent from the prime minister.”

The terms of the two commissions will be extended once President Bidya Devi Bhandari authenticates the ordinance issued by the government.

Shrestha said the government decided to extend the terms till mid-July with a view that it would be better for the new government, that will be formed after the snap poll, to make the long-term decision on issues like transitional justice. The Oli government on December 20 dissolved the House of Representatives and announced midterm polls for April 30 and May 10.

The officials of the commissions said six months is too short for them to make any moves towards the investigation of the complaints. “The six months is an extremely short time for us to do anything,” Ganga Dhar Adhikari, spokesperson at the disappearance commission, told the Post. “No matter, the government continues our team or brings the new one, it should be given ample time to function.”

The disappearance commission has sought four-years to complete its job.

The government, however, remains undecided over the amendment to the Act as per the 2015 decision of the Supreme Court to remove the provisions related to giving blanket amnesty to those involved in gross human rights violations like torture, rape, and murder.

Conflict victims from the decade-long Maoist insurgency between 1996 to 2006, the human rights defenders, and the officials at the commissions have been demanding the amendment as per the apex court’s verdict which directed the government to revise the amnesty provisions in the Transitional Justice Commission.

“The chairs and members appointed on the political sharing cannot provide justice to the conflict victims,” Charan Prasai, a human rights activist, told the Post. “The extension is just an illusion to show to the international community that the government is working to provide justice.”

Ganesh Datta Bhatta, chair of the truth commission was appointed under Nepali Congress quota while Yubraj Subedi was picked as the chair of the disappearance commission on Nepal Communist Party quota.

Prasai said no matter how many times the terms of the commissions are extended, they won’t deliver justice unless the victims’ community is taken into confidence and the Act is amended as per the 2015 Supreme Court ruling.

“I am also in favour of abiding by the Supreme Court’s verdict,” said Shrestha. “However, this is a serious issue which cannot be decided solely by the government without a consensus from the Nepali Congress and the then Maoists.”

The two transitional justice commissions were formed in February 2015 with a two-year mandate to complete investigations into the conflict era cases of human rights violations and recommend reparations. However, the commissions couldn't even collect the complaints during the period. The government, through a revision in the Act extended their terms by another two years.

In its four years of tenure, the previous truth commission received 63,718 complaints and completed a preliminary investigation that involved the recording of statements from only 3,787 of the complainants.

Similarly, between 2015 and 2019, the disappearance commission received 3,223 complaints from family members saying their loved ones had disappeared during the decade-long conflict. Of these, the commission segregated 2,506 complaints saying the rest didn't fall under its jurisdiction.

The government in January 2019 revised the Act yet again with the possibility of extension of the commissions by two years. However, following their failure to deliver, the terms of the chairpersons and members of the commissions were extended only till April 15, 2019.

New sets of office bearers in the Truth and Reconciliation Commission and the Commission of Investigation on Enforced Disappeared Persons were appointed in January next last year despite the reservation of the victims, human rights defenders, and national and international human rights organisations. They blamed the chairpersons of commissions and members were appointed without transparency in the appointments.

In the last year the new teams too have not been able to work towards providing justice to the thousands of victims. The disappearance commission has completed a preliminary investigation of all the complaints while the truth commission has done the primary investigation of around 5,000 complaints.

However, they haven't completed an investigation into a single case.

Victims say the government's move to extend the terms of the commissions portrays the government's insensitivity towards them.

"Shouldn't the government evaluate their one year's performance before giving them an extension," Maina Karki, chairperson of the Conflict Victims Common Platform, told Post. "We are against the extension."

Karki said rather than giving extension, the government should bid farewell to the chairs and the members and start a new appointment process after amending the Act as directed by the Supreme Court.

Suman Adhikari, whose father was killed by the Maoists in 2002, said he along with families of other victims of the decade-long conflict had for a long time been trying to meet the Oli and Shrestha to put their concerns as the terms of commissions neared expiry.

However, they had been avoiding different pretenses. "They had been ignoring me because they wanted an unconditional extension of the commissions," he told the Post. "We have lost our faith both on the government and commissions."

Prosecution, Defense Lawyers Tell Clashing Narratives on Third Day of Sierra Leonean War Crimes Suspect Trial in Finland (Front Page Africa) By Saila Huusko

February 5, 2021

TAMPERE, Finland – After two days of courtroom housekeeping and official reading of his charges, prosecution and defense lawyers continued to further present their arguments on Thursday in the trial of Sierra Leonean war crimes suspect Gibril Massaquoi. The two sides provided context within which each will argue their case going forward.

Massaquoi, 51, is charged with committing war crimes and crimes against humanity in Liberia between 1999 and 2003. Prosecutors say he committed and commanded the murder and rape of civilians in Lofa County and Monrovia, Liberia. Massaquoi denies the charges.

Prosecution, led by State Prosecutor Tom Laitinen, began the day by showing the court maps and aerial images of Lofa County, the northern Liberian country on the border with Sierra Leone. Their aim was to help the Finnish court understand the location and landscape of the events listed in the charges.

According to one charge, civilians had fled the village of Kamatahun Hassala to other villages. "Civilians were brought from these villages [to Kamatahun Hassala], upon orders from Massaquoi, and locked in houses. The houses were then set on fire,"

the prosecution told the court. Additional charges of violence in Kamatahun Hassala include the rape and killing of at least seven women.

The prosecution also showed images of the areas in Monrovia where Massaquoi allegedly killed and ordered the killing of civilians.

But Massaquoi's defense team refuted the prosecution's claims, reemphasizing their client was not in Liberia when the alleged offenses were carried out. Lawyers Kaarle Gummerus and Paula Sallinen argued that Massaquoi had traveled to Monrovia frequently due to his role as an RUF delegate, but that his last visit there happened in June 2001. According to them, Massaquoi had come to Monrovia collect some of his belongings but ended up having to flee for fear of violence.

Both prosecution and defense agreed that Massaquoi demonstrably held a high position within RUF, having been the RUF spokesman for a number of years as well as the group's delegate in Sierra Leone's peace process. "We will prove that somebody in Massaquoi's position had no motive to go to war on the side of Charles Taylor," said Gummerus, slamming the prosecution for having no evidence to convict the former him. "This case is all about the reliability of the witnesses' narratives, because they are the only evidence the prosecution has."

Around 80 witnesses are expected to testify in Liberia and Sierra Leone. This was seen as the best solution, given the court's relatively smaller size. This way, Laitinen explained to reporters earlier, the court would also not have to ask people to interrupt their lives in order to undertake extensive travel to attend court in Finland.

According to Laitinen, the international crimes spelled out in the charges fall within universal jurisdiction. Being party to the Geneva Conventions, Finland is obligated to try the crimes regardless of where the alleged crimes took place.

While such cases can be brought on behalf of humanity, they don't exclude the possibility that individual plaintiffs with a claim against Massaquoi may yet appear. The task of finding those plaintiffs, Laitinen said, is difficult given the lack of a reliable civil registry. "Nearly a mission impossible," Laitinen said. The prosecution will therefore build on witnesses' statements. "The investigation has found witnesses with the ability to present evidence. The question may be whether they are willing to."

The defense lawyers also took a shot at the credibility of the witnesses. "We ask the court to consider how the witnesses have become involved in the investigation. It appears that the majority of them are either directly or indirectly involved with either Civitas Maxima or the GJRP."

'Angel Gabriel'

The research into Massaquoi's past started with the Swiss NGO Civitas Maxima in collaboration with the Liberia-based Global Justice and Research Project (GJRP). Their findings were brought to Finnish authorities and Finland's National Bureau of Investigation (NBI) launched an inquiry into the case in Liberia and Sierra Leone in 2018. Another name by which Massaquoi allegedly went by, "Angel Gabriel", came up in the process leading up to the investigation.

"It is amazing that the names Gibril Massaquoi and Angel Gabriel came up in the police investigation [of 2018-2020]," the defense team said. "At the end of 2000s, the Liberian Truth and Reconciliation Commission gathered materials based on which it wrote the 2009 report. It included the statements by twenty thousand witnesses and those guilty of war crimes. There is not a single mention of Gibril Massaquoi or Angel Gabriel. Neither is there a mention of Gibril, Gabriel, or Angel," Gummerus and Sallinen said.

The timing of the alleged events is expected to become a key question in the proceedings. "I agree with the defense in that the alleged timing and its vague nature are a problem of sorts," prosecutor Laitinen said. "I will be the first to admit that even I have trouble remembering details of events that took place 10 or 20 years ago," Laitinen said.

Both sides anticipate eventful few months ahead. "For my part, I expect a very interesting trial," said prosecutor Laitinen.

Prosecution Alleges Gibril Massaquoi Directed Witnesses in War Crimes Trial (Front Page Africa) By Saila Huusko
February 7, 2021

TAMPERE, Finland – Prosecutors in the war crimes trial of Gibril Massaquoi alleged Friday that the defendant tried to influence witnesses in the case. State Prosecutor Tom Laitinen told presiding judge Juhani Paiho that a cleaner at the prison where Massaquoi was being held in pretrial detention found handwritten notes in the restroom of the family meeting area, following a meeting Massaquoi had with family on September 30th.

“It turned out that these notes were written by Massaquoi and contained detailed instructions for the witnesses on the case,” Laitinen said. The notes were submitted into evidence with the police pre-trial investigation materials which totalled 3800 pages.

Massaquoi’s lawyer Kaarle Gummerus dismissed the importance of these notes, arguing that his client had been in a state of panic at the time, and that the intention of the notes was to remind people of the events in the early 2000s, not to ask them to lie.

The final day of the first week of the trial in Pirkanmaa District Court in the Finnish city of Tampere was dominated by Massaquoi’s defense. Lead by lawyer Gummerus said the case relied heavily on written evidence – news articles, United Nations reports, the 2009 report by the Truth and Reconciliation Commission of Liberia (TRC) Report, and other documents that Gummerus paint a picture of a man who had no reason – or time – to be involved in atrocities in Liberia.

“We want to bring the entire context to for everyone to see, to show there are many moving parts,” Gummerus said.

Sierra Leonean Gibril Massaquoi, 51, is charged with war crimes and crimes against humanity, including murder and aggravated rape, allegedly committed during the second Liberian Civil War between 1999 and 2003. A former colonel and spokesman in the Sierra Leonian rebel group the Revolutionary United Front (RUF), Massaquoi was an informant in the case brought against Liberia’s former president Charles Taylor at the Special Court for Sierra Leone which eventually convicted Taylor and several other top leaders. Massaquoi moved to Finland in 2008 after the Northern European country signed a law allowing the settlement of informants such as him.

Finnish State Prosecutor Tom Laitinen on February 3 at the Pirkanmaa District Court in Tampere, Finland. Saila Huusko/New Narratives The prosecution against Massaquoi relies on testimonies gathered during the pre-trial investigation carried out by Finland’s National Bureau of Investigation (NBI) in between 2018 and 2020. The NBI was initially alerted of Massaquoi’s alleged past by Swiss NGO Civitas Maxima and its Liberia-based sister organization, the Global Justice and Research Project (GJRP).

On Thursday, Massaquoi’s defense lawyers argued that these organizations may have played a role in influencing witnesses’ narratives. “We ask the court to consider how the witnesses have become involved in the investigation,” the defense lawyers said. “It appears that the majority of them are either directly or indirectly involved with either Civitas Maxima or the GJRP.”

On Friday, the prosecution rejected these claims, saying that witnesses were also found by NBI investigators. “There are 55 individuals who were found entirely independently of these organizations,” prosecutor Laitinen said. “We plan on hearing 20 of those witnesses in this trial.”

The narratives of Massaquoi’s alleged involvement in committing and overseeing atrocities are consistent, Laitinen said. “Regardless of what way the witnesses were found, the common factor is that their stories of Massaquoi’s guilt are very similar,” he said.

Defense lawyer Kaarle Gummerus on February 3 at the Pirkanmaa District Court in Tampere, Finland. Saila Huusko/New Narratives Friday was the first day in the trial to feature direct questioning between prosecution and defense, with both interjecting to question the other’s evidence.

Defense lawyers argued that newspaper stories submitted into evidence show that Massaquoi was not in Liberia at the time of the alleged crimes. They also said the absence of Massaquoi’s name in the extensive testimonies that made up the 2009 Truth and Reconciliation Commission Report showed that he could not have committed the crimes.

The prosecution challenged the trustworthiness of the media stories that the defense was relying on to establish that Massaquoi was not in Liberia when the alleged crimes took place. Prosecutor Laitinen repeatedly questioned the validity of the media reports, saying that a number of them could have involved journalists not seeing Massaquoi in person, meaning that he could have been anywhere when those interviews were done.

The trial will continue on Monday with the second part of the defense’s written evidence. Massaquoi will testify later in the week. After two weeks, the court will move to Liberia and Sierra Leone to hear witnesses there.

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Terrorism

NPR's Michel Martin speaks with Ben Makuch, national security reporter at Vice News, about the Canadian government officially labeling the Proud Boys a terrorism organization.

MICHEL MARTIN, HOST:

We want to turn now to news about a group that's gotten a lot of attention lately, the Proud Boys. A leader of the mostly white male group was arrested for his role in vandalizing signs at two black churches in Washington, D.C., last year. Others have faced charges for their involvement in the mob attack on the U.S. Capitol last month.

On Wednesday, the Canadian government moved to add the Proud Boys to their official list of terrorist entities, becoming the first country in the world to do so. The announcement called it a neofascist organization that engages in political violence and espouses misogynistic, Islamophobic, anti-Semitic, anti-immigrant and/or white supremacist ideologies. While a number of Canadians have applauded the announcement, there are others who say labeling these groups as terrorists is not the solution to the threat posed by them and others like them.

We wanted to know more about this designation and the debate over it and whether there might be implications for how the U.S. might deal with the Proud Boys and similar groups, so we've called Ben Makuch. He is a national security reporter for Vice and has reported extensively on white extremist groups in both the U.S. and Canada. Ben Makuch, welcome. Thanks so much for joining us.

BEN MAKUCH: Thanks for having me.

MARTIN: So I just want to mention in kind of a weird twist that the Proud Boys was founded by Gavin McInnes, who is a Canadian and one of the founders of Vice. And I want to mention...

MAKUCH: Correct.

MARTIN: ...He left Vice years ago and since has also left the Proud Boys. I just want to start by asking - is the description that the Canadian government used to ban this group accurate? Is that right? And how did they end up on this list?

MAKUCH: Well, I think they're definitely - it is accurate because it is sort of this neofascist, white extremist street fighting gang. Now, how they ended up on it was basically what happened on the 6 in Capitol Hill. It made a lot of headlines. And Proud Boys being founded by Gavin McInnes, who himself is a Canadian, made a lot of noise in Canada. And an opposition leader of the third-largest party in Canada, Jagmeet Singh - he basically put forth a motion that the Proud Boys be declared a terrorist organization. And then from there, it sort of gathered a lot of steam in the public, and it went to Parliament. It passed. And then it went up to the public safety minister to decide whether or not it would be a designated terror group. And it was.

MARTIN: And what does being on this official list of terror groups actually mean in Canada? What are the consequences? I want to also mention that this isn't the only group that was added to the list. So what happens when you are added to this list?

MAKUCH: With this designation, it gives banks and financial institutions the grounds to, you know, seize assets, you know, not renew mortgages. It's a very effective way at stopping support for a group at a ground level. And I should also say that I think one of the things it did was by designating the Proud Boys a terror group - whether you would agree with that or not, it does allow a certain amount of deterrence to happen, that, you know, some regular person who wants to don the yellow-and-black Fred Perry golf shirt might be less inclined to because that could, you know, have them wind up on a list where their bank no longer wants to bank with them.

MARTIN: Is there a U.S. equivalent?

MAKUCH: There is. It's called the FTO, the foreign terrorist organization list. It's much different because in Canada, we - I mean, we don't have the First Amendment. We have free speech laws, obviously, but they're not as controlled as in the United States or as protective. And in the U.S., you have - it has to be a foreign organization, which has made it quite tricky for law enforcement to actually put some of these groups onto the list, you know? The U.S. has only recently labeled a white supremacist group a terror group. And that was in April, and it was a Russian organization. I think we can all admit that there are several white nationalist, white supremacist organizations that operate in the U.S.

MARTIN: Well, to that end, though, I mean, this kind of leads to where I wanted to go next. As we said, some are calling this a step in the right direction. Obviously, Parliament agreed, saying that far-right white extremists have been ignored by authorities for far too long. But on the other hand, there is some opposition to this and not by people who are sympathetic to

them. So could you just talk about that?'

MAKUCH: Absolutely. So especially in Canada this came up. Canada has many different organizations that - you know, protest groups like Indigenous protest groups that are concerned by this. There's, you know, Black Lives Matter protesters that are concerned by this. And there's a lot of civil liberties watchers who are as well because typically, when you look at counterterrorism laws and expansion of any powers - and I should say that in this case, it isn't an expansion of the terror powers of law enforcement, but it expands the list, which essentially says that law enforcement is looking at empowering themselves when it comes to policing terrorism.

And I think whenever that happens, if we look at the last few decades of the war on terror - and, you know, Canada was involved in it as well - a lot of the surveillance that has become overzealous and has infringed on rights has been directed squarely on the Muslim community, for example, or on people of color. And it wasn't too long ago the FBI said one of the top threats was black identity extremism, which I think we can - you know, experts in my field would say that that's not necessarily correct.

So I think, you know, when you look at this type of law, and if it were to be applied in the United States, there's definitely some fears that it could then be overreached. And while this is being directed at white supremacists and neo-Nazi terror groups, it could end up directed at the wrong people. And I should say as well, you know, President Trump in the summer demanded that antifascist activism would be declared a terrorist organization, which is completely incorrect. I mean, this isn't a terrorist organization nor is it really a centralized organization. So if the pendulum swings politically, you could see it being applied to the wrong place. And that's a fear I think a lot of people have, and I think it's legitimate.

MARTIN: And before we let you go, I kind of want to look back to where we started, which is - what is this group all about? Like, what do they want?

MAKUCH: Well, I mean, look. You just look at - to what they say they are. They say they're a Western chauvinist group that, you know, believes in protecting Western values. And, you know, obviously, that's code word for white supremacy. And, you know, I would say that the...

MARTIN: And maleness. I mean, the boys thing, obviously.

MAKUCH: Yes, of course.

MARTIN: But what do they want? I mean, what do they think they want?

MAKUCH: They buy into the concept of - you know, that the white extinction, that, you know, white people have been disenfranchised from the American government and culture at large. I would say that they're different from neo-Nazi groups. Like, Atomwaffen Division and The Base were named to the same list. Those two groups believe in the downfall or want to hasten the collapse of the U.S. government to launch a so-called race war and to create a white ethno state. And it's - you know, there are specifically very much oriented towards terrorism much in the vein of something like ISIS or al-Qaida. But the Proud Boys - I think the scarier thing about them is they cast a wider net. And a lot more, you know, regular dudes, for example, for lack of a better term, would be more attracted to it because it's - the membership scheme is much less serious.

One thing they're really known for in the summer during many of the Black Lives Matter protests were going there and fighting protesters. And that was the thing. They would go to protests intent on violence and fighting. So I think the Proud Boys are clearly an extremist organization that need to be taken very seriously. And they had a very active role on the 6th.

MARTIN: That has Ben Makuch. He's a national security reporter at Vice. Ben Makuch, thank you so much for being with us.

MAKUCH: Thanks so much for having me.

US warns Yemen's Houthi rebels after terrorism delisting (Tulsa World) By: Matthew Lee

February 7, 2021

The Biden administration on Sunday warned Yemen's Houthi rebels against ongoing attacks against civilians just 48 hours after moving to strike the group from a terrorism blacklist.

The State Department called on the Iran-backed rebel group to immediately stop attacks on civilians and new military operations in Yemen. The demand came only two days after the administration notified Congress that it would remove the Houthis from its list of "foreign terrorist organizations," a designation that comes with severe U.S. sanctions. It also came just three days after President Joe Biden ordered an end to U.S. support for the Saudi-led offensive military operations against the rebels.

“As the president is taking steps to end the war in Yemen and Saudi Arabia has endorsed a negotiated settlement, the United States is deeply troubled by continued Houthi attacks,” State Department spokesman Ned Price said in a statement. “We call on the Houthis to immediately cease attacks impacting civilian areas inside Saudi Arabia and to halt any new military offensives inside Yemen, which only bring more suffering to the Yemeni people.”

Friday’s delisting had been hailed by relief agencies who had slammed the Trump administration for putting the Houthis on the list in its waning days in office. Critics said the designation would exacerbate what the U.N. calls the world’s worst humanitarian crisis by hindering aid shipments to a population on the brink of famine.

Earlier Sunday, the U.N. special envoy for Yemen arrived on his first visit to Iran for talks on the grinding war. Martin Griffiths was set to meet with Iranian Foreign Minister Javad Zarif and other officials during his two-day visit, his office said. The sessions are part of a broader effort to negotiate a political solution to the nearly six-year conflict pitting the Houthis against Yemeni government forces supported by a Saudi-led military coalition.

“We urge the Houthis to refrain from destabilizing actions and demonstrate their commitment to constructively engage in U.N. Special Envoy Griffiths’ efforts to achieve peace,” Price said in the statement. “The time is now to find an end to this conflict.”

Yemen’s war began in September 2014, when the Houthis seized the capital Sanaa and began a march south to try to seize the entire country. Saudi Arabia, along with the United Arab Emirates and other countries, entered the war alongside Yemen’s internationally recognized government in March 2015.

The war has killed some 130,000 people, including over 13,000 civilians slain in targeted attacks, according to the Armed Conflict Location & Event Project.

Secret Documents Show How Terrorist Supporters Use Bitcoin — And How The Government Is Scrambling To Stop Them (Buzzfeed News) By John Templon, Anthony Cormier, and Jason Leopold
February 8, 2021

The propagandist who called himself Azym Abdullah didn’t need much money to set up a website for ISIS that would broadcast gruesome beheading videos. What he needed was secrecy, so in 2014 he reportedly turned to cryptocurrency.

He paid a little more than 1 bitcoin, approximately \$400 at the time, to register the domain name in Iceland and host it on servers around the globe. His site asked visitors for donations to help pay for the upkeep. Those, too, were in bitcoin.

Sending donations that way allowed his donors to shield their identities behind a string of letters and numbers — a favored technique that is making it harder for banks, law enforcement authorities, and the US Treasury Department to track and slow the flow of money supporting terrorism.

Abdullah’s reliance on bitcoin is documented in a 2017 Treasury Department intelligence assessment, which was received by BuzzFeed News as part of a cache of documents that includes internal emails and reports about cryptocurrency. The intelligence assessment also reveals evidence of nine other incidents where terrorist supporters used cryptocurrency to fund their activities, from purchasing airline tickets to defacing a political website to arranging travel to Syria.

The vast majority of crypto transactions are used for legitimate purchases. But the documents provide insight into the US government’s ongoing, sometimes lagging, battle to counteract the use of crypto technology to foster terrorism and crime, as well as the variety of ways that crypto — with its presumed anonymity and ease of transfer around the globe — can be used for nefarious purposes.

In 2016, for instance, analysts at the US Treasury Department’s Financial Crimes Enforcement Network, or FinCEN, raised alarms about so-called mixers — companies that break up crypto transactions into smaller pieces to further shield the identity of the owner. When those companies operate in the US, they are supposed to register with FinCEN and provide information about suspicious clients and transactions. But the report, which is among the documents received by BuzzFeed News, found that “of the 30 largest mixing services, none have registered ... or shown any evidence of a compliance program.”

It wasn’t until nearly four years later that the government took action. Last year, FinCEN fined one of the mixers \$60 million for failing “to collect and verify customer names, addresses, and other identifiers on over 1.2 million transactions.” Those transactions, the government found, aided criminals involved with illegal narcotics, fraud, counterfeiting, and child exploitation as well as neo-Nazi and other white supremacist groups. FinCEN said it tracked transactions worth more than \$2,000 from the mixer to a website called Welcome to Video that hosted child sexual abuse materials.

The documents examined by BuzzFeed News trace the Treasury Department’s concerns about crypto technology back at least

10 years. FinCEN is now trying to change its rules so that any company dealing with cryptocurrency will have to get clearer information about their customers and their transactions.

FinCEN and the Department of Justice did not respond to messages seeking comment.

Yaya Fanusie, a former CIA analyst and an expert on the national security implications associated with cryptocurrencies, said he believes that US officials are ahead of their European counterparts in addressing the issue. But, like other experts contacted by BuzzFeed News, he said he sees a need for a new class of financial investigators to stop cryptocurrency from being misused by terrorists, narcotraffickers, and other criminals.

“For people on the ground, crypto is harder to understand when compared with more traditional means of money laundering,” said Fanusie, now a senior fellow at the Center for a New American Security. “Only recently are the skills and resources getting deployed at the field level.”

As regulators and the industry slowly adjust, the allure of crypto remains strong, with terrorists finding they can use it to solicit donations to fund operations. Last August the Department of Justice announced that an investigation conducted in cooperation with the Treasury Department had seized millions of dollars as part of the "largest ever seizure of terrorist organizations' cryptocurrency accounts."

One of the indictments described how al-Qaeda and affiliated groups ran a money laundering operation that solicited donations in crypto over social media accounts. They then used that network for donations “to further their terrorist goals.” One of the al-Qaeda associated networks tracked by the government received more than 15 bitcoins, worth thousands of dollars, in 187 transactions between Feb. 5, 2019, and Feb. 25, 2020.

Crypto technology is pressing the same weak spots in the financial system first explored by the FinCEN Files, a global project by BuzzFeed News and the International Consortium of Investigative Journalists in late 2020. The news organizations found that major Western financial institutions allowed dirty money to course across the globe in plain view of US authorities. As with traditional currencies, bitcoin and other crypto can test the ability of financial institutions to track their transactions, and the ability of US authorities to thwart crime.

At her nomination hearing before the Senate Finance Committee, incoming Treasury Secretary Janet Yellen said that cryptocurrency has the potential “to improve the efficiency of the financial system.”

“At the same time,” she said, “it can be used to finance terrorism, facilitate money laundering, and support malign activities that threaten US national security interests and the integrity of the US and international financial systems.” Cryptocurrency is much easier to move than other financial instruments, allowing criminals to quickly shift assets to different parts of the globe — an advantage when trying to avoid scrutiny by US law enforcement or when detection seems imminent.

“You can run away to jurisdiction or entities that don't care,” said Pawel Kuskowski, the CEO of Coinfirm, a cryptocurrency analytics and compliance firm. “It's a designed mechanism to protect themselves knowing that they're going to receive illicit funds.”

There are currently thousands of different virtual currencies being traded in a still-evolving market marked by secrecy. Typically, cryptocurrency owners acquire these funds on an exchange and store them in virtual wallets with addresses that are designated only by unique arrangements of letters and numbers — another layer of anonymity that obscures who truly owns the funds.

Just as banks are responsible for monitoring the transactions of their customers, the crypto exchanges have legal obligations to meet. They even send the government suspicious activity reports, or SARs, the same forms banks use when they encounter a transaction that suggests criminal activity.

But some exchanges are pushing back against FinCEN's proposal for tighter regulations, describing the requirements as more onerous than what the banking industry faces. Square, the payments company founded by Twitter CEO Jack Dorsey, and investment firms such as Andreessen Horowitz have also said the new rules would be burdensome and might violate the privacy rights of clients.

The Electronic Frontier Foundation wrote in a public comment letter earlier this year that it thought FinCEN's proposed regulations would “undermine the civil liberties of cryptocurrency users” and “give the government access to troves of sensitive financial data.”

Iraq hangs five men convicted of terrorism, sources say (Reuters) February 9, 2021

Iraq on Tuesday hanged five people convicted of terrorism charges, local security

officials said.

All those executed at a prison in the southern Iraqi city of Nassiriya were Iraqi nationals, said one source who attended.

A second security source who is part of a team in charge of handing over bodies to their relatives confirmed the details.

The sources gave no details of the crimes that the men had been convicted of.

Another Iraqi man, convicted of murder, was also hanged on Tuesday, the sources said. Iraq has put hundreds of suspected jihadists on trial and carried out several mass executions since defeating Islamic State fighters in U.S.-backed military campaign in 2014-2017.

On Nov. 16, Iraq hanged 21 convicted terrorists and murderers, including people involved in two suicide attacks that killed dozens of people in a northern town.

Human rights groups have accused authorities in Baghdad and other Iraqi regions of inconsistencies in the judicial process and flawed trials leading to unfair convictions. Iraq says its trials are fair.

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Piracy

Pirates kidnap 15 people from ship off Nigerian coast (Click Lancashire) By Elias Hubbard
January 27, 2021

Foreign Ministry Spokesperson Leyla Abdullayeva has said that measures are underway to send to Baku the body of Azerbaijani citizen Farman Ismayilov, 45, who was killed in a pirate attack on a Turkish ship off the West African coast on January 23.

Pirates in the Gulf, which borders more than a dozen countries, kidnapped 130 sailors in 22 incidents past year, accounting for all but five of those seized worldwide, according to an International Maritime Bureau report.

A Turkish ship called Mozart was hijacked by pirates off the coast of Guinea, Trend reports citing Turkish media.

"The ship is in our waters and our sailors are assisting a few nautical miles from Port Gentil", said Gabon's presidency spokesman Jessye Ella Ekogha, without providing further detail.

After kidnapping most of the crew, the pirates left the ship in the Gulf of Guinea with three sailors aboard, state-run Anadolu news agency said. There is "no doubt" those kidnapped will be taken back to Nigeria's Delta and Turkey will have little hope stopping it, he added. Earlier, a voice from the Mozart - purportedly that of the new captain - had said on a recording posted on Twitter: "I do not know where I am heading".

The minister stressed that the coordination work is underway to rescue the crew abducted by pirates.

Erdogan has twice spoken to the senior officer remaining on the Mozart, Furkan Yaren, his office said in a tweet. Out of 135 sailors abducted globally a year ago, 130 were recorded in the Gulf of Guinea - the highest ever number of crew members kidnapped in the area stretching thousands of kilometres from Senegal to Angola. "The pirates have yet to make any response".

The International Maritime Bureau has designated the Gulf of Guinea as the most risky sea for piracy. A total of 195 incidents of piracy and armed robbery were reported, up from 162 in 2019.

West Africa Pirates Spur Ship Lines to Seek Military Help (Bloomberg) By William Clowes
January 27, 2021

West Africa's pirates began 2021 as they ended 2020, by pulling off audacious abductions far from shore that sent new shudders across the shipping industry.

The Gulf of Guinea, a vast expanse of the Atlantic Ocean stretching from Senegal to Angola, is the source of ever-greater anxiety for shipowners, operators and their crews. Last year, the region's waters accounted for 95% of the 135 hostages seized worldwide, according to the ICC International Maritime Bureau.

The kidnappings — in more than 20 separate incidents — are intensifying the shipping industry's demands that more be done to make piracy riskier for the increasingly sophisticated criminals. Maersk, the world's leading container line, says the threat level has become unacceptable and an effective military response is necessary.

Industry associations are urging naval powers to deploy an international effort modeled on the coalition that stemmed rampant hijackings launched from Somalia's beaches. However, expectations are muted because the sea routes aren't as strategically significant as those off Africa's east coast.

The onus is on the under-resourced states that fringe the Gulf of Guinea to pacify their seas, which are traversed by more than 20,000 vessels a year, many of them exporting crude oil and importing refined fuel and other goods. The region's collective approach — the Yaoundé Code of Conduct — hasn't been fully implemented and national navies are tied up with the task of controlling their own waters.

At the forefront is local superpower Nigeria, where hostages are typically hidden in the swampy Niger Delta region while ransoms are negotiated. The government plans to commission \$200 million of new kit this year, including helicopters, drones and high-speed boats, to boost the navy's capabilities.

Attacks, initially concentrated near Nigeria's coastline, have spread to the waters off countries including Benin, Ghana and Cameroon. It's also happening further out to sea, and kidnappings of more than 10 people are becoming more common. These trends combined tragically on Jan. 23 when pirates boarded a container ship more than 200 nautical miles (230 miles) from Nigeria, kidnapping 15 crew members and killing one.

Pirates who kidnapped Turkish sailors make contact (Aljazeera) January 28, 2021

Pirates who kidnapped 15 sailors from a Turkish-crewed container ship in the Gulf of Guinea on Saturday have made their first contact with the shipping company to discuss a ransom, Turkish state media reported on Thursday.

"Communication has been established with crew members of the Mozart container ship," Istanbul-based Boden Shipping, which provides technical management services for the vessel, was quoted as saying by state-owned Anadolu news agency.

"Information has been obtained that all 15 crew members are in good health, not wounded and together," it said.

The company did not say whether a ransom demand was made but declared it would make no further statement in order to protect the "security and health" of the crew and their families.

One sailor, an Azerbaijani citizen, was killed in the raid while those kidnapped are from Turkey, according to the respective governments and a crew list seen by the Reuters news agency.

The body of the slain sailor, Farman Ismayilov, was retrieved when the ship he had served on docked in nearby Gabon following the attack. It was airlifted from Gabon's capital Libreville to Istanbul, and then to the Azerbaijani capital Baku by Turkish Airlines.

Accounts from the crew, family members and security sources described a sophisticated and well-orchestrated attack on Saturday in which armed pirates boarded the ship and breached its protective citadel, possibly with explosives.

The Liberian-flagged vessel Mozart was travelling to Cape Town from Lagos when it was attacked 160 kilometres (100 miles) off Sao Tome island on Saturday, maritime reports showed.

Following the attack, Mozart anchored at the nearby Port-Gentil, Gabon on Sunday, but with only three of its surviving crew members on board.

According to reports, the pirates disabled most of the ship's systems, leaving only the navigation system for the remaining crew to find their way to the port.

The three Turkish crew members are in good condition, said Turkey's embassy in the Gabonese capital, Libreville. Turkey is doing everything it can to get back the 15 kidnapped sailors, though the pirates have not made any contact with officials, Turkey's Foreign Minister Mevlut Cavusoglu said on Monday.

The Gulf of Guinea — off the coasts of Nigeria, Guinea, Togo, Benin and Cameroon — is the most dangerous sea in the world

because of piracy, according to the International Maritime Bureau.

In July 2019, 10 Turkish seamen were kidnapped off the coast of Nigeria. They were released less than a month later.

Pirates Board Product Tanker off Cameroon (The Marine Executive) February 7, 2021

According to Dryad Global, the tanker was making about 13 knots on an easterly course, then took evasive maneuvers.

Multinational Maritime Coordination Center (MMCC) Zone D notified the Cameroon and Equatorial Guinea navies, and both dispatched response units. The Equatorial Guinea frigate Wele Nzaz and Cameroonian patrol boat Dipikar responded, and a helicopter launched from Equatorial Guinea was the first asset to arrive on scene.

At least eight pirates fled when the helicopter arrived. Fortunately, the crew was found uninjured in the tanker's citadel. The vessel arrived safely at Malabo, Equatorial Guinea on February 7.

"The key to disrupting this piracy attack was a combined response by two navies and the presence of a helicopter. The helicopter probably caused the pirates to flee before they could break into the Sea Phantom's citadel," said Captain Sylvestre Fonkuah, Cameroon Navy, ECCAS Zone D Commander.

It is the ninth incident in West African waters so far this year, Dryad reported. 2021 has started off with several serious attacks, including a rare fatality during a kidnapping incident aboard the Turkish-operated container ship Mozart late last month.

Attacks instigated by Nigerian pirate groups account for the overwhelming majority of serious piracy incidents worldwide. All hijackings and 95 percent of all maritime kidnappings recorded last year occurred in the Gulf of Guinea, affecting 130 crewmembers in 22 separate attacks. One record-setting kidnapping occurred almost 200 nautical miles from land, and the average kidnapping occurred within about 60 nm offshore, according to IMB, illustrating the range and capability of Niger River Delta pirate action groups.

About 80 percent of the attackers were equipped with firearms, according to IMB. Nine out of the 11 incidents worldwide in which vessels came under fire occurred in this region.

"The latest statistics confirm the increased capabilities of pirates in the Gulf of Guinea with more and more attacks taking place further from the coast . . . Despite prompt action by navies in the region, there remains an urgent need to address this crime, which continues to have a direct impact on the safety and security of innocent seafarers," said Michael Howlett, Director of the ICC International Maritime Bureau.

Following pressure from European shipowners, the European Council recently voted to establish its first ever "Coordinated Maritime Presences (CMP)" in the Gulf of Guinea, setting up a mechanism to "increase the EU's capacity as a reliable partner and maritime security provider, offering greater European operational engagement, ensuring a permanent maritime presence and outreach in Maritime Areas of Interest." A small number of European member states have already deployed their own naval assets to the region, resulting in several successful piracy deterrence and interdiction operations.

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Gender-Based Violence

Caribbean Leaders Address Gender-Based Violence Head-on (South Florida Caribbean News) February 5, 2021

[WASHINGTON, DC] – National and regional government officials and civil society leaders from the Caribbean virtually came together on Friday to discuss how to end gender-based violence. The virtual event was organized by peace diplomats from the Washington D.C. branch of Heavenly Culture and World Peace, Restoration of Light (HWPL).

HWPL is a non-governmental organization affiliated with the United Nations Economic and Social Council. The organization advocates for the cessation of war and conflict worldwide. Friday's event was carried out by HWPL in conjunction with the

International Women's Peace Group, the International Peace Youth Group, HWPL's Peace Advisory Council, and HWPL Publicity Ambassadors.

Friday's event was titled: Peace and Equality: Ending Gender Based Violence, featured a keynote speaker and a moderated panel discussion. During this time, Leaders from across the region addressed how to utilize education and youth development programs to end gender-based violence.

Panelists included: Amanda Du-Pont (Actress, Model, and Television Host), Yvonne Alexander (Retired Commissioner of Police of Dominica's Police Force & National Council of Women), Adriana Isaac-Rattan (President of the International Women's Resource Network), Jessica Roland (Senior Specialist for Inclusive Peace of The Network for Religious and Traditional Peacemakers) Cynthia Williams (Executive Director of the National Women's Commission of Belize) Kevin Liverpool (Administrator of CariMAN in Trinidad and Tobago) Unique Cultures Executive Director of the National Women's Commission of Belize, Cynthia Williams in support of peace education programs stated:

"Culture is often used as a way of justifying, inequality, gender inequality, and violence. And, is often used as a tool to keep the status quo. This is the discussion we need to have. Especially helping people to understand that while we are highlighting some of these negative behaviors within culture. It's not that we're saying that culture is bad or that we have that we're trying to take away all these cultural nuances that make these different ethnic groups unique. But it's rather addressing the negative influences that are used within the culture."

How to Achieve Peace Looking towards the future, Yvonne Alexander, Retired Assistant Commissioner of Police of the Dominica, admitted:

"I will confess that I was very reluctant to be a panelist because I felt here it is. We're just going to talk again, but I want to say that I am happy that I was part of this discussion. There is hope there are things to look forward to."

Ms. Alexander added "I love the idea of utilizing the use of the term peace, as a platform for the future of how we educate and we advocate against gender based violence"

Currently, HWPL is carrying out peace initiatives in 170 countries around the world. One of its key initiatives is its Peace education program. The organization believes peace education awakens a student's recognition of the value of living as a citizen on this earth. In the era of peace, HWPL peace education curriculum is being introduced to educational institutions, but also at the governmental level. Pilot programs are currently underway in Haiti.

Helpline for Victims of Gender-Based Violence in Kenya (Borgen Magazine) By Natalie Whitmeyer
February 6, 2021

GREENSBORO, North Carolina — The U.N.-supported Kenyan helpline first started to assist young girls who are going through the traditional yet forbidden practice of genital mutilation. It has since evolved to help anyone experiencing gender-based violence in Kenya.

Female Genital Mutilation: What Is It? Female genital mutilation (F.G.M.) is a violating procedure that involves the removal of the external female genitalia. Ceremonial leaders usually conduct the procedure on girls younger than 15. Also known as female circumcision, many communities regard the operation as a rite of passage into womanhood. However, leaders and parents often take forceful measures to operate on these young girls, violating their right to make decisions about their own bodies and health. In addition to heightened chances of experiencing difficulties during childbirth, the risk of infection and bleeding to death are common with the procedure as well.

According to Plan International, a humanitarian organization working to advance the rights for young women and children, "21% of women admit that they have undergone the painful procedure," and "11% of women ages 15 to 19 are circumcised, whereas more than 40% of women ages 45 to 49 years are."

This practice happens for many different reasons, including:

To 'save' a girl for marriage

A belief in controlling female sexuality

Societal expectations

Coming-of-age rituals

Loose law enforcement to protect these girls

Gender inequality

Introduction of Hotline Gives Hope Healthcare Assistance Kenya (H.A.K.), with the help of U.N. Women, established a national helpline for victims of gender-based violence in 2010. Since then, it has provided vital support for girls and women who experience abuse. F.G.M. is just one of the reasons people call the helpline. Others include assault, rape, child neglect and defilement, child marriage and much more. Trained counselors are on the line 24 hours a day assisting callers until help arrives. Counselors arrange for health care, security, legal aid and can give psychosocial support to callers in need.

The number of cases of gender-based violence in Kenya rose “from 86 in February to more than 1,100 in June of this year,” due to the adverse effects of the pandemic. Although primarily women use the hotline, approximately one-third of callers are men, reporting psychological abuse from their families that harass them for being unable to provide. In response to the sudden uptick in domestic abuse, U.N. Women increased the funding to H.A.K. when COVID-19 first hit, “saving more lives, supporting more survivors and their families through recovery, and increasing access to justice.”

H.A.K.’s commitment to connecting survivors with health and law enforcement is evident. However, more ought to be done to raise awareness of sexual and gender-based violence in Kenya, as it is “one of Kenya’s biggest human rights challenges.” Many victims still holding on to traditional cultural beliefs do not understand their rights or the gravity of their situation. Therefore, educational tools can provide them with information they might not have been receiving previously.

Future Plans in the Making In 2019, Kenyan president Uhuru Kenyatta made the pledge to end F.G.M. by 2022 during a global conference for sexual and reproductive health. He also vowed to eliminate all forms of gender-based violence in Kenya by 2030. Many human rights activists think this goal is unrealistic “due to insecurity and high prevalence rates in some parts of the eastern African nation.” For example, although F.G.M. was criminalized in 2011, some communities believe this traditional practice is necessary. Local conflicts also persist in many of these areas, impeding safe accessibility and the ability to enforce these laws. As such, these communities continue the practices with little challenge.

These goals provide hope for many young girls and women who worry about their rights being infringed upon every day. However, the illegal practice of F.G.M. has seen a recent resurgence, making clear the lack of anti-gender-based violence law enforcement, despite President Kenyatta’s promise. Enforcing these policies does, admittedly, involve many risks. However, that makes the need for accountability towards President Kenyatta and global leaders all the more crucial. Worsening situations such as this indicate that many roadblocks remain on the path to ending domestic abuse. Therefore, persistence to end all gender-based violence, like the establishment of H.A.K.’s helpline, must be a top priority.

Sexual violence in Pakistan: How women police officers are helping victims (Deutsche Welle) By Mavra Bari
February 8, 2021

Many rape and domestic violence victims in Pakistan prefer to not report to authorities because of the male-dominated police staff. Some female officers are now taking measures to encourage them to come forward

Violence against women is rampant in Pakistan, with several rape cases over the past year making national headlines and causing an uproar in the Muslim-majority South Asian country.

But activists say the recorded cases are only the tip of the iceberg, as most cases of gender-based violence go unreported in the country. In many instances, women do not come forward and report the abuse to authorities.

One of the reasons behind this is a sense of fear. As much of Pakistan's police force and judiciary is male-dominated, women are reluctant to interact with them. There have been reports of harassment in police stations during investigation.

Human rights groups are urging the government to pass a new law to establish special courts for rape trials, so that victims of sexual abuse and gender-based violence feel more secure. They also demand that the number of female police officers and female judges be increased to deal with such cases.

Women make up only 1.8% of the country's police force. In the past few years, there has been a modest increase, but gender balance in the police is still a distant dream.

Encouraging Women to Report

"We don't have many women officers in police stations, but our senior officers go through a rigorous training. At the same time, we need to empower young policewomen, who, I think, are very capable," Muhammad Ahsan Younas, a deputy inspector general (DIG) for the Rawalpindi city police, told DW.

Younas has launched several projects that are led by policewomen. For instance, to encourage women to report cases of harassment and violence, the police station has established a separate unit to deal with complaints.

He has also set up a helpline that is operated only by female police officers. Women in Rawalpindi and surrounding areas can call the toll-free 111-276-797 number to report domestic abuse or harassment without having to go to the police station. After the complaint is lodged through the helpline, a female police officer makes an appointment with the complainant.

Amna Baig, a 29-year-old female police official and one of the main figures behind the helpline, says it is a difficult task for women to report harassment. "Most of the times it is not even an option for them because of the social stigma. Women going to the police station is considered a taboo in Pakistan. Our helpline ensures anonymity and safety," Baig told DW.

The helpline was launched on December 8, and as per statistics provided by Rawalpindi's women police station, scores of women called the helpline in December, and police registered 25 formal complaints as a result of it.

According to police, complaints about teasing in public spaces accounted for 52% of calls, 12% were about sexual harassment and around 36% about domestic violence.

Baig notes that while the helpline is encouraging more women to lodge a complaint, formal police reports are still rare, as women often succumb to family and social pressures to forgive the culprits, especially when they are family members.

Model women officers Baig is hopeful that more women will join the police force in the coming years. "I come from a common Pakistani household. If a female family member has an issue that involves police, a male member takes it up for her," she said.

"Pakistani women can easily go to a hospital or a school because there are many women working there. I wanted to join the police force so that women can access police services without fear," she said.

Baig has over 80,000 followers on Twitter. She is tech-savvy and represents a change in the Pakistani police force.

But it was more difficult for women to join the police in the past. Shahida Yasmeen, a station house officer (SHO), has been a police officer for the past three decades.

"When I joined the force, a female police officer was pretty much unheard-of. I am happy to see that it is not the case anymore," Yasmeen told DW.

"We were often harassed by our male colleagues, and we could do nothing about it. Now, male police officers are more respectful, and gender-sensitized," she added.

Yasmeen is planning to start a career counseling service to encourage young women to join the police force.

Southern Africa: Homes become dangerous place for women and girls during COVID-19 lockdown (Amnesty International) February 9, 2021

During the COVID-19 lockdowns imposed by Southern African countries, some homes across the region became enclaves of cruelty, rape and violence for women and girls trapped with abusive family members and nowhere to report or escape the danger, Amnesty International said today in a new briefing.

Harmful gender stereotypes embedded in social and cultural norms, which suggest that women must always submit to men or that a man who beats his wife does so because he loves her, have fueled the rise in violence against women and girls in Madagascar, Mozambique, South Africa, Zambia and Zimbabwe. As one activist in Mozambique said: "Girls are taught that husbands only beat their wives when they love them."

Amnesty International also found in its briefing, "Treated like furniture: Gender-based violence and COVID-19 response in Southern Africa", that women and girls who dare to report violence and abuse risk social rejection for failing to conform to gender roles -- and when they do speak out, their complaints are not taken seriously by authorities.

"The COVID-19 pandemic has prompted an escalation in gender-based violence against women and girls in Southern Africa. It has also magnified existing structural problems such as poverty, inequality, crime, high unemployment and systematic criminal justice failures," said Deprose Muchena, Amnesty International's Director for East and Southern Africa.

"Lockdown measures meant that women could not escape abusive partners or leave their homes to seek protection. Across Southern Africa, women who suffered gender-based violence struggled to report abuse because both women and organizations working to provide protection and support to women were not seen as an "essential service", and so faced severe restrictions of movement, resulting in them abandoning filing cases."

Of the five countries where gender-based violence was documented in this briefing, Mozambique, South Africa and Zimbabwe stand out as countries where support services to women and girls subjected to violence and abuse were not taken into consideration in the design of the measures to control the spread of COVID-19.

Rape, beatings and killings during lockdown

Within weeks of countries being on lockdown, violence against women increased sharply across the region. In the first week of the lockdown, the South African Police Service (SAPS) reported receiving 2,300 calls for help related to gender-based violence. By mid-June 2020, 21 women and children had been killed by intimate partners in the country.

One emblematic case was the brutal murder of 28-year-old Tshegofatso Pule, who went missing on 4 June and was found four days later, stabbed and hanging from a tree in Johannesburg while eight months pregnant.

In Mozambique, civil society organizations received unusually high numbers of domestic violence cases after the start of the state of emergency in March 2020. In one case, a man killed his wife and then himself on 6 June in Matola district in Maputo province. Horrifying details also emerged of the robbery, rape and murder of a Maputo Central Hospital employee on 31 May 2020. She was on her way home, late at night because of the scarcity of public transport during the state of emergency restrictions.

In Zimbabwe, an organization that offers protection for women survivors of domestic violence, had documented 764 cases of gender-based violence in the first 11 days of the national lockdown. By 13 June 2020, the number was 2,768.

One Zimbabwean woman, Maria* (not her real name), was violently thrown out of her home by her husband after he moved his mistress in during the lockdown.

In Madagascar, the rise in poverty due to lockdown was a major factor for the increase in gender-based violence during the lockdown period, with women and girls becoming poorer, more economically dependent on abusive partners and therefore more exposed to abuse.

Zambia was the only country that recorded a slight decrease in gender-based violence during the national lockdown compared to the same period in 2019, according to official police statistics. The country recorded a 10% decrease in the first quarter of 2020, which may reflect the fact that women were unable to call for help rather than a decline in gender-based violence cases. However, one NGO, Young Women's Christian Association, recorded an increase in sexual violence cases during the first quarter of 2020.

Barriers to justice

The briefing identified several barriers to justice for victims and survivors of gender-based violence across Southern Africa. These include a lack of trust in the criminal justice system and secondary trauma which victims and survivors often suffer at the hands of authorities, including the police, and health services when they attempt to report cases.

These barriers came into sharper focus during the COVID-19 pandemic. In South Africa for example, there has been public outrage about the institutional failures to administer justice for women and girls who are victims and survivors of gender-based violence, even though the country's Domestic Violence Act of 1998 explicitly states that victims may lay criminal complaints against offenders.

One rape survivor, Natasha* (not her real name) said violence against women had increased because "police don't take gender-based violence victims seriously enough when they file cases".

South Africa's Minister of Justice and Constitutional Development, Ronald Lamola, admitted on radio in June 2020 that there were weaknesses in the system that frequently failed victims of gender-based violence.

In Mozambique, when a gender-based violence complaint is filed, police are required to open an investigation. However, like in South Africa, many victims are reluctant to come forward because of pressure from society to put up with domestic violence, financial dependence on the perpetrator, and a lack of confidence in the criminal justice system.

According to civil society organizations, in some instances, police officers were accused of dismissing gender-based violence complaints because they saw them as family matters and not crimes. The stigma around sexual violence was also cited as a contributing factor to underreporting.

"It is shocking that for many in Southern Africa, the most dangerous place to be a woman or a girl during the COVID-19 pandemic is at home. This is simply inexcusable. The leaders of the Southern African Development Community (SADC) must ensure that prevention and protection of women from gender-based and domestic violence is an integral part of national

responses to pandemics and other emergencies,” Deprose Muchena said.

“States must ensure that women and girls continue to have access to police protection and justice as well as to shelters and other support services to escape the blight of gender-based violence.”

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Commentary and Perspectives

COMMENTARY: Remembering the Holocaust in Newfoundland and Labrador (Journal Pioneer) By Gerhard P. Bassler
January 28, 2021

Today is the 76th anniversary of the liberation of Auschwitz and, since 2005, the International Day in Commemoration of the Holocaust. It is a fitting time to reflect on the legacy of the Holocaust and Newfoundland’s connections to it.

This is the address that I would have delivered to the 2020 Holocaust Memorial Service had local Jewish communities been able to mount it last May. It is as relevant today as it would have been then. I am publishing it with their encouragement.

Most of the survivors of the Holocaust are dead and the last ones are dying. Is their legacy in danger of vanishing with them? We don’t have to look far to become alarmed. South of the Canadian border a new populism has surfaced with strong racist overtones. This has also asserted itself in other countries. In America it was courted for the last four years at the highest level. There we had a government whose head flirted with racists and propagated conspiracy theories, attacked immigrants and criminalized refugees. He admired authoritarian rulers and flouted basic protections of liberal democracy. The genie he let out of the bottle will be with us for some time to come.

To anyone familiar with the rise of Nazism, the parallels are frightening. Then and now, a racist demagogue was able to draw masses of people into his orbit — people who are not well educated, insecure and with a grudge against democracy. Then and now, new media — radio and film in the 1920s, social media and TV today — played a key role in mobilizing them. Then and now, a groundswell of racism acquired more influence than it would normally have had because established parties tolerated and enabled it to further their own ends.

Democracy under siege

American democracy has come under attack as perhaps never before. It has long been a model of liberal democracy that Americans were eager to export. But democracy is “liberal” only if it guarantees civil liberties and protects the rights of individuals and minorities. One of Hitler’s first objectives was to suspend constitutional guarantees of civil liberties. He accomplished this with the help of conservative coalition partners.

The Holocaust experience has renewed attention to the protection of civil liberties. Crimes associated with racial discrimination became criminal offenses. Many countries have adopted laws against hate crimes. Concepts such as crimes against humanity might not have received international recognition without the Holocaust. The Nuremberg trials entrenched these concepts in international law. The United Nations High Commissioner for Human Rights monitors abuses. Since 2002, the International Criminal Court has acted as a tribunal to identify, prosecute, and punish these crimes.

Indeed, the legacy of the Holocaust has permeated our postwar liberal world in many important ways. Closing the door to refugees and discriminating against immigrants on religious grounds has become unacceptable. In 1951, the United Nations adopted a Refugee Convention that recognized the right of refugees to be granted asylum from persecution, and declared it the responsibility of governments to protect them. Since 1969, Canada has been one of 145 countries that have ratified this Convention. That means Canada accepts refugees selected by the United Nations Refugee Agency as part of its immigration quota: 3,700 of those admitted in 2019 came here. Two-thirds are in and around St. John’s.

Newfoundland connection

This legacy of the Holocaust is of particular relevance to Newfoundland. Until 1949, Newfoundland was the only country in the west that had a statute resembling the UN refugee convention. Enacted in 1906, it was an extremely generous law offering unconditional asylum to refugees from political and religious persecution, even if they arrived in poverty. Because this law was

never repealed, some 12,000 European refugees, threatened by Nazi policies, applied for sanctuary between 1934 and 1940. These included doctors, dentists, and nurses willing to establish travelling clinics in isolated outposts that lacked medical services. Tuberculosis was rampant. There were professionals, academics, tradesmen, skilled workers, farmers and business people, some funded by Jewish organizations. Some proposed building factories employing Newfoundlanders to produce imported goods.

In the 1930s, the colony was looking for economic development. It was bankrupt, underdeveloped, poor and lacked trained specialists in every field. The rural population was clamouring for the services and skills these refugees offered. The Newfoundland government had every reason to admit some of them. Instead, it ignored its own refugee law and refused every one of these refugee applications and settlement proposals.

Why?

At the time, Newfoundland was governed an unelected commission appointed by the British government, a dictatorship more or less. It catered to the interests of the local power elite that furnished three of the six commissioners. This small group of merchants, lawyers and doctors were interested in preserving their own privileges. Skilled Jewish refugees would threaten their monopoly over the colony's economy and medical services.

More Jewish businessmen would take away business from the local merchants and Jewish refugee doctors would take away patients from doctors in St. John's, the Newfoundland Medical Board argued.

Sadly, applications from local residents to sponsor relatives suffering persecution were also refused. Several pleas came from Pruzhany, a city in eastern Poland, where in 1941 all Jewish residents were herded in a large ghetto and sent to Auschwitz in 1943. Anti-Semitism was then as prevalent among the St. John's professional and educated class as in Canada, the editorial policy of The Evening Telegram revealed. Traces of it were still surfacing 20 years later.

Sanctuar denied

Brian Dunfield was Newfoundland Secretary of Justice in 1939. From 1940 to 1960 he served as a Supreme Court Justice. In St. John's, a street, community centre and building are named after him. In 1939 he had resorted to tortured reasoning to keep Jewish refugees out. In July 1939, as Poland was about to be invaded, he refused several pleas by Rose Zuber, a prosperous local businesswoman, to sponsor her parents and two brothers from Pruzhany.

As grounds he cited an obscure 1891 Privy Council case allowing Australia to turn back Jewish immigrants. Holocaust survivors Betty and Andreas Barban met Dunfield at a party in 1952. Betty asked why her naturalization certificate had not arrived while Andreas had his. He answered with a stern look: "You shall be deported."

Perhaps he intended this as a joke, but Betty was deeply shocked, she told me, and wondered how a Supreme Court judge could be so insensitive to the importance of a naturalization document for an Austrian who had to flee to China to escape the Holocaust.

The Barbans were among some 26 families of Holocaust survivors who were able to settle in Newfoundland after the war. Their warm reception suggests that the refugees of the 1930s would have been welcomed. The survivors were eager to integrate and willing to share their skills as business and music pioneers. They were an enormous asset to the community and helped make Newfoundland's predominantly British-Irish society multicultural. All this is now history, remembered only by people my age.

Until the 1970s, few cared to hear and appreciate the survivors' experiences. The public was preoccupied with the Cold War and the danger of nuclear holocaust. Holocaust survivors were supposed to integrate and move on. The survivors, in turn, were reluctant, often even ashamed, to talk about their ordeals. The term "Holocaust" was rarely used until the four-part 1978 mini-series "Holocaust" (with Meryl Streep) popularized the word.

Memorial service

In Newfoundland, Lewis Ferman was an exception. He escaped from a Polish ghetto and joined partisans in the underground where he met his wife Grunia. He did not keep quiet. As early as 1956 he organized an annual memorial service in St. John's to commemorate the 1944 uprising in the Warsaw ghetto. With this began Holocaust Memorial Services in St. John's, long before they appeared elsewhere in North America.

I met Lewis for the first time in 1966 at the Grace hospital where we shared a room. When he found out that my background was German, he jumped up on his bed, and asked me to look at the scars from his time in the ghetto and underground. Then he gave me a long lecture on the cruelty Germans had been capable of inflicting on innocent victims.

Not until the 1980s were survivors in demand and willing to speak. It marked a turning point in Holocaust consciousness. A new, deeper, awareness of its universal significance began to emerge. In Newfoundland, Philip Riteman and Moishe Kantorowitz came to my history class. As Riteman delved into his memories of Auschwitz, he began to cry. So did some of the students. It was a moving experience they will never forget.

The public learned what the hell of Auschwitz had done to survivors. Interest grew in the stories of survivors from death camps, or as refugees who had to travel as far as Shanghai to find sanctuary in 1939 or as children deported from asylum in England to a Canadian prisoner of war camp.

Both Kantorowitz and Riteman published their memories. Robin McGrath devoted a chapter to Survivors in her “Salt Fish & Shmattes: A History of the Jews in Newfoundland and Labrador from 1770.”

I interviewed Andy and Betty Barban, and Ernst Deutsch, and sketched their ordeals in my book “Sanctuary Denied.” All were at a loss to understand how ordinary people who lived ordinary lives in a civilized society, who had families and went to church, could turn into mass murderers of innocent people.

This bedevils us. Tears in his eyes, a colleague who watched “Schindler’s List” with me said “But these people were innocent, Gerhard. They were all innocent.” Yes, they were innocent. They were an innocent minority persecuted in a society where hate-mongers gained control. Strong liberal democracies would have protected the innocent and given sanctuary to refugees.

Keeping democracy liberal and strong is our most precious legacy from the Holocaust and our best defence against its recurrence.

The ICC Opens a New Front in the War Against Israel. Why We Must Fight. (Jewish Journal) By Abraham Cooper
February 9, 2021

You don’t have to be a lawyer to know the drill:

Heads Israel loses. Tails Palestinians win.

When it comes to the Palestinian Authority’s abject failure to deal seriously with the COVID-19 pandemic, Israel is an occupying power with the responsibility to inoculate all Palestinians. The fact that the Palestinian Authority has the legal responsibility and a health ministry is irrelevant. Israel is cast as an immoral Goliath monster, this time its main weapon isn’t an F-35 but its biomedical prowess and high-tech connections.

However, when it comes to putting Israel in the docket of a kangaroo court, the International Criminal Court (ICC) announces it is treating ‘Palestine’ as a sovereign nation. The Jewish state, its political leadership, generals and soldiers could be placed on Interpol watchlists, be detained at airports, barred from entering other countries and even be schlepped into courts and put on (show) trial – paraded as war criminals – for thechutzpah of protecting their fellow Israeli citizens from criminal terrorists like Hamas, Islamic Jihad and Hizbullah. Speaking of these organizations, the leaders and their deadly operatives have little to fear from the ICC. That court will never hold them responsible for their targeted serial attacks against Israeli civilians living within their internationally recognized borders!

There are observers and legal experts whom I respect, who would counsel the State of Israel to pay no heed to the ICC’s shenanigans. Jerusalem, like the United States, they would rightly point out, never signed on to give the court any jurisdiction, so the ICC threats have no stature or legal standing.

I’m not a lawyer but doing nothing is a luxury Israel and her Zionist supporters don’t really have.

The ICC gambit and its timing when the United States is re-embracing international addresses including the anti-Israel UN Human Rights Council and the Iran nuclear agreement, cannot go unchallenged, especially in the court of international opinion.

ICC’s lurid indictment of a people defending itself from terrorists rather than going after the terrorists themselves, targets one nation and one nation only – Israel.

It fulfills, on steroids, Natan Sharansky’s and Irwin Cotler’s classic 3 Ds of contemporary anti-Semitism masquerading as criticism of the Jewish state:

The ICC is guilty of a whopping Double standard; its goal is to Demonize Israelis by hanging the sign “war criminals” around their necks (read Nazis) for defending themselves from mass murderers; and to De-legitimize Israel’s political leadership by isolating the Jewish state in the international community and de facto keeping key leaders from traveling around the world.

Exaggerating, you say? I think not. I feel like we have been to this rodeo before.

In the coming months the United Nations, which maintains its stoic silence on the plight of the Uighurs and Christians in China, on the bludgeoning of democracy in Hong Kong, on the mass murder of Christians in Nigeria, on the crushing of the people of Venezuela, and the murder of innocent citizens of Iran by Ayatollah Khamenei's thugs, is preparing a Durban IV "celebration," marking 20 years since 3,500 NGO guiding lights of civil society unleashed an assault on Israel and the Jewish people that we are still reeling from. Back in 2001, along with my colleague Shimon Samuels, we served as spokesmen for the undermanned Jewish groups there as we were assaulted by Iranian delegates, witnessed tens of thousands of trade unionists rally against Nazi Israel, then watched helplessly as a book-sized anti-Semitic screed was voted on with Stalinist-like speed and handed to the United Nations for further action. It was this meeting in Durban, South Africa that formalized the big lies casting Israel as a racist entity and labeling it an apartheid state.

In 2021, academics and well-funded 'student' groups around the world serially pummel Israel and her supporters with BDS (Boycott, Divestment and Sanctions) lies, spawning bullying of Jewish students who stand up for Zionism out of leadership positions in student government. It is no wonder that such an environment also spawns blatant anti-Semitism.

Now the ICC's illegal decision to recognize the non-existent state of Palestine and to investigate Israel for possible "war crimes" means the opening of a new front in the war against the world's largest Jewish community. It also guarantees a tsunami of colloquia at law schools and articles in legal journals attacking Israel.

One key question going forward is what will the new Biden Administration do in this case. America is no mere bystander. If Israelis can be prosecuted for imaginary crimes in Gaza, so can Americans be targeted for their actions in Iraq, Afghanistan or Syria. If Prime Minister Binyamin Netanyahu or members of his cabinet can be indicted for military actions, so could former US presidents Barack Obama and Donald Trump, or potentially President Joe Biden.

When I asked Holocaust survivor and Nazi hunter Simon Wiesenthal why he chose to dedicate his life to bringing Nazi war criminals before the bar of justice, he said that one reason was that he wanted to help rehabilitate the fundamentals of justice, which the Nazis had almost succeeded in obliterating.

Were he alive today, he would denounce the ICC's reckless and shameless politicization of justice to punish Jews for defending themselves from those committed to finish Hitler's genocidal goals.

Lawfare is not the path to peace (The Australian) February 9, 2021

Foreign Minister Marise Payne had good reason to express Australia's deep concern over the International Criminal Court's ruling that it has jurisdiction over "the situation in Palestine". As University of Wollongong law professor Greg Rose pointed out on our Commentary page on Monday, the decision presages decades of prosecutions targeted at Israeli leaders for alleged war crimes, a goal that has long been a key ambition of Palestinian leaders in their campaign against the Jewish state.

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Yet it is a judgment that is based in legal fantasy land given that, as Senator Payne noted, there is no such sovereign state as "Palestine" that has rights under the 2002 Rome Statute, the ICC's founding treaty that forms the basis on which the court may or may not take action such as that demanded by the Palestinians. Neither is Israel among the 123 countries that have signed the statute, which mandates specifically that the ICC's jurisdiction and right to act is reserved for, and confined to, only those countries that consent to it.

In 2015, Palestinian Authority president Mahmoud Abbas lodged a declaration under the Rome Statute accepting the ICC's jurisdiction over alleged crimes committed "in the occupied Palestinian territory, including East Jerusalem, since June 13, 2014". He did so in a fit of pique after the rejection of a UN Security Council resolution demanding an end to Israeli occupation of the Palestinian territories, with the US and Australia voting against.

Buoyed by the ICC's legal acrobatics in claiming jurisdiction to act on his complaint, Mr Abbas clearly will seek to use the court's processes to try to cause major damage to Israel. But his real aim is likely to be to bolster his attempts to achieve Palestinian statehood through the back door with recognition of it by key international bodies such as the ICC, rather than through negotiating directly with Israel. It will be a pity if the ICC allows itself to be manipulated in this way. As Australia/Israel and Jewish Affairs Council executive director Colin Rubenstein said: "Palestine is not a state and international law should not be abused in order to manufacture one. A Palestinian state will only be created after negotiations with Israel to resolve important issues such as borders, refugees and the status of Jerusalem." Yet implicit in the court's 2-1 decision is acknowledgment by the ICC of Palestinian statehood.

No wonder Israeli Prime Minister Benjamin Netanyahu reacted so vehemently, denouncing the decision as “refined anti-Semitism” against the Middle East’s only functioning democracy and the only country in that region where the rule of law prevails. He has a point, not least because the ICC’s judgment can be read as drawing a moral equivalence between Israel and terror groups such as Hamas and Islamic Jihad.

Of course, any serious allegations against Israeli security forces ought to be investigated. As Dr Rubenstein pointed out, Israel has “an independent legal system which is quite capable of addressing any allegations of war crimes, and the ICC is only supposed to intervene where such domestic legal processes are not available. Rather than doing the bidding of Israel’s enemies, the ICC should focus on the egregious human rights breaches in Xinjiang, in Myanmar and in Iran.”

That is unlikely to happen. The ICC’s Palestinian overreach was encouraged by the League of Arab States and the Organisation of Islamic Co-operation, while key Muslim-majority nations have financial interests and political calculations above solidarity with Uighur coreligionists. This is not about justice and it’s not as if the ICC has credibility to squander. As for the Palestinian cause, the only path towards harmony and prosperity for this long-suffering people is for an end to angry gestures and futile manoeuvre. Palestinians deserve a leadership with a firm grasp of what is strategically possible and unafraid to take responsibility for good-faith negotiations with Israel.

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WORTH READING

The Challenge of Biases in Machine Learning Models and Big Data Analytics for International Criminal Investigations (International Review of the Red Cross, Forthcoming March 2021)

Nema Milaninia

January 28, 2021

Advances in mobile phone technology and social media have created a world where the volume of information generated and shared is outpacing the ability of humans to review and use that data. Machine learning (ML) models and big data analytical tools have the power to ease that burden by making sense of that information and providing insights that might not otherwise exist. In the context of international criminal and human rights law, ML is being used for a variety of purposes, including to uncover mass graves in Mexico, find evidence of homes and schools destroyed in Darfur, detect fake videos and doctored evidence, predict the outcome of European Court of Human Rights’ judicial hearings and gather evidence of war crimes in Syria. ML models are also increasingly being incorporated by States into weapon systems to better enable targeting systems to distinguish between civilians, allied soldiers and enemy combatants or even inform decision-making for military attacks.

The same technology, however, also comes with significant risks. ML models and big data analytics are highly susceptible to common human biases. Those biases have the potential of reinforcing and even accelerating existing racial, political or gender inequalities. They can also paint a misleading and distorted picture of the facts on the ground. This article canvasses how common human biases can impact ML models and big data analytics. This article also examines what legal implications these biases can have under international criminal law and international humanitarian law.

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