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Watch

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Democratic Republic of the Congo

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DR Congo Militia Kills 24 in Troubled Beni Region (TheDefensePost)
August 27, 2020

At least 24 civilians were killed over two days by a notorious militia in the Beni region of eastern Democratic Republic of Congo, where the army is battling armed groups, a local source said Wednesday.

The Allied Democratic Forces (ADF), a mainly Muslim movement that originated in Uganda in the 1990s has been blamed for more than 1,000 civilian deaths in the Beni region of North Kivu province since 2014.

“Twenty bodies were discovered Monday in the villages of Mapasana and Mabuo,” Kinosh Kathuhoo, head of the local civil society told AFP.

Four other bodies were found on Tuesday in the nearby village of Mbau after an attack, he added.

Beni regional administrator Donat Kibwana confirmed the attacks to AFP.

A local NGO called Cepadho said in a statement that 40 civilians were killed by ADF over the last 10 days in Beni.

In the same region, “794 civilians [have been] massacred by the ADF” since the army launched an offensive against it last October, Cepadho said.

The DRC army has been fighting an array of armed groups in the east of the vast central African country for nearly three decades.

The ADF moved from neighboring Uganda into the DRC in 1995, making the country its base of operations, although it has not carried out attacks inside Uganda for years.

DR Congo tries 21 soldiers, police for rape (Vanguard)

August 27, 2020

Twenty-one soldiers and police are on trial for rape in the east of the Democratic Republic of the Congo, judicial sources told AFP on Wednesday.

Presiding judge Major Alain Giongenga-Lwanzu said a military court has been trying the accused in South Kivu province since Monday, in the presence of 23 of their victims who joined forces in a civil action.

The women are being supported by Congolese gynaecologist Denis Mukwege, the 2018 Nobel Peace Prize winner, and his Panzi Foundation.

The 21 accused are being prosecuted for rapes and sexual assaults committed this year in the Ruzizi plain between Bukavu and Uvira, in a region destabilised by armed groups and banditry.

“Women of various ages including a nine-year-old girl, but also a young boy” are among the victims, according to the Panzi Foundation.

Mukwege received the Nobel Peace Prize for his work in reconstructive surgery for female victims of sexual violence on the sidelines of the armed conflicts that have destabilised the Kivu region for nearly 30 years.

His foundation also wants to provide legal support to victims to fight against the impunity of warlords.

The trial aims to be “educational” and to “dissuade armed men from committing acts against the law such as taking women by force,” captain Joseph Nganama, military prosecutor, told AFP.

It is also a message so that “civilians emerge from their fear and know that the military is not above the law,” he added.

The crimes were committed this year in several villages including Luvungi, on the border with Burundi, according to the prosecution.

The verdict is scheduled for September 2, the court said.

UN rights chief urges DR Congo to protect Nobel laureate Mukwege amid death threats (UN News)

August 28, 2020

Dr. Mukwege is best known for helping thousands of women victims of sexual violence in the eastern Democratic Republic of the Congo (DRC).

For decades, he has also called for perpetrators to be brought to justice and advocated against the use of rape as a weapon of

war.

He survived an assassination attempt at his home in 2012.

Surge in threats

In Geneva, spokesperson for the UN rights chief, Rupert Colville, said that the recent surge of threats against him had been conveyed via social media and in phone calls to him and his family.

These were likely connected with Dr. Mukwege's condemnation of rights abuses linked to longstanding violence in the highlands of South Kivu, where mainly Banyamulenge herders have been involved in conflict against the Babembe, Bafuliru, and Banyindu communities.

This fighting has been characterized by the involvement of multiple armed groups, "both local and foreign", Mr. Colville said.

"The threats appear to be more linked to his advocacy, you know his very robust positions taken on accountability, on the protection of women, as a result of what he's seen in decades in hospital," he said.

"In terms of protection...this is a difficult part of the country, it's a very, very violent region, so that is part of our call to the authorities that they absolutely make sure they do provide really comprehensive physical protection to Dr. Mukwege and to the rest of his team, so that they can continue their vital work on which so many women depend."

In a statement, Ms. Bachelet said that Dr. Mukwege's life "seems to be at serious risk", before welcoming President Felix Tshisekedi's public commitment to ensure his security.

'A true hero'

"Dr. Mukwege is a true hero – determined, courageous and extremely effective," the UN rights chief insisted. "For years, he helped thousands of gravely injured and traumatized women when there was nobody else to take care of them, and at the same time he did a great deal to publicize their plight and stimulate others to try to grapple with the uncontrolled epidemic of sexual violence in the eastern DRC."

Ms. Bachelet also called for an effective, prompt, thorough and impartial investigation into the threats made against him.

"It is essential those responsible are brought to justice and that the truth is known, both as a means to protect Dr. Mukwege's life, but also as a deterrent to others who attack, threaten or intimidate medical workers and human rights defenders who, like him, work for the benefit of the Congolese people, often in exceptionally difficult circumstances," she maintained.

The UN rights chief also underscored the need for all relevant authorities to condemn the threats.

In order to tackle the problem in the longer term, she urged the Congolese authorities to adopt the draft law on the protection and regulation of the activity of human rights defenders "in a form that is fully consistent with international standards".

Transitional justice call

Efforts should also be stepped up to prevent further human rights violations and abuses in eastern DRC, Ms. Bachelet continued, with "concrete steps to establish transitional justice processes that grant thousands of victims of successive conflicts their right to justice, truth, and reparations."

Dr. Mukwege, a surgeon and gynaecologist, was awarded the 2018 Nobel Peace Prize after decades of work at Panzi hospital in Bukavu - which he founded - helping women who'd endured serious sexual abuse.

He was also a firm supporter of a 2010 report by the UN Human Rights Office, OHCHR, which chronicled hundreds of serious human rights violations and abuses in the eastern DRC between 1993 and 2003, in many cases identifying the groups and entities allegedly responsible for perpetrating the crimes.

The UN-led mapping exercise followed the discovery of three mass graves in the eastern part of DR Congo in late 2005.

The Office's final 550-page report contained descriptions of 617 alleged violent incidents in the DRC between March 1993 and June 2003.

Each of the incidents pointed to the possible commission of gross violations of human rights and/or international humanitarian law, the UN human rights office said. Only incidents backed up by at least two independent sources featured in the report. Incidents that could not be corroborated by a separate source were not included in the report, serious as they may

have been.

Two students, teacher killed in DR Congo school attack (Aljazeera)

August 29, 2020

At least two students and a teacher have been killed and several other teachers kidnapped after a primary school holding exams was attacked by unidentified gunmen in the Democratic Republic of the Congo (DRC).

DRC President Felix Tshisekedi said two students died when fighting broke out in North Kivu province on Thursday morning. He did not give further details.

Cosmas Kangakolo, an administrator for Masisi territory, said the Ngoyi Primary School was attacked. He said one teacher died and several were kidnapped.

Exam centres in the area are protected by the army, Kangakolo said, because of endemic security problems.

The United Nations children's fund said the clashes took place between law enforcement officials and an armed group near the exam centre.

Exact details of the attack and the number of casualties remained unclear. It was not clear whether the students were targets of the fighting or caught in the crossfire.

Rich in fertile soil and natural resources but awash with weapons, large portions of the DRC continue to suffer from chronic instability following the 1998-2003 war in which millions of people died.

Violence has flared in recent months with armed groups killing more than 1,300 people in the first half of 2020, three times more than the previous year.

Ten militants and five civilians killed in east Congo violence: army, local leader (Reuters) By

Alessandra Prentice

August 30, 2020

Ten Islamist militants were killed after they ambushed an army convoy in eastern Congo on Friday, according to the military, while a community leader said five civilians were killed by members of the same rebel group soon after.

The Allied Democratic Forces (ADF), a Ugandan armed group operating in eastern Democratic Republic of Congo for more than three decades, has killed more than 1,000 civilians since the start of 2019, according to United Nations figures.

The latest violence saw six Congolese soldiers wounded in clashes with the militants following the ambush near the town of Mbau, army spokesman Antony Mwalushayi said on Sunday.

"Two ADF fell on the spot. In the evening after we secured the area, we discovered another eight," he said, referring to the militant casualties.

Not long after the ambush, members of the same ADF group killed five civilians near Mbau, including three women, and took a few hostages, according to Mathe Esdras, head of the local youth council. Reuters could not independently verify his report.

The army launched a large offensive against the ADF late last year, sparking a violent backlash against civilians.

The insecurity has forced hundreds of thousands to flee their homes and complicated Congo's response to the COVID-19 pandemic as well as an Ebola epidemic that has killed more than 2,200 people.

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

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

Hunger and fear stalk survivors of attack in north Cameroon (UNHCR) By Moïse Amédjé
September 7, 2020

Eighteen people died and 15 others were wounded in the overnight attack on 1 August at Nguétchéwé, close to the border with Nigeria, where thousands of internally displaced people have sought safety over the past seven years. Since then, insecurity in Far North region has continued. Attackers killed seven and wounded 14 on Monday when they targeted a Goldavi village, which hosts IDPs.

The 2,000 residents at the site near Kolofata have had to adjust their daily routines since August and this has made their lives even harder.

“We can no longer dig in the fields for fear that armed men will hide in them and attack us. These days, we farmers do virtually nothing,” said Ndonoko, 40, who fled to Nguétchéwé when attackers burned his village in Cameroon to the ground.

Ndonoko is no stranger to violence. His younger brother was killed last year and his niece, Yakadam, died in August’s attack on the site, which is in the Far North region’s Mozogo commune. Nguétchéwé, which borders a nature reserve, overlooks the frontier with Nigeria and this proximity makes it vulnerable.

The attack has changed life in Nguétchéwé, a village of straw huts topped with tattered tarpaulins, in other ways too. Children still play, women fetch water from a well or go to the local market and some people still work in small fields of rice and corn. But others have set up vigilantes for self-defence and villagers sleep outdoors to be able to escape if attacked again.

“This attack mainly affected women and children and they are in particular need of protection,” said Olivier Guillaume Beer, the representative in Cameroon for UNHCR, the UN Refugee Agency “It shows the extreme vulnerability of these displaced populations We have a duty to provide them protection and assistance and we are at the disposal of the authorities to help them in this task,” he said.

Violence is rising in the Far North, after a spate of looting, attacks and kidnapping by Boko Haram and other groups. Some 360,000 internally displaced people and 115,000 Nigerian refugees stay in the region.

Overall, around 3.2 million people have fled their homes in the Lake Chad basin region. This includes around 2.8 million who are internally displaced in northeast Nigeria, Cameroon, Chad and Niger and roughly 300,000 Nigerian refugees who have fled into neighbouring countries.

Memories of the August attack haunt survivors. Suzanne Taramna recalls the sound of gunfire awakening her that night.

“I woke up my children to run towards the bush. In the dark, people were running. It was a complete stampede and in the confusion I lost sight of two of my children who took another direction. I took shelter in a cornfield. Not far from me, I heard a loud explosion. A piece of debris from the explosive device hit my hand,” she said. “Afterwards, when I went to the scene, I discovered the remains of my two boys aged 12 and eight,” she said. Witnesses said the suicide bombers themselves were children. Within days of the attack people in the Kordo and Guérédou nearby also fled their homes fearing they too might be targeted.

UNHCR provides protection and assistance with water, food, shelter and other items to more than 400,000 refugees in Cameroon, mainly from Nigeria and the Central African Republic.

For Mylène Ahounou, head of the UNHCR sub-delegation in Maroua, northern Cameroon, the needs are never-ending.

“They have lost everything: from their material goods to their documents and this exposes them to all kinds of risks from exploitation to impoverishment,” she said. “These people, who have been displaced more than once, are particularly exposed to bad weather and need blankets, mats, dignity kits for women, latrines and of course access to drinking water, health care and food,” she said.

One sign of hope was a recent food donation from the government the planned joint response of humanitarian actors in the area. Yet problems persist. “Our operation remains underfunded and it is also crucial that UNHCR and its humanitarian partners obtain improved access so that we can better serve everyone who has been forced to flee,” Ahounou said.

Boko Haram Attacks Leave Cameroon Villagers in Need of Aid (Voice of America) By Moki Edwin Kindzeka
September 8, 2020

Cameroonian villagers along the Nigerian border need humanitarian aid after deadly Boko Haram attacks displaced at least 7,000 people, authorities and rights groups say. Villagers have been fleeing their homes since early August because of attacks, which killed at least 22 people and wounded 29.

Several humanitarian groups, including the United Nations Food and Agriculture Organization (FAO), handed out goats and bags of rice, among other goods, to more than a hundred people gathered Monday in the town of Mora

Cameroon authorities say a suicide bomber hit the village of Goldavi last week, killing seven people and wounding 14 others. For the past seven years, the village hosted 18,000 displaced people who sought refuge from Boko Haram, according to the United Nations.

Sixty-four-year-old Cameroonian Maahamat Doudje was among those who fled Goldavi. He said after receiving three goats and a bag of rice, he is sure of having at least one meal a day for the next few weeks.

FAO representative Fulbert Haiba Daliwa said the group is working to help those whose livelihoods have been disturbed by the militants. Many people, he said, have lost everything to Boko Haram.

Forty-eight-year-old Alida Wakilou, a spokeswoman for female displaced in Goldavi, said the women and children have been living in hunger since last week's attack. They need safe places to go, where they can grow maize, millet and onions to feed their families, she added.

In August, authorities blamed Boko Haram for an attack that killed 17 people and wounded six others in a camp for displaced in the border village of Nguetchewe.

Spokesman for Cameroon's military Cyrille Atonfack said troops have been sent to assist civilians in areas still prone to Boko Haram attacks.

Atonfack said Boko Haram has destroyed hospitals and chased away health workers on Cameroon's border with Nigeria, so the military offers food aid and medical and psychological care to victims.

The U.N. said Boko Haram attacks in the Lake Chad Basin have killed more than 30,000 people and displaced over three million in the past decade.

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Liberia

Man arrested in London on suspicion of Liberia civil war crimes released under investigation (Evening Standard) By Rebecca Speare-Cole

August 28, 2020

A man who was arrested in London on suspicion of war crimes during the Liberian civil wars has been released under investigation.

The man was arrested in south east London on Thursday by the Metropolitan Police war crimes team at around 7.20am.

Scotland Yard said the alleged offences relate to the first and second civil wars in Liberia between 1989 and 2003.

Officers questioned the suspect at a central London police station before releasing him on Friday.

Police have also finished searching an address in south-east London and the inquiry continues.

The suspect was arrested on suspicion of offences contrary to section 51 of the International Criminal Court Act 2001.

The Liberian civil war raged from 1989 when minister Charles Taylor started an uprising in a bid to topple the government.

Backed by a rebel group, the National Patriotic Front of Liberia (NPFL), he gained control of large areas of the country and rose to become one of Africa's most prominent warlords.

The NPFL has been accused of a wide range of human rights abuses and the large numbers of deaths during the conflict eventually led to the involvement of the UN and the Economic Community of West African States.

A final peace agreement led to the election of Taylor as president of Liberia in 1997.

A second civil war broke out in 1999 and Taylor was forced into exile in 2003.

He was later jailed for committing war crimes in neighbouring Sierra Leone

Liberia's Taylor Denied COVID-19 Jail Move (Channels Television)

September 8, 2020

Judges have rejected a bid by Liberian ex-president and convicted war criminal Charles Taylor to be moved from a British jail, where he claimed he risks dying from coronavirus.

Taylor is serving a 50-year sentence at Frankland prison near Durham in northeastern England after being convicted in 2012 by a court in The Hague of fuelling civil conflict in Sierra Leone.

The warlord had argued that due to a "massive outbreak of Covid-19 in the UK" his life was at risk from continued detention in Britain and that he wanted to be moved to a "safe third country".

But the Residual Special Court for Sierra Leone said in a statement late Monday that "Taylor had failed to comply with court directions that he specify which countries he considered safe."

The court said Teresa Doherty, the duty judge dealing with Taylor's application, "noted that the World Health Organization has not declared any place in the world safe from COVID-19".

Taylor's claims that his prison was overcrowded and offered bad conditions were also "at variance with facts", the judge found.

Taylor lost a previous bid to be allowed to serve the remainder of his term in an African jail in 2015.

Taylor was the first former head of state to be jailed by an international court since the Nazi trials at Nuremberg in Germany after World War II.

He was convicted in 2012 on 11 counts of war crimes and crimes against humanity over acts committed by Sierra Leone rebels he aided and abetted during the war.

The residual court is the successor to the Special Court for Sierra Leone, which was established by the UN in 2002 to try those who bore “the greatest responsibility” for the atrocities committed during the civil war.

Murderous African warlord who lied to get asylum in U.S. can't evade 30-year prison term: federal court (Penn Live) By Matt Miller

September 8, 2020

A rebel warlord who ordered his adult and child soldiers to commit atrocities during the Liberian Civil War deserves no reduction in the 30-year prison sentence he received for lying to obtain 20 years of asylum in the U.S., a federal appeals court ruled Tuesday.

Mohammed “Jungle Jabbah” Jabetah, is serving that sentence thanks to a jury of Pennsylvanians who convicted him in the federal immigration fraud case.

Jabetah had claimed he was a victim of the civil war in that African when he sought asylum after his side was defeated in the conflict, Judge Paul B. Matey noted in the opinion by the U.S. Court of Appeals for the 3rd Circuit denying his challenge to his conviction.

In fact, Matey said, Jabetah was one of the monsters whose actions during the war were “characterized by brazen violence and wanton atrocities.”

The crimes committed by Jabetah’s Zebra Battalion “were breathtaking in their scope and cruelty, including murder, rape, torture, ritual cannibalism, and human enslavement,” Matey wrote. “Jabateh and fighters acting under his direction routinely tortured and murdered their adversaries.”

“A favorite practice of Jabateh’s troops involved ‘tabay,’ binding a prisoner’s arms behind the back tight enough to constrict breathing. In one instance, Jabateh ordered a child soldier to place tires around two prisoners’ necks, douse the tires in gasoline, and set them on fire. As the prisoners screamed in agony, Jabateh’s fighters shot them, then left their bodies to burn to ashes,” the judge added.

As the war, which began on 1989, dragged on Jabetah and his men regularly committed genocide, murdering members of tribes they regarded as opponents of their cause, Matey wrote. “It is enough to say without exaggeration that the atrocities documented at trial, and found by a jury, paint a portrait of a madman,” he found.

Yet Jabetah claimed to be a refugee from ethnic persecution when he sought asylum in the U.S. in 1999. Twelve years later he lied again while applying to become a permanent U.S. resident, investigators said. They said he answered “no” when asked if he had ever committed genocide.

Jabetah, who settled in Lansdowne, Delaware County, was indicted for immigration fraud in 2017 and convicted after a trial in U.S. Eastern District Court.

On appeal, Jabetah claimed District Judge Paul S. Diamond wrongly weighed his acts during the civil war against him rather than sentencing him only for his convictions regarding the lies he told to stay in the U.S. His punishment is excessive, he contended.

“Although the District Court addressed and considered Jabateh’s conduct in Liberia, the sentence was ultimately based on the seriousness of his lies and their effect on the asylum and immigration process,” Matey countered. He cited Diamond’s conclusion that Jabetah’s “lies allowed [him] to impugn the integrity of our asylum process for almost twenty years.”

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EAST AFRICA

Uganda

Jamil Mukulu trial moved to inside Luzira prison (The Observer)

September 1, 2020

The High court will shift to Luzira maximum security prison for the trial of 38 terrorism suspects, including the Allied Democratic Forces (ADF) commander, Jamil Mukulu who was extradited from Tanzania in 2015.

A meeting on Monday that included international crimes division (ICD) judges, Counter Terrorism police officers, prisons, directorate of public prosecutions and defense lawyers agreed that for the safety of the participants from Covid-19 and other possible security risks, the trial be conducted inside the prisons.

The four-hour closed-door meeting took place at the ICD headquarters on Kololo hill and was attended by the head of the High court international crimes division justice David Wangutusi, one of the trial judges justice Lydia Mugambe, the ICD registrar Beatrice Atingu, commissioner of police Amos Olweny who is attached to Counter Terrorism department and officer in-charge of Luzira Upper Prison Moses Sentalo.

Also in attendance was assistant director of public prosecutions Lino Anguzu, state attorney Lillian Omar and defense lawyers represented by Anthony Wameli and Geoffrey Turyamusiima. Wameli told the media that they had convinced the meeting the need to be consulting their clients during the trial as it cannot be fair to do so via video conferencing.

"It appears with consensus that the trial is carried out in the prison instead of having the prisoners come out or instead of having it on the video audio link. Reason being, we need a lot of consultations between the clients and the defense counsel and also the security of the participants in the whole trial." Wameli said.

"Then the number witnesses because the prosecution has indicated it has 150 witnesses. So those factors have been taken in mind. We had this meeting and we said we shall come back after the judges have confirmed. It means the court is going to go to Luzira, they will get an open space and probably put up a tent and then everyone will be there - the lawyers, the prosecution, the judges and the witnesses." he added.

It was also agreed that the security of all the participants in this case, is at stake and as such, the parties found that Luzira prison is secure for everyone including the 150 prosecution witnesses who will be coming from across East Africa.

The parties agreed that due to fear of exposure to Covid-19, it's easier for people coming outside to be managed other than managing prisoners when they go out. The trial is expected to start on notice in November 2020 before a panel of three justices including Lydia Mugambe, Susan Okalany and Michael Elubu.

Mukulu who was arrested in Tanzania and extradited to Uganda in 2015 on charges of terrorism, murder, aggravated robbery, attempted murder and being a member of a terrorist group is jointly charged with 37 others.

The other accused persons are Abdallah Sharif Ali Salim alias Mukyotala, Musa Nabangi, Adam Diin Bashiri alias Wabula, Sheikh Ahamed Rashid Wasiga, Cpl. Alex Martin Engwau, Sgt. John Owori, Sheikh Ibrahim Badru Wanjala, Amis Adam, Abdul Malik Kabaale, Muzahamu Ndifuna and Ibrahim Kyessa.

Others are Yakubu Kyessa, Muhammad Muruya, Abdallah Waniala, Abduswabul Kimbugwe, Muhammad Mbuya, Muhammad Kiryagana, Abdurahamani Muyaga, Muhammad Matovu, Omar Abdallah Mutuka, Amis Sowedi, Zaidi Kambo, Musa Kaala, Mansuudi Kisambira, Isa Kayira, Hassan Wasswa, Abdallah Kirwani, Daniel Wanyama, Abdul Ddungu, Robert Wandera, and Umayiya Kikomoko.

The group is accused of murdering Muslim clerics Sheikh Yunus Abubaker Mandanga and Dakitoor Muwaya, the top Shia cleric whose assailants also reportedly attacked Bugiri police station and killed two police officers Karim Tenywa and Muzamir Babale.

According to the charges, between 2011 and 2014, the accused persons under the command of Mukulu acquired firearms and training in neighbouring countries and funding for economic, social, political and religious reasons.

Mukulu and his co-accused were arrested from various places in Uganda and Tanzania between 2014 and 2015 on charges dating back to 1998 when suspected ADF rebels attacked Kichwamba Technical Institute and more than 80 students to death.

In September 2019, justice Eva Luswata committed them to face trial before the panel of three Judges and the trial is yet to kick off on notice.

Kigongo
September 3, 2020

It was a scene of both tears and jubilation at the Court of Appeal yesterday as the leader of the Tabliq Sect, Sheikh Mohammad Yunus Kamoga, and five other Muslim leaders were acquitted of terrorism charges.

Their relatives, friends and lawyers shed tears of joy to welcome the Court of Appeal judgment that ordered the release of the six Muslim clerics.

They are Sheikh Siraje Kawooya, Sheikh Kamoga, Sheikh Murta Mudde Bukenya, Sheikh Fahad Kalungi, Mr Abdul Salaam Sekayanja, alias Kasimu Mulumba, and Mr Yusuf Kakande. The group followed via Zoom as the court registrar read the judgement. The group had been convicted terrorism by the High Court, which sentenced some of them to life imprisonment and others to 30 years in prison.

Ruling In the unanimous judgment delivered by a panel of three judges; Alfonse Owiny-Dollo, Elizabeth Musoke and Cheborion Barishaki, the court said the offence of terrorism cannot stand against the six men because it was not proven by the prosecution.

“All in all, the convictions of all the appellants for the offence of terrorism contrary to Section 7(1) and (2)(b) of the Anti-Terrorism Act, 2002, are quashed for the reasons given herein above. The sentences imposed on the appellants arising from their respective convictions are also set aside,” the judges ruled.

“None of the witnesses referred to attended the meetings where the alleged character smudging took place. We have not been able to find evidence of these meetings where character smudging took place,” they added.

In August 2017, a panel of three judges of the International Crimes Division of the High Court convicted each of the six persons of terrorism where Sheikhs Kawooya, Kamoga, Bukenya and Kalungi were sentenced to life imprisonment while Sekayanja and Kakande were sentenced to 30 years in prison.

The High Court found that they committed terrorism by printing fliers with the names of those targeted to be killed inscribed on them and distributed them in mosques. It also said the Muslim leaders held meetings in their homes where they planned the killings and sent WhatsApp messages with pictures of graves, coffins and bullets to their rival groups.

However, the Court of Appeal judges ruled: “It appears that the learned trial judges were satisfied that the appellants had uttered the threats in issue in a manner which was indiscriminate. We have been unable to ascertain their precise reasons.”

The appellate court observed that the six accused were marked by careful distinction considered to be from the opposing group of Muslim clerics to those who were headed by Sheikh Kamoga.

“Indeed, Ssonko Najib, Mustafah Bahiga, Umar Swadiq, Ibrahim Hassan Kirya, Muhamood Kibaate and Haruna Jemba, all persons named in the indictment as having been threatened, were members of the said opposing group. The only uncertainty was in regard to Omulangira Kassim Nakibinge,” the court ruled. The judges said the accusations that Kakande was involved in any acts of terrorism were not proved.

The six Muslim leaders were represented by a team of lawyers led by Mr McDusman Kabega and Mr Fred Muwema.

17 suspects in Ndeeba church demolition case released on bail (Daily Monitor) By Juliet Kigongo & Ephraim Kasozi
September 9, 2020

17 people, among them Dodoviko Mwanje, the businessman said to have been behind the demolition of St. Peter's Church, Ndeeba in Lubaga Division, have been released on bail pending trial.

Six other suspects remain in prison because they did not apply for bail.

Makindye Chief Magistrates Court presided over by Ms Prossy Katushabe on Wednesday ordered each of the 17 suspects to pay Shs2 million in cash as one of the bail conditions, while each of the sureties were bonded at Shs100 million not cash.

“The accused persons shall not be allowed to leave this country without court’s permission and as such they will each deposit their passports,” Ms Katushabe ordered.

“This court takes it that the fear of the state that the accused persons will not turn up in court when released on, is just a mere

speculation. What is important is the accused persons to remain within the jurisdiction of court which moves around Uganda," the court held.

Ms Katushabe said that since the case involves many suspects, it will be mentioned on a weekly basis for speedy handling and determination.

The court adjourned the case to September 16 when they will reappear in court for further mention.

Accusations Mr Mwanje is jointly charged with Kampala Capital City Authority (KCCA) Acting Director for Physical Planning Ivan Katongole and senior police officers over criminal cases in relation to demolition of the church structure.

The senior police officers include; Kampala Metropolitan South Zonal Commander for Field Force Unit, Martin Odera, DPC of Katwe, Mr David Epedu, ASP Mugisha Yeko Kato; the Officer in-charge of Ndeeba police and SSP Rashid Agero.

Among other suspects include Lubaga Division building inspector, Richard Naika and Division GISO, Ali Mukwaya. They are facing charges of alleged conspiracy to commit a felony.

Prosecution alleges that between March and August 2020, the group conspired with several senior police officers and other people who are on remand at Kitalya government prison to demolish St. Peter's Church in Ndeeba, the property of Church of Uganda.

The police officers also separately face a charge of disobeying lawful orders of commissioner of police Moses Kafeero, which were to oversee security deployment at St. Peter' church in order to avert any possible demolition.

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Kenya

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

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Rwanda (International Criminal Tribunal for Rwanda)

Official Website of the ICTR

Rwandan genocide financier appeals to French court (Anadolu Agency) By Cindi Cook
September 2, 2020

Rwandan genocide mastermind Felicien Kabuga went before the French supreme court on Wednesday requesting an appeal of the body's decision to hand him over to international judges in Tanzania.

Kabuga, 84, was arrested in May 16 at his home in the Paris suburb of Asnieres-sur-Seine for his role as the alleged financier of the 1994 genocide that left over half a million to just over a million people killed.

Kabuga was also a part of the inner circle of former President Juvenal Habyarimana whose assassination ignited the carnage.

Currently in prison in Paris, Kabuga will learn of the court's decision by Sept. 30.

In 1997, the United Nations International Criminal Tribunal for Rwanda -- based in Tanzania -- had charged Kabuga with seven counts of genocide and multiple other counts as well as "persecution and extermination, all in connection with crimes

committed during the 1994 genocide."

A reward of \$5 million was placed on Kabuga's head by the International Mechanism, the structure responsible for completing the work of the International Criminal Tribunal for Rwanda (ICTR).

In June, the Paris Appeal Court ruled on an extradition request that would hand over the accused to the UN Tribunal in Arusha, in eastern Tanzania.

A fugitive for 26 years who had a warrant out for his arrest, Kabuga took refuge in the suburbs of Paris under a false identity after earlier hideouts in Switzerland, from where he was expelled, and Kenya.

He has been called Africa's most wanted man and one of the most wanted fugitives in the world.

Kabuga has cited ill health as a reason for his request to be tried in France as well as concerns over his safety during the coronavirus pandemic.

Genocide: Rwanda seeks Ndereyehe extradition from Netherlands (The New Times) By Lavie Mutanganshuro
September 9, 2020

The National Commission for the Fight against Genocide (CNLG) on Wednesday, September 9, said that genocide suspect Charles Ntahontuye Ndereyehe, alias Karoli, should be extradited to Rwanda to account for charges against him.

This follows the arrest of the 71-year-old on Tuesday evening in The Netherlands where he has lived for years. Ndereyehe is mainly accused of masterminding killings in ISAR, an agricultural research centre affiliated to the then National University of Rwanda in Huye District. During the Genocide, Ndereyehe, an ideologue of the Genocide, unleashed killers on his colleagues at the centre and students. In an exclusive interview with The New Times, Jean-Damascène Bizimana, the Executive Secretary of CNLG, said that what follows after the arrest is the process to extradite him to Rwanda.

"Ndereyehe was arrested in line with an international arrest warrant issued by Rwanda's prosecution. Following the move, an extradition process takes shape," he noted.

The warrant was issued on April 20, 2010, which formed the basis of his inclusion on the Interpol wanted list.

On November 5, 2008, Ndereyehe was tried in absentia sentenced to life by a Gacaca court in southern Rwanda after he was found guilty of masterminding the Genocide.

According to Bizimana, though Ndereyehe was found guilty, he still has the right to defend himself against the charges against him in court, since he was not around during the trial in the semi-traditional tribunal.

The law provides that any person convicted in absentia has a right to seek retrial.

Who is Charles Ndereyehe?

Ndereyehe was born in 1949 in Cyabingo Commune, in the former Ruhengeri Prefecture in what is currently Gakenke District.

In 1992, along with other genocide deniers that include Ferdinand Nahimana, Eugène Rwamucyo, Dr Jean-Berchmas Nshimyumuremyi and others, Ndereyehe created and led an extremist group called "Cercles des républicains progressistes" that incited students to plan genocide at the University in Nyakinama and Butare. In the beginning, Ndereyehe was an MRND, a political party largely responsible for the planning and executing the 1994 Genocide against the Tutsi, member but in 1992, he abandoned it to participate in the creation of another Hutu extremist party, Coalition pour la défense de la république (CDR).

CDR also participated massively in the Genocide against the Tutsi in 1994.

Twenty-six years ago, Ndereyehe was the head of ISAR, the national agricultural institute in Huye District, and played a key role in the massacre carried out at the place.

According to CNLG, Ndereyehe started the Genocide planning before he was sent to ISAR.

Prior to his deployment at ISAR, he was in charge of the Agricultural and Livestock Development Project in Gikongoro (PDAG).

At the time, he was allegedly one of the civil servants who formed the Interahamwe militia in Gikongoro, along with Captain Faustin Sebuhura who was the deputy commander of the Gikongoro Gendarmerie.

Ndereyehe left Rwanda in 1994 to seek refuge in the then Zaire (now DR Congo) on April 3, 1995, where he participated in the creation of an extremist political and military group called the RDR grounded on the Genocide ideology.

According to CNLG, besides masterminding the Genocide, Ndereyehe is a strong denier of the Genocide against the Tutsi and openly encourages others to deny it especially in Europe where he lives.

Kabuga In Court Over Transfer To Arusha (KT Press) By Daniel Sabiiti
September 2, 2020

A French Court of Cassation will today examine the appeal case of Rwanda genocide suspect Félicien Kabuga who is contesting being tried by international justice.

Kabuga, who stands 11 counts of genocide was arrested on May 16 in Paris-France after 26 years of evading justice. He is currently imprisoned in the Parisian capital awaiting his fate.

According to the act of indictment dated 21 November 2001, Kabuga is charged with genocide, conspiracy to commit genocide, complicity in genocide, direct and public incitation to commit genocide.

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

On June 3, the Paris Court of Appeal, responsible for examining the validity of the arrest warrant issued by the Mechanism for International Courts (MTPI), ordered Kabuga's surrender to international justice under the International Tribunal for Rwanda (ICTR), now a Residual Mechanism for Criminal Tribunals (IRMCT)

During today's public hearing before the Court Kabuga's defense is expected to raise a priority question of constitutionality (QPC), arguing that "French law violates the Constitution by not providing for more in-depth control of international justice arrest warrants."

In earlier defense he used his health conditions to convince the court to be tried in France and not be sent to the International Criminal Tribunal court in Arusha, Tanzania for trial.

If the appeal is rejected, France will have one month to submit it to the MTPI, meaning a subsequent transfer to a tribunal court for trial.

IRMCT Chief Prosecutor Serge Brammertz, who was in Rwanda to collect more evidence on Kabuga's case, said on August 26 that the suspect will be sent to Arusha for trial.

According to Brammertz, the trial could start this September or December 2020, based in the competence of the court and the findings in the case.

Rwanda Genocide Suspect Kabuga to Learn Extradition Fate On 30 September (All Africa) By Christina Okello
September 2, 2020

Félicien Kabuga will find out at the end of the month whether he will be handed over to international judges for his alleged role in bankrolling the Rwandan genocide after appealing the decision at the Paris Supreme Court.

Kabuga appealed to the court on Wednesday to reconsider transferring him to international judges in Tanzania for trial.

The alleged mastermind of the Rwanda genocide was slapped with an extradition request in June by the Paris Appeal Court, which ruled that he should be handed over to a UN tribunal based in Arusha.

Described as Africa's most wanted man, Kabuga has been held in a French jail since his 16 May arrest at his home outside Paris after more than 20 years on the run.

At his first appearance in public on 20 May, 84-year-old Kabuga had asked for a trial in France, citing frail health and claiming the United Nations court in Africa would be biased against him, and possibly hand him over to Rwandan authorities.

Louis Boré, one of his lawyers, told the Supreme Court on Wednesday that Kabuga is suffering from diabetes, high blood pressure and "leukoaraiosis", an incurable disease affecting his cognitive functions, and is therefore in no condition to be transferred several thousands of kilometres away.

Slim hope of trial

The coronavirus pandemic has also been used as an argument to keep Kabuga in France in light of his advanced age.

However, UN prosecutors have said that if the coronavirus pandemic prohibits Kabuga's travel to Tanzania, he can then be tried in The Hague in The Netherlands.

The extradition battle has raised concern among plaintiffs that Kabuga will never face trial.

"He is very old. We've seen him looking very frail during his hearings," says Alain Gauthier, head of the Collective of Civil Parties for Rwanda.

"Is he putting it on and faking fatigue? There is a risk, yes, that he will never be judged," he told RFI.

Kabuga - once one of Rwanda's richest men - is alleged to have used his wealth and influence to funnel money to militia groups that carried out massacres, and the Radio-Television Libre des Mille Collines which, in its broadcasts, incited people to murder.

Nearly one million people were slaughtered over 100 days of ethnic violence committed by Hutu extremists in 1994.

Rwanda investigation

In August 1998, Kabuga was indicted by the now-defunct Tanzania-based International Criminal Tribunal for Rwanda (ICTR), and an international arrest warrant was issued for him the next year.

Last month, a team of UN investigators travelled to Rwanda to gather fresh evidence against Kabuga to beef up his case file.

"We are making a call to those who have testified in the past that hopefully are still willing to testify in court. We really hope that we will get additional evidence," said Serge Brammertz, the chief prosecutor of the International Residual Mechanism for Criminal Tribunals (IRMCT), that took over from the ICTR.

Describing it as a strong case, Brammertz stressed that it is "absolutely normal" to update all evidence to see what is still available but also take advantage of new opportunities which were not there when the warrant was issued.

Rwanda's Prosecutor General Aimable Havugiyaremye reiterated that Kabuga's arrest serves as a warning to all Rwandan genocide fugitives still at large.

France hideout

On 26 August, Kigali issued an international arrest warrant for another suspected genocide architect: former Rwandan spy chief, Aloys Ntwiragabo, who was found living in Orléans, 130 kilometres south of Paris.

France has long been a hiding place for wanted genocide suspects. French investigators currently have dozens of cases under way, including Ntwiragabo's, although Paris has so far blocked the extradition of suspects due to legislative concerns.

That could change if the Supreme Court judges decide to reject Kabuga's appeal and transfer him to Arusha. Their decision will be released on 30 September. France will then have one month to hand Kabuga over to UN custody.

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Somalia

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EUROPE

The Court of Bosnia and Herzegovina, War Crimes Chamber

Official Court Website [English translation]

One Person charged with Crimes against Humanity during the War in Bosnia and Herzegovina (Sarajevo Times)

September 4, 2020

A Prosecutor of the Special Department for War Crimes has issued an Indictment against Ranko Radulovic, born in 1960 in Nikšić, with several prior convictions, a citizen of Montenegro.

The aforementioned accused person is charged, as a member of the Army of Republika Srpska, with acting contrary to the provisions of the Geneva Conventions relative to the Protection of Civilian Persons in Time of War, during the war and a widespread and systematic attack on the Bosniak civilian population in the area of Foča and its surroundings.

He is charged with persecution of the Bosniak civilian population during the months of July and August of 1992, which he did together with other persons and in the course of which he participated in the attack on the civilian population and settlements that resulted in the death of the victims. He is also charged with participating in hostage-taking, as well as in an unlawful, wilful and military unjustified destruction of property on a large scale and unlawful detention of civilians; moreover, he is charged with aiding and abetting the coercion of Bosniak girls to have sexual intercourse or equivalent sexual acts, such as rape, and with committing multiple rapes of several victims.

The aforementioned accused is charged with the criminal offence of Crimes against Humanity, referred to in Article 172 of the Criminal Code of Bosnia and Herzegovina.

The Prosecutor's Office of Bosnia and Herzegovina will be corroborating the allegations in the Indictment by summoning around fifty (50) witnesses, including seven (7) witnesses with assigned protection measures, as well as by enclosing around two hundred (200) pieces of material evidence.

The Indictment has been forwarded to the Court of Bosnia and Herzegovina for confirmation.

Bosnia Seeks Arrest of Fugitive War Crime Defendant in Serbia (Balkan Transnational Justice) By

Albina Sorguc

September 4, 2020

The Bosnian state court told BIRN that it has issued a warrant for the arrest of Mirko Vrucinic, who was on trial for committing crimes against humanity in 1992 in Sanski Most, after it was found that he has left Bosnia and Herzegovina for Serbia.

"Given the information that he is abroad, the order was also sent to Interpol for the purpose of issuing an international arrest warrant," the court said.

The warrant was issued after Vrucinic's lawyer told a hearing on Monday that the defendant had told him he would not be attending because he was leaving the country for Serbia. The defence had been ready to present its closing arguments at the hearing as the trial drew towards its end.

The court said that after the lawyer's announcement, "checks were carried out in cooperation with the border police and it was determined that the accused Mirko Vrucinic crossed the Raca border crossing and left Bosnia and Herzegovina on August 30". Vrucinic, the former chief of the police's Public Security Station and a member of the wartime Crisis Committee in Sanski Most, is charged with participating in a joint criminal enterprise that was responsible for murders, forcible resettlement,

unlawful detentions and forcible disappearances.

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

Official Website of the ICTY

Appeals Chamber of IRMCT hears Oral Arguments in the Ratko Mladic Case (Sarajevo Times)

August 27, 2020

The Appeals Chamber of the International Residual Mechanism for Criminal Tribunals (Mechanism), composed of Judge Prisca Matimba Nyambe, presiding, Judge Aminatta Lois Runeni N’gum, Judge Gberdao Gustave Kam, Judge Seymour Panton, and Judge Elizabeth Ibanda-Nahamya heard yesterday and today oral arguments in the appeals filed by Mr. Ratko Mladić and the Prosecution against the judgement rendered on 22 November 2017 by the Trial Chamber of the International Criminal Tribunal for the former Yugoslavia (ICTY).

On 16 December 2019, the Appeals Chamber scheduled the appeal hearing to take place on 17 and 18 March 2020. Followed by a motion filed by Mladić, the Appeals Chamber stayed the appeal hearing on 6 March 2020 on the basis of Mladić’s then upcoming surgery. On 1 May 2020, the Appeals Chamber noted Mladić’s progress in recovering from the surgery and rescheduled the hearing to take place on 16 and 17 June 2020. On 28 May 2020, based on submissions from the Registrar and the Defence, the Appeals Chamber found it not feasible to hold the rescheduled appeal hearing due to coronavirus pandemic-related restrictions, and stayed the hearing until further notice. On 17 July 2020, the Appeals Chamber rescheduled the hearing to take place on 25 and 26 August 2020 and found it in the interests of justice to conduct the hearing partly through videoconference due to coronavirus pandemic-related restrictions. On 14 August 2020, the Appeals Chamber denied Defence requests to stay the rescheduled hearing and to order a competency review of Mladić’s capacity, finding that the Defence had, among others, repeatedly failed to substantiate that Mladić is unable to communicate, consult with his counsel, and/or understand the essentials of the proceedings.

During the appeal hearing on 25 and 26 August 2020, Judge Ibanda-Nahamya was present in the courtroom in person, while Judges Nyambe, N’gum, Kam, and Panton participated via videoconference-link.

Mr. Mladić was appointed by the Bosnian Serb Assembly as Commander of the Main Staff of the Army of Republika Srpska, the VRS, on 12 May 1992 and remained in command until at least 8 November 1996. The Trial Chamber convicted Mr. Mladić of genocide, crimes against humanity, and violations of the laws or customs of war and sentenced him to life imprisonment.

Specifically, the Trial Chamber found him responsible for committing these crimes through a “leading and grave role” in four joint criminal enterprises which purposes were to: (i) permanently remove Bosnian Muslims and Bosnian Croats from Bosnian Serb-claimed territory in Bosnia and Herzegovina from 12 May 1992 until 30 November 1995 through persecution, extermination, murder, inhumane acts (forcible transfer), and deportation; (ii) spread terror among the civilian population of Sarajevo through a campaign of sniping and shelling between 12 May 1992 and November 1995; (iii) eliminate the Bosnian Muslims in Srebrenica by killing the men and boys and forcibly removing the women, young children, and some elderly men from the days immediately preceding 11 July 1995 to at least October 1995; and (iv) capture United Nations personnel deployed in Bosnia and Herzegovina and detain them in strategic military locations to prevent the North Atlantic Treaty Organization from launching further military air strikes on Bosnian Serb military targets from approximately 25 May 1995 to approximately 24 June 1995.

On appeal, Mr. Mladić contended that the Trial Chamber violated his fair trial rights and erred in law and in fact in convicting him and in imposing the sentence. He requested the Appeals Chamber to quash his convictions, or alternatively, order a new trial or reduce his sentence. The Prosecution challenged certain findings or conclusions of the Trial Chamber pertaining to the permanent removal of Bosnian Muslims and Bosnian Croats from Bosnian Serb-claimed territory in municipalities

throughout Bosnia and Herzegovina from 12 May 1992 until 30 November 1995 and for not convicting him of genocide on this basis.

The Mechanism rejected Ratko Mladic's Request for Hospitalization (Sarajevo Times)

September 4, 2020

The Appeals Chamber of the Mechanism for International Criminal Courts in The Hague again rejected on Thursday the request for hospitalization of the former Chief of the General Staff of the Army of the Republika Srpska, General Ratko Mladic, which was submitted by his lawyers. The decision was made by a majority vote of the five-member panel, with the dissenting opinion of Judge Priska Nyamba, who presides over the panel, it was announced on Thursday from The Hague.

On 22 November 2017, Trial Chamber I of the International Criminal Tribunal for the former Yugoslavia ("ICTY") issued its judgement in the case of Prosecutor v. Mladić ("Trial Judgement"). The Trial Chamber convicted Ratko Mladić, former Commander of the Main Staff of the Army of the Bosnian Serb Republic ("VRS"), of genocide, crimes against humanity, and violations of the laws or customs of war. He was acquitted of genocide in relation to Count 1 of the Indictment. Mladić was sentenced to life imprisonment.

The Trial Chamber found that Mladić committed these crimes through his participation in four joint criminal enterprises. In this regard, it found that: (i) from 12 May 1992 until 30 November 1995, Mladić participated in a joint criminal enterprise with the objective of permanently removing Bosnian Muslims and Bosnian Croats from Bosnian Serb-claimed territory in Bosnia and Herzegovina ("BiH") through persecution, extermination, murder, inhumane acts, and deportation; (ii) between 12 May 1992 and November 1995, Mladić participated in a joint criminal enterprise with the objective of spreading terror among the civilian population of Sarajevo through a campaign of sniping and shelling; (iii) from the days immediately preceding 11 July 1995 to at least October 1995, Mladić participated in a joint criminal enterprise with the objective of eliminating the Bosnian Muslims in Srebrenica by killing the men and boys, and forcibly removing the women, young children, and some elderly men; and (iv) from approximately 25 May 1995 to approximately 24 June 1995, Mladić participated in a joint criminal enterprise with the objective to capture United Nations personnel deployed in BiH and detain them in strategic military locations to prevent the North Atlantic Treaty Organization from launching further military air strikes on Bosnian Serb military targets.

Mladić was initially indicted on 24 July 1995. After being at large for almost sixteen years, he was arrested in Serbia on 26 May 2011 and transferred to the ICTY on 31 May 2011. The trial commenced on 16 May 2012 and lasted a total of 530 days, during which some 9,914 exhibits were admitted and the Trial Chamber heard or received evidence of a total of 592 witnesses.

Both the Defence and Prosecution appealed the Trial Judgement. Mladić requested the Appeals Chamber to extend the deadlines for the briefing process. The Appeals Chamber partly granted the requests, allowing a total of 210 days in extensions of time. Accordingly, both parties filed their respective notices of appeal against the Trial Judgement on 22 March 2018, their respective appellant's briefs on 6 August 2018, their respective respondent's briefs on 14 November 2018, and finally their respective reply briefs on 29 November 2018.

On 18 June 2018, Mladić requested the disqualification of Judges Theodor Meron, Carmel Agius, and Liu Daqun from the appeals bench in this case on the basis of actual or apparent bias. The matter was referred to Judge Jean-Claude Antonetti. On 3 September 2018, Judge Antonetti granted Mladić's requests and, on 4 September 2018, assigned Judges Mparany Mamy Richard Rajohnson, Gberdao Gustave Kam, and Elizabeth Ibanda-Nahamya to replace Judges Meron, Agius, and Liu. As of 14 September 2018, following the withdrawal of Judge Rajohnson and his replacement by Judge Aminatta Lois Runeni N'gum, the appeals bench in this case is composed of Judge Prisca Matimba Nyambe (Presiding), Judge Aminatta Lois Runeni N'gum, Judge Gberdao Gustave Kam, Judge Seymour Panton, and Judge Elizabeth Ibanda-Nahamya.

The Mechanism was established on 22 December 2010 by the United Nations Security Council to carry out a number of essential functions of the International Criminal Tribunal for Rwanda and the ICTY, including completion of a limited number of cases which are inherited from the work of these two tribunals.

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Domestic Prosecutions In The Former Yugoslavia

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Turkey

Turkey responds to accusation of cutting off drinking water in Al-Hasakah (Middle East Monitor)

August 29, 2020

Turkey's Permanent Representative of Turkey to the United Nations Feridun Sinirlioğlu confirmed that the allegations made against Turkey of cutting off water from the city of Al-Hasakah, in north-eastern Syria, are completely false.

Deputy Regional Humanitarian Coordinator for the Syria Crisis Ramesh Rajasingham announced during a session of the United Nations (UN) Security Council, on Thursday, that there are frequent drinking water disruptions in the city of Al-Hasakah and at Al-Hawl camp.

Rajasingham pointed out that the Allouk Water station in Al-Hasakah city experienced water cuts at least 13 times during the current year, which affected 460,000 civilians in the region.

Bashar Al-Assad's representative in the UN Bashar Jaafari held Turkey responsible for the interruption of water distribution from the station.

In response to this accusation, Sinirlioğlu explained that the Allouk water station is powered by electricity from Tishrin Dam, which is under the control of the Syrian Democratic Forces (SDF) militia.

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MIDDLE-EAST

Iraq

Grotian Moment: The International War Crimes Trial Blog

ICC war crimes unit still probing alleged offences by UK forces in Iraq (Middle East Eye) By Ian

Cobain

August 29, 2020

Investigators from the International Criminal Court (ICC) are continuing to make inquiries about allegations that British troops committed serious war crimes in Iraq, Middle East Eye has learned.

A preliminary examination has already concluded that "the information available provides a reasonable basis to believe" that some UK servicemen were responsible for a range of crimes against people in their custody in the years following the 2003 invasion.

These include murder, torture and rape, and "outrages on personal dignity," Fatou Bensouda, the ICC's chief prosecutor, has reported.

However, the current ICC inquiries in the UK are not focused on the alleged crimes so much as the way in which the UK government has itself investigated them in the past: Bensouda's office wants to establish whether these investigations were

genuine.

There have been a number of claims that UK investigations into alleged war crimes have not been genuine, with several former British investigators claiming that the UK government shut down hundreds of criminal investigations to avoid national embarrassment.

One former investigator told the BBC and the Sunday Times newspaper - which conducted a year-long joint investigation - that he was "disgusted" by the way in which the inquiries were closed down.

"I promised [the Iraqis] it wouldn't be a whitewash," he said. "But that's exactly what [the inquiries] became – a whitewash. It was a failure of the British justice system."

Several other former investigators made similar allegations.

A report from Bensouda's office said: "The Office will seek to ascertain whether the allegations of a lack of genuineness can be substantiated in order to enable it to come to a final determination with respect to the preliminary examination as early as practically possible."

It added that it was concerned by the allegations raised by the BBC/Sunday Times investigation as they appeared to show that efforts had been made "to shield the conduct of British troops in Iraq and Afghanistan from criminal accountability".

There were allegations of "the intentional disregarding, falsification, and/or destruction of evidence as well as the impeding or prevention of certain investigative inquiries and the premature termination of cases," the report said.

Although the chief prosecutor and her staff would need to independently assess the allegations, "the reports appear on their face highly relevant to its assessment of the genuineness of national proceedings," her office said.

Investigators interviewing soldiers

MEE understands that investigators from the chief prosecutor's office have been interviewing both former soldiers and investigators in the UK in recent months.

Speaking to the BBC in June, the head of the Service Prosecuting Authority, the body within the UK's Ministry of Defence (MoD) which considers referrals from military police investigators, said that he was convinced that the ICC would drop the matter.

But Bensouda has also sounded a warning about a highly controversial piece of legislation, the Overseas Operations Bill, which the MoD will be attempting to push through parliament when it returns from its summer recess on Tuesday.

The proposed new law would offer an amnesty for British service personnel who have committed serious offences while serving overseas, by introducing "a presumption against prosecution" - provided the crimes are more than five years old.

The bill proposes that the measures should cover even the most serious crimes, including murder and torture, but not rape.

It has alarmed human rights groups and angered many ex-soldiers, who say they believe it to be dangerous and demeaning.

Other critics have pointed out that if the bill is passed, a soldier who raped and murdered a woman while serving outside the UK more than five years earlier could still be prosecuted for her rape but probably not for her murder.

Earlier this week the opposition Labour party came out against the Bill, arguing that it would undermine the UK's historical commitment to a rules-based international order.

The ICC stresses that the inquiries it is making are not a formal war crimes investigation at this stage, but a "preliminary examination" – opened in May 2014 – to determine whether the allegations, and the UK's response to them, warrant a full investigation.

In a statement on its preliminary examination and the Overseas Operations Bill, Bensouda's office said: "Were such domestic legislation to be adopted, the Office would need to consider its potential impact on the ability of the UK authorities to investigate and/or prosecute crimes allegedly committed by members of the British armed forces in Iraq."

Were the new law thought to impede the UK's ability to investigate its own armed forces, this could in turn trigger a full ICC investigation.

The ICC says the UK government is cooperating with its preliminary examination.

Payouts to Iraqis

However, the MoD is refusing to make public the amounts of money it has paid to settle thousands of claims that Iraqi nationals have brought, alleging unlawful detention and mistreatment by British troops between 2003 and 2009.

In 2017, in response to a request made under the UK's Freedom of Information (FoI) Act, the department disclosed that it had paid £19.8 million (\$26m) in 326 cases brought before the UK courts. In a further 1,145 cases, \$2.8m had been paid out by British military officers in Iraq.

MEE understands that up to three-quarters of the claims related to the conduct of British military interrogators, whom the MoD has admitted were trained in a manner that put them at risk of breaching the Geneva Conventions.

Earlier this year, in response to a subsequent FoI request from MEE, the MoD said that since 2017 the number of claims had risen to more than 4,400.

But the department says it is unable to disclose the amount of UK taxpayers' funds that it has paid out to settle the Iraqis' claims, maintaining that the information is scattered around thousands of different files and would take weeks to locate.

A number of senior ex-soldiers have told MEE that they suspect the MoD does not wish to disclose the figure while the Overseas Operations Bill is yet to be scrutinised by parliament.

Some also say that they suspect senior MoD officials are hoping that the new law will shield military interrogators from prosecution, fearing that if any relatively junior soldiers found themselves in court, difficult questions could emerge concerning the responsibility of senior commanders and government ministers.

The MoD is also likely to be concerned about public attention focusing upon the amount of UK taxpayers' money that has so far been paid out at a time when the ICC is still conducting its preliminary examination of alleged war crimes by British troops.

MEE is appealing against the refusal to disclose the out-of-court payment figures.

UN calls for probe into disappearance 1,000 Sunni Arabs by Iraqi gov't forces (Kurdistan24) By Wladimir van Wilgenburg August 30, 2020 <https://www.kurdistan24.net/en/news/6712c8ab-97a5-4389-b7eb-e245dbef50e7>

The United Nations on Sunday called for an independent investigation to establish the fate of approximately 1,000 civilian men and boys who disappeared during Iraq's military operations against the so-called Islamic State in Anbar province between 2015 and 2016.

This came in a report on the International Day of the Victims of Enforced Disappearances by the United Nations Assistance Mission for Iraq (UNAMI) and the Office of the United Nations High Commissioner for Human Rights (OHCHR), with the focus being Anbar.

The UN report said that following inquiries, it "has reasonable grounds to believe that during military operations in Anbar governorate in 2015 and 2016, pro-Government forces subjected at least 1,000 mostly Sunni Arab men and boys to enforced disappearance and related violations."

The violations include "extrajudicial execution, torture and cruel, inhuman or degrading treatment or punishment, arbitrary arrest and unlawful detention."

"UNAMI/OHCHR also received credible allegations of enforced disappearances from several other governorates, including Ninewa, Kirkuk, Diyala, Salah al-Din, Babil and Baghdad," Danielle Bell, Chief of UNAMI Human Rights Office and Iraq Representative of the OHCHR, told Kurdistan 24.

"This report focuses on Anbar as a case study, in order to provide contextual detail on one governorate with a particularly severe scale and scope of allegations of enforced disappearances, as a means of prompting remedial action countrywide."

It's the first UN report that focuses on enforced disappearances allegedly perpetrated by pro-government forces during operations against the Islamic State. The UN submitted it to the Iraqi government in advance of its publication, and "we hope that this report will encourage renewed efforts on this issue," Bell said.

The report was also submitted to the UN Committee on Enforced Disappearances in advance of its 19th session, set to take place mid-September 2020.

However, the UN agency added that the report in no way detracts from the courage of those who successfully achieved the territorial defeat of ISIS, "and fully acknowledges the efforts of the Government to ensure accountability for the atrocities

perpetrated by ISIL (ISIS) against the people of Iraq."

Iraq declared victory over the Islamic State in December 2017. However, the extremist group continues to launch regular attacks, including bombings, kidnappings, and ambushes against both Iraqi security forces, Kurdish forces, and civilians in areas liberated from its control as well as in major cities it never took over, such as Baghdad and Kirkuk.

The UN report also said that an Iraqi government Investigation Committee on the Missing Persons established in June 2016 led by the Deputy Governor of Anbar failed to produce results.

It added that the committee's investigation seems to have been "limited to cross-checking names of the missing against a database of detained persons."

The UN report concluded in its recommendations that the Iraqi government "should launch an immediate and effective investigation to determine the fate and whereabouts of the thousands of victims of enforced disappearances, and should ensure that those responsible are held accountable."

"The recommendations are aimed at encouraging acknowledgement and redress for victims, the establishment of a strong domestic legal framework against enforced disappearances, compliance and procedural safeguards, as well as comprehensive investigations into all enforced disappearances in Anbar and other governorates, leading to accountability, including criminal prosecutions where applicable," Bell concluded.

US staff at UK base immune to prosecution during 'war on terror' (Arab News)

September 2, 2020

Some 200 American civilian and technical staff at a UK military base were given diplomatic immunity for activities linked to the "war on terror," raising questions about British involvement in torture and rendition.

Newly released documents show that the British government repeatedly extended diplomatic immunity for staff at a US communications station in the UK because of the "demand brought on by the global war on terrorism and the war in Iraq."

Diplomatic immunity protects foreign individuals from prosecution for crimes committed in another country, and is a privilege most often held by ambassadors.

But human rights group Reprieve said it appears to have been used to protect American civilians in the UK for their involvement in "extraordinary rendition" — a process in which the US and its allies forcefully abducted foreign citizens to interrogate them, while circumventing national laws on torture and detention.

Many of those abducted were taken from Arab countries and were never prosecuted with a crime.

Reprieve said it suspects that staff at the base may have been gathering intelligence for rendition flights, and the documents show a steady increase in the number of Americans granted immunity from prosecution as the UK became more involved in renditions.

According to Reprieve, at least 779 people — including at least 15 children — were subject to extraordinary rendition to Guantanamo alone. The figure for total renditions is likely far higher.

The UK and US have often faced criticism for their complicity in human rights abuses committed as part of the rendition and torture program.

Maya Foa, director of Reprieve, said: "Only by fully investigating this dark part of British history can we hope not to make the same mistakes. We need an independent, judge-led inquiry."

David Davis, a former British Cabinet minister, questioned why so many US citizens needed diplomatic immunity during the Iraq war.

"The only thing I can think of that makes sense is that they were involved in things which might have been in breach of British law," he told The Times newspaper.

"Was it in support of rendition flights, or ambushes and arrests and so on? That would mean our allies were carrying out activities in contravention of our policies, and we were giving them immunity."

A previous enquiry by the British intelligence and security committee concluded that the UK had tolerated "inexcusable" treatment of detainees by the US after 9/11.

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Syria

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Yemen

Possible war crimes in Yemen fueled by arms flows from West, Iran: U.N. (Reuters) By Stephanie Nebehay
September 9, 2020

Weapons provided by Western powers and Iran to the warring sides in Yemen are fuelling the six-year-old conflict, marked by deadly Saudi-led coalition air strikes and Houthi shelling, U.N. investigators said on Wednesday.

Coalition air strikes in the past year may amount to war crimes, while the Iran-aligned Houthi movement carried out killings and other abuses that may also constitute war crimes, they said in a report.

It was the third successive year that the panel of independent experts found that all parties had violated international law. This year's findings covered incidents from June 2019 to June 2020.

"After years of documenting the terrible toll of this war, no one can say 'we did not know what was happening in Yemen'," said Kamel Jendoubi, chairman of the Group of Experts.

Panel member Melissa Parke told reporters: "Responsibility for these violations rests with all the parties to the conflict - namely the government of Yemen, de facto authorities (Houthis), the Southern Transitional Council, and members of the coalition, in particular Saudi Arabia and the United Arab Emirates."

Britain, Canada, France, Iran and the United States continued their support to the warring sides "including through arms transfers, thereby helping to perpetuate the conflict", the U.N. panel said.

"This year we added Canada because there has been an uptick in arms sales by Canada in 2019," said panel member Ardi Imseis, adding that Spain and Italy had also sold arms.

"We therefore reiterate our call for states to stop transferring arms to the parties to the conflict."

"DISPROPORTIONATE ATTACKS"

The three experts urged the U.N. Security Council to refer the situation in Yemen to the International Criminal Court for possible prosecutions and to extend its list of people under sanctions.

The Saudi-led Sunni Muslim coalition intervened in Yemen in March 2015 after the Houthis ousted the internationally recognized government from power in the capital, Sanaa, in 2014.

The conflict is widely seen as a proxy war between Saudi Arabia and its regional foe, Shi'ite Muslim Iran. More than 100,000 people have been killed and millions are on the brink of famine, aid agencies say.

"During this reporting period, the Group verified a further four airstrikes or series of airstrikes involving similar failures to take all necessary measures to protect civilians and civilian objects," the report said of the coalition backing the government of Yemen's exiled president, Abd-Rabbu Mansour Hadi.

“Disproportionate attacks constitute war crimes under customary international law,” it said.

Mortar bombs fired by the Houthis hit a central prison in the frontline city of Taiz in April, killing six women and two girls, according to the report, which said it could constitute a war crime.

Yemen coalition likely committed war crimes: Experts (Anadolu Agency) By Peter Kenny
September 9, 2020

A UN-mandated probe said Wednesday it had "reasonable grounds" to believe that groups involved in Yemen's bloody six-year conflict have committed human rights atrocities including war crimes.

All parties continue to show no regard for international law or the lives, dignity, and rights of people in Yemen, according to the third report of the Group of Eminent International and Regional Experts on Yemen.

The group underlined that the governments of Yemen, Saudi Arabia, the UAE, and Southern Transitional Council were responsible for human rights violations that include killings, arbitrary detention, and sexual violence.

Some in the current Yemeni government and coalition -- in particular, Saudi Arabia and the UAE -- as well as the Southern Transitional Council have committed "acts that may amount to war crimes."

These include the "murder of civilians, torture, cruel or inhuman treatment, rape and other forms of sexual violence, outrages upon personal dignity, denial of fair trial, and enlisting children under the age of 15 or using them to participate actively in hostilities."

"Individuals in the coalition, in particular Saudi Arabia, may have conducted airstrikes in violation of the principles of distinction, proportionality, and precaution, acts that may amount to war crimes," said the group.

The report recommended that the conflicting parties "agree to a comprehensive cessation of hostilities and achieve a sustainable and inclusive peace, through a peace process which includes the full involvement of women, youth and minority groups."

It called for "justice for all victims of violations of international human rights and humanitarian law."

The group of experts released its third report, titled Yemen: A Pandemic of Impunity in a Tortured Land, on human rights in the war-torn country, covering developments from July 2019 to June 2020.

It will present the report to the Human Rights Council in its 45th session on Sept. 29.

Yemen has been devastated by a conflict that escalated in March 2015 after Iran-backed Houthi rebels seized the capital Sanaa and forced President Abdrabbuh Mansur Hadi to flee the country.

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Special Tribunal for Lebanon

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

STL Will Hold Another Conference To Prepare For Ayyash Trial (The961) By Hussein Yassine
September 5, 2020

After delivering in August its verdict on the assassination of former Prime Minister Rafik Hariri, the Special Tribunal for Lebanon (STL) will hold a new hearing later this month.

According to the STL Media Advisory, the upcoming Status Conference aims at reviewing the status of the Salim Ayyash case and ensuring that the preparations for his trial are made quickly.

The hearing will be publicly held on September 16th at 11 AM Beirut time, in the STL courtroom, by Pre-Trial Judge Daniel Fransen, who has the right to go into closed session at any time if confidential matters need to be discussed.

As with the verdict, the Status Conference will be live-streamed on the STL website in Arabic, English, and French.

This will be the second Status Conference to be held in the Ayyash case. The first one took place on July 22nd, 2020.

Salim Ayyash, who has been tried in absentia along with the accused in the Hariri assassination case, was declared guilty of murdering the late PM, 15 years after the terrorist operation took place in the Lebanese capital.

Long before his conviction, Ayyash has been nowhere to be found.

Although he was identified as a member of Hezbollah, the STL Trial Chamber found no evidence linking the organization to the assassination.

Hezbollah had previously said that it was not concerned with the Trial's verdict, whatever it would turn out to be.

On their part, Ayyash's family issued a statement after the verdict, calling it unjust, and affirming that he had been in Saudi Arabia at the time of the bombing.

Salim Ayyash's involvement was confirmed by the STL through a method of investigation involving a massive amount of telecommunications data, initially led by a Lebanese ISF officer, who was later assassinated.

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Israel and Palestine

Israeli Forces Detain 13 Palestinians, Including Injured Teen, in West Bank (The Palestine Chronicle)

August 27, 2020

Israeli forces detained this morning 13 Palestinians, including an injured teen and four brothers, from various parts of the occupied West Bank, said the Palestinian Prisoner Society (PPS).

Israeli occupation forces rounded up six Palestinians from the southern West Bank district of Bethlehem. Two of them were identified as 17 years of age, including one who has sustained an injury in the foot after being shot by Israeli soldiers at the northern entrance of Bethlehem a week ago, said the PPS.

The four others were identified as four brothers from Battir town, northwest of the city.

The Israeli military raided Fawwar refugee camp, south of Hebron (Al-Khalil), where soldiers ransacked several houses and detained one man.

PPS said the military raided Qarawet Bani Zeid village, northwest of Ramallah, and detained one person.

Israeli troops also conducted a raid in Beit Liqya town, southwest of Ramallah, where they rearrested a former prisoner.

In the northern West Bank, Israeli troops raided Qalqilia city, resulting in the detention of a Palestinian.

In Jerusalem district, Israeli troops conducted two separate raids in Biddu and Qatanna villages, northwest of Jerusalem, resulting in the detention of three men.

Israeli forces on a regular basis storm Palestinian cities and villages in the occupied West Bank to arrest Palestinian popular activists.

UN: Israel demolishes 25 Palestine structures, displaces 32 people in 2 weeks (Middle East Monitor) By [AUTHOR]

August 29, 2020

The Israeli occupation demolished 25 Palestinian structures in occupied territories and displaced 32 Palestinians in two weeks, the United Nations (UN) Office for the Coordination of Humanitarian Affairs (OCHA) revealed on Thursday.

The Israeli demolition, according to OCHA, was carried out under the pretext of lacking building permits.

“Fifteen of these structures, all but two of which were livelihood-related, were demolished in eight communities in Area C of the West Bank, which is under full Israeli military control,” OCHA confirmed.

“Two of them in the communities of Mughayyir Al-Abeed and Al-Fakheit, both in southern West Bank district of Hebron,” disclosed OCHA, stating that the Israeli occupation demolished them because they were close to an Israeli military training zone.

The bi-weekly OCHA report, a copy of which was sent to MEMO, also communicated: “Six livelihood structures were demolished in one incident in Area C Al-Isawiya neighbourhood of occupied East Jerusalem.”

It pointed out that: “Five of the structures in East Jerusalem were demolished by their owners, who were forced to do so to avoid heavy fines.”

The latest demolitions in occupied East Jerusalem brought the total number of Palestinian structures destroyed this year to 118: “Half of them were carried out by the owners,” reported OCHA.

Netanyahu pledges annexation, plans to open school year in a settlement (The Jerusalem Post) By

Tovah Lazaroff

August 31, 2020

Annexation of portions of the West Bank is still on the table, Prime Minister Benjamin Netanyahu said Monday. To underscore that message, he is scheduled to open the school year Tuesday at a school in the Mevo Horon settlement in the Binyamin region of Judea and Samaria.

“The application of sovereignty is in the Trump [peace plan],” Netanyahu said.

He spoke at a press conference in Jerusalem that took place as a high-level Israel delegation was in the United Arab Emirates to cement details for the upcoming agreement between the two countries.

Israel agreed to suspend annexation as a prerequisite for the deal. Normalization had replaced annexation, Foreign Minister Gabi Ashkenazi said last week in Berlin.

But on Sunday and Monday, Netanyahu spoke about eventual sovereignty.

Trump’s peace plan “says that settlements won’t be uprooted, and there won’t be an uprooting of citizens,” he said. “There is no such thing. Israelis will stay where they are. In this plan, there are wide swaths of territory with Israelis and also for security that will be under Israeli sovereignty.”

This subject has not gone away, Netanyahu said.

“It is not as if you are going to create a Palestinian state based on past understandings where the settlements are dismantled and there is a return to the ’67 lines... and where Jerusalem is divided,” he said.

Regarding what happens to the possibility of applying sovereignty independently if the Palestinians do not come to the table, Netanyahu said: “I have not taken this off of the agenda. I suggest that you wait patiently. I think that everyone understands that historic things are happening here.”

He made similar comments on Sunday during a joint press conference with US Special Adviser Jared Kushner and US National Security Advisor Robert O’Brien.

Israel cabinet allows retention of dead Palestinians in violation of international law (Middle East Monitor)

September 4, 2020

The bodies of dead Palestinians alleged to be “terrorists” will not be returned to their families by Israel following a security cabinet decision on Wednesday. The policy, slammed by rights groups as “barbaric”, is part of a new strategy by Defence Minister Benny Gantz, intended to use the corpses as a bargaining chip in prisoner exchange negotiations.

“Refusal to return the bodies of terrorists [sic] is part of our commitment of maintaining the security of Israeli citizens, and of course to bring [dead or missing soldiers] home,” explained Gantz. “I hope our enemy understands and internalises the message well.”

According to the Jerusalem Post, there are four Palestinian corpses currently being withheld by Israel despite the Geneva Convention stating that parties to an armed conflict must bury each other’s dead honourably. Ramy Abdu, the founder of the Euro-Mediterranean Human Rights Monitor, said that this is an act that is considered a war crime, reported Al-Jazeera.

Adalah, the Palestinian human rights organisation based in Haifa, denounced the cabinet decision. “The Israeli security cabinet’s decision to withhold the bodies of Palestinians is extremely problematic and is clearly driven by motivations for vengeance,” it said. “The policy of using human bodies as bargaining chips violates the most basic universal values and international law which prohibit cruel and inhuman treatment. This position has indeed already been supported by three Israeli Supreme Court justices. This is an extreme and barbaric policy and there is no country in the world that would adopt it.”

Israel’s Supreme Court will now demand an examination of the state’s continued withholding of bodies and seek the legal justification for the continued suffering of Palestinian families affected by this decision, explained Adalah, which will continue to work against any policy of collective punishment.

The Israeli authorities have routinely withheld the bodies of Palestinian assailants or alleged assailants, a practice widely condemned by local and international human rights groups. Indeed, it holds the remains of hundreds of Palestinians from as far back as 1967. They are kept in morgues or otherwise buried in unkempt graves in what is known as the cemetery of numbers. Gantz said that this is all part of a broader campaign of “deterrence”.

Tension escalates at Israeli prison over death of Palestinian detainee (Daily Sabah)

September 8, 2020

Tension escalated inside Israel's Ofer prison on Tuesday following the death of a Palestinian detainee a few months before his release.

According to the Palestinian Prisoner Society (PPC), prison guards stormed two sections inside the prison and transferred many detainees to solitary confinement.

It said that detainees were tortured by prison guards and their belongings were damaged.

"The situation is difficult and complicated inside the prison," PPC head Qadora Fares told Anadolu Agency (AA).

Last week, Palestinian detainee Daoud al-Khatib, 45, died inside the prison's section 20, a few months before he was to complete his 18-year sentence.

The PPC said prisoners protested their colleague's death by knocking on the doors, returning meals and chants.

Israeli prison guards fired tear gas to disperse the detainees, injuring 26 of them and confiscated their electronic devices, the NGO said.

"The prison administration wants to silence the prisoners who protest against the policies of neglect and repression," said Qadri Abu Bakr, head of the Palestine Liberation Organization's (PLO) Commission of Detainees and Ex-Detainees Affairs.

"The prison authorities are taking escalatory steps in violation of international law and WHO protocols related to the coronavirus outbreak," he said.

Abu Bakr said Israeli prison authorities have isolated 14 prisoners since the protests erupted. "Seven of those prisoners will be transferred to solitary confinement as a punishment," he said.

"The situation inside the prison amounts to a crisis," he said. "We expect the situation to worsen and the protests may spill over to other jails."

Around 850 Palestinian prisoners are held at the Ofer prison, where most coronavirus infections were detected.

A total of 24 Palestinian detainees in Israel have tested positive for the COVID-19, the Commission of Detainees and Ex-Detainees Affairs said.

According to the group, 4,500 detainees are currently incarcerated in Israeli prisons including 700 patients, 300 of which are suffering from chronic diseases.

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Gulf Region

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ASIA

Afghanistan

Landmine kills 13 in southern Afghanistan (Reuters) By Sarwar Amani in Kandahar, Writing by Rupam Jain; Editing by Ana Nicolaci da Costa
August 28, 2020

At least 13 people were killed on Friday when their vehicle set off a landmine in Afghanistan's southern Kandahar province, local officials said, blaming Taliban fighters for the attack.

The blast happened in the Spin Boldak district of Kandahar province when people were travelling to an open-air market, where hundreds of villagers gather for weekend sales.

Bahir Ahmad Ahmadi, a spokesman for Kandahar provincial governor said the villagers were blown to pieces and could not be identified.

No group immediately claimed responsibility for the landmine blast. Taliban fighters say they use roadside bombs and landmines to attack security forces, but civilians are frequently hurt or killed.

Years of conflict have left Afghanistan strewn with landmines, which are often picked up by curious children.

In 2018, at least 1,415 Afghan civilians were killed or injured by landmines and unexploded munitions. Children made up one third of overall casualties that year, and 80% of those casualties were caused by unexploded munitions, according to the United Nations Mine Action Service.

U.S. blacklists ICC prosecutor over Afghanistan war crimes probe (Reuters) By Daphne Psaledakis, Michelle Nichols
September 2, 2020

The United States on Wednesday imposed sanctions on International Criminal Court prosecutor Fatou Bensouda, Secretary of State Mike Pompeo said, over her investigation into whether American forces committed war crimes in Afghanistan.

Pompeo also said Phakiso Mochochoko, the head of the ICC's Jurisdiction, Complementarity and Cooperation Division, had also been blacklisted under sanctions authorized by President Donald Trump in June that allow for asset freezes and travel bans.

"Today we take the next step, because the ICC continues to target Americans, sadly," Pompeo told reporters.

Pompeo also said that individuals and entities that continue to materially support Bensouda and Mochochoko would risk exposure to sanctions as well.

The ICC dismissed the measures as "another attempt to interfere with the court's judicial and prosecutorial independence" and said in a statement that it stood by the work of its staff.

"These coercive acts, directed at an international judicial institution and its civil servants, are unprecedented and constitute serious attacks against the court, the Rome Statute system of international criminal justice, and the rule of law more generally," it said in a rare joint statement on behalf of the entire ICC.

The State Department also restricted the issuance of visas for individuals Pompeo said were involved in the court's efforts to investigate U.S. personnel, though he did not name those affected.

U.N. Secretary-General Antonio Guterres was concerned by Pompeo's announcement, U.N. spokesman Stephane Dujarric told reporters.

Dujarric said that "we trust that any restriction taken against individuals will be implemented consistently" with a decades-old U.S. deal with the United Nations to host the world body's headquarters in New York.

Bensouda was given the go-ahead by the court in March to investigate whether war crimes were committed in Afghanistan by the Taliban, Afghan military and U.S. forces.

The United States revoked Bensouda's entry visa last year over the possible Afghanistan inquiry. But under an agreement between the United Nations and Washington, she was still able to regularly travel to New York to brief the U.N. Security Council on cases it had referred to the court in The Hague.

Rights groups immediately condemned the U.S. designations.

Richard Dicker, Human Rights Watch international justice director, said it was a "stunning perversion of U.S. sanctions."

"The Trump administration has twisted these sanctions to obstruct justice, not only for certain war crimes victims, but for atrocity victims anywhere looking to the International Criminal Court for justice," he said.

Roadside bomb attack misses Afghan vice president, but kills 10 (Reuters)

September 9, 2020

A roadside bomb in Kabul targeted first Afghan Vice President Amrullah Saleh on Wednesday morning but he escaped unharmed, his spokesman said. The attack killed at least 10 people.

The Taliban denied involvement in the attack, which comes just ahead of long-awaited peace talks between the Afghan government and the Taliban in Qatar's capital Doha.

"Today, once again the enemy of Afghanistan tried to harm Saleh, but they failed in their evil aim, and Saleh escaped the attack unharmed," Razwan Murad, a spokesman for Saleh's office, wrote on Facebook.

He told Reuters the bomb targeted Saleh's convoy and some of his bodyguards were injured.

Saleh appeared in a video on his social media accounts soon after, saying he had sustained a minor burn on his face and an injury to his hand in the attack.

Taliban spokesman Zabihullah Mujahid said in a post on Twitter that Taliban fighters were not involved in the blast.

The former intelligence chief and the senior of President Ashraf Ghani's two vice-presidents, has survived several

assassination attempts, including one on his office last year that killed 20 people.

Wednesday's blast killed at least 10 civilians and wounded 15 people including Saleh's security guards, according to the interior ministry.

"Such attacks won't weaken our resolve for a lasting and dignified peace in Afghanistan," Javid Faisal, spokesman for the National Security Council, said in a tweet.

International powers including the European Union and Pakistan also condemned the attack.

"This is an attack on the Republic, & desperate act by spoilers of peace efforts, who must be collectively confronted," the EU Delegation in Afghanistan said in a statement on Twitter.

Officials and diplomats have warned that rising violence is sapping trust needed for the success of talks aimed at ending an insurgency that began when the Taliban was ousted from power in Kabul by U.S.-back forces in late 2001.

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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

Comrade Duch, Chief Khmer Rouge Executioner, Dies at 77 (The Diplomat) By Sebastian Strangio
September 2, 2020

Kaing Guek Eav, the former schoolteacher known as Duch who ran a notorious security prison under Cambodia's notorious Khmer Rouge regime, died on Wednesday at the Khmer Soviet Friendship Hospital in the country's capital Phnom Penh. He was 77. According to a spokesman for the United Nations-backed tribunal that tried and convicted Duch of crimes against humanity, he was admitted to the hospital on Tuesday. The exact cause of death is unknown.

Duch died the sort of quiet death that he never allowed the thousands of Cambodians who passed through his hands at Tuol Sleng, a former Phnom Penh high school that served as the central security prison of Democratic Kampuchea, as the regime officially termed itself. Between 1975 and 1979, the Khmer Rouge's uncompromising attempt to forge a pure agrarian utopia caused the deaths of an estimated 1.7 million Cambodians, around a quarter of the country's population at the time.

As commandant of Tuol Sleng—code named "S-21"—Duch presided over the death of at least 14,000 Cambodians who were interrogated, forced to sign mostly false confessions, and, in all but a handful of cases, executed. "S-21 was the end of the line," Duch later told the filmmaker and Khmer Rouge survivor Rithy Panh. "People who got sent there were already corpses."

Following his arrest by the Cambodian government in 1999, Duch was the first defendant to be tried and convicted by a joint UN-Cambodian tribunal known officially as the Extraordinary Chambers in the Courts of Cambodia (ECCC). Unfolding over eight months in 2009 and 2010, Duch's trial laid bare the Eichmann-like role he played at the center of the Khmer Rouge's intricate machinery of death. Youk Chhang, the director of the Documentation Center of Cambodia, which researches the regime's crimes, told The Diplomat that Duch played a pivotal role in Democratic Kampuchea, a regime "which measured its success based on the number of both external and internal enemies that were eliminated."

It was a task in which the former schoolteacher displayed an unbending discipline and a fanatical attention to detail. Under Duch's supervision, interrogators were instructed to "smash" suspected traitors and counter-revolutionaries, a designation which eventually consumed countless cadres of the Khmer Rouge revolution itself.

In July 2010, the ECCC found Duch guilty of crimes against humanity and war crimes as well as homicide and torture, and sentenced him to a 35 years' prison sentence. In early 2012, a Supreme Court Chamber upheld the conviction, upping his

sentence to life in prison. It was a landmark event: the first time that a Khmer Rouge leader had been convicted and imprisoned, beyond any chance of appeal, for his or her actions under the regime.

Duch's conviction showed that given the necessary international will, there is possibility of accountability for the most heinous crimes. It also demonstrated some of the limits of international justice. Due to the vagaries of international and domestic politics, justice for the victims of the Khmer Rouge was delayed until nearly three decades after the regime was toppled from power — by which point its primary leaders were either dead or of an advanced age. Its jurisdiction was also confined to the narrow period from 1975 to 1979, and limited to senior leaders of the Khmer Rouge and those “most responsible” for its crimes.

The journey toward justice has been similarly delayed by the sheer complexity of proving charges like genocide and war crimes beyond reasonable doubt. Since beginning operations in 2006, the ECCC has convicted just three former Khmer Rouge leaders—the others were the late Nuon Chea, the regime's austere second-in-command, and Khieu Samphan, its former head of state—and has faced challenges due to the age and fragile health of the accused.

Ieng Sary, the regime's former foreign minister, evaded justice by dying in 2013, a year after his wife and comrade-in-arms Ieng Thirith, often referred to as the “first lady” of the Khmer Rouge, was ruled unfit to stand trial due to progressive dementia. (The regime's shadowy leader, “Brother Number One” Pol Pot, died in penury, a prisoner of his own collapsing movement, in 1998.) Meanwhile, the ECCC remains deadlocked over two future cases involving lower-level leaders of the Khmer Rouge. Cambodian Prime Minister Hun Sen, himself a former commander in the Khmer Rouge army, has opposed further trials while international judges and prosecutors assert that there is enough evidence to proceed.

The political and legal complications that have bedeviled the ECCC may well be inseparable from the pursuit of justice at the international level. But as Cambodia's last remaining genocidaires fade one by one from the scene, the ECCC has produced at least one indelible legacy: a rich archive of testimony that will be a valuable bequest to the next generation of Cambodian historians. From these pages the voices of the victims of the Khmer Rouge speak as loudly and insistently as ever.

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Bangladesh International Crimes Tribunal

Bangladesh's Rohingya refugees lobby ICC to sit in Asia during war crimes investigation (ABC News) By
Angelique Lu
August 31, 2020

Two Australian lawyers acting on behalf of hundreds of Rohingya refugees are pushing to have the International Criminal Court (ICC) sit in Asia for the first time.

The ICC is investigating allegations of genocide and crimes against humanity allegedly committed by Myanmar Government and military officials in 2017.

Hundreds of thousands of Rohingya — a stateless, mostly Muslim minority group — fled to neighbouring Bangladesh during the unrest.

Myanmar's Government, led by Nobel Peace Prize winner Aung San Suu Kyi, has faced accusations of failing to stop a systematic campaign of violence by security forces to wipe out the Rohingya minority, which Myanmar denies.

Lawyers acting on behalf of Rohingya refugees have now lodged a pre-trial motion asking the court to investigate the possibility of holding a trial outside of Europe.

What are they asking for?

Counsel at the ICC Kate Gibson is representing groups of Rohingya living in the Cox's Bazar refugee camp in Bangladesh.

Ms Gibson said they were hoping the court would hold some or part of the hearings in Asia, possibly in Bangkok in Thailand, or even Bangladesh.

"We're just asking the court to be aware of this massive gap that is existing between the Rohingya population in the camp, who are cut off in every sense that you could imagine from The Hague, to be aware that they feel like this," she said.

"And we think one of the most effective ways of doing that would be to look into whether the ICC can move its seat to somewhere closer to the victim communities."

What are the issues with the ICC's current location?

Postdoctoral research fellow at Sydney Law School Rosemary Grey said witnesses and victims faced a number of issues, including financial difficulty, lack of documentation and poor internet connections.

"If justice is going to be closer to them, the ICC is going to have to move to them, not them to the ICC," Dr Grey said.

Emma Palmer, a lecturer at Griffith University Law School, said The Hague's distance from victims had an effect on the way it ran its trials.

"[Prosecutors] need to rely much more on intermediaries, on civil society groups to help them in the actual jurisdiction that they're trying to investigate," Dr Palmer said.

What do claimants say?

Muhammed Nowkhim is one of the Rohingya refugees hoping to testify before the court.

He left his village — along with 20,000 other people — after he woke to the sound of gunfire and rockets in August 2017.

Mr Nowkhim said his family members were shot at, and his home was burned to the ground during the violence.

"When they started blasting, one blast like a rocket, at that time our family is scared," he said.

"Most of the people [in the village] were injured, some of the people were shot, some people were bleeding."

The 24-year-old said having the court sit in Asia, rather than The Hague, would be meaningful to other people who wanted to testify.

"If the court is set up in Asia then every victim who [suffered], they can openly say their opinion in front of the judges," Mr Nowkhim said.

Ms Gibson said there were logistical benefits to the move.

"The court will be closer to the evidence, the sites, the witnesses themselves, and you won't have to put this burden on the victim communities to travel to this foreign location," she said.

Is it likely?

"The International Criminal Court can theoretically hold proceedings anywhere," Dr Grey said.

While the ICC has never sat outside of its headquarters in The Hague since it began in 2002, Dr Grey said she thought the move was "realistic".

Victims in countries such as Kenya and the Democratic Republic of Congo have made similar requests in the past, but they had been rejected on security, financial and technical grounds.

"The ICC has to have its proceedings somewhere safe for the judges, for the lawyers, safe for the victims or witnesses," Dr Grey said.

"[But] there are plenty of locations in Asia that are quite stable.

"And it's not that it's a hugely unrealistic request because they are asking for just some of the proceedings to be closer to Asia."

What other courts could inform the ICC's move?

Legal experts pointed to the UN-backed Extraordinary Chambers in the Courts of Cambodia as a possible model.

The tribunal investigated war crimes committed by the Khmer Rouge in the 1970s, and was established in the capital Phnom Penh in 2006.

"The public gallery was full of Cambodian people, full of local people who have bused in from the provinces, people from Phnom Penh, people in school uniform or university students, local journalists," Dr Grey said.

"It was full of monks witnessing the proceedings, completely different environment than the International Criminal Court, where you very rarely see anyone from the affected country."

Dr Palmer said the ICC has had little engagement with South East Asia in the past.

"Even opening the discussion [of having the court in Asia] could be important if it opens some doors to the court to actually learn a bit more about the region," Dr Palmer said.

A spokesperson for the ICC told the ABC that decisions to hold trials outside The Hague were decided on a case-by-case basis.

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War Crimes Investigation in Myanmar

Myanmar Military to Investigate Troops Accused of Killing Three Ta'ang Villagers (Radio Free Asia) By Zarni Htun and Kan Thar
August 28, 2020

The Myanmar military has said it will investigate the deaths of three ethnic Ta'ang civilians, who died while being detained by soldiers in Myanmar's restive northern Shan state, and hold those responsible to account, a village administrator and local residents said Friday.

The move came two days after RFA published video and written accounts earlier on Tuesday that the bodies had been discovered in makeshift graves last week in Muse township.

Mai Nyi Tun, 28, from Man Kan village; Mai Alone from Lwe Mon village; and Nyi Leik, 40, from Mai Sat village, all in Namhkam township, disappeared at the end of May after being detained by Myanmar soldiers following a clash with the Ta'ang National Liberation Army (TNLA), a Ta'ang civil society group and the relatives of the dead told RFA in the earlier report.

The group and family members have demanded that the government army — the alleged perpetrators of the killings — be brought to justice for the crime. The military initially had denied responsibility for the killings.

Colonel Hla Moe, commander of the army's Light Infantry Division No. 99, met with village administrators, a local lawmaker and Ta'ang civil society officials on Thursday in Muse and told them that an investigation would be conducted, said Nyan Moe, administrator of Neng Kat village tract where the bodies were found.

Those who attended the meeting vouched for the testimonies of villagers who were detained by soldiers from the army division along with the three deceased men, but later escaped. Those who got away said the soldiers who abducted them wore the insignia of Light Infantry Division No. 99 on their uniforms.

"The soldiers had asked the villagers to look down, Nyan Moe said. "They asked two of the villagers who died to lie down on their stomachs. The villagers got a glance of their insignias with No. 99 on them."

The Ta'ang Literature and Culture Organization issued a statement on Wednesday about the three men who died in military custody.

"We called the [army division] by name in our statement because we have witnesses who are confident about what they saw," said Ta'ang National Party lawmaker Nyi Sein, chairman of the civil society group.

"But the military officer didn't say anything about it," he said, referring to Colonel Hla Moe. "The division commander said he

would inspect his soldiers [and] obtain the truth through interrogation.”

“I think he meant that he might either confirm or reject our testimonies,” Nyi Sein added.

RFA could not reach Myanmar military spokesman Major General Zaw Min Tun in time for comment before publication.

Tied to trees

Nyan Moe said Mai Nyi Tun and Nyi Leik were from his village tract and that they earned a living by making charcoal.

Local villagers had searched for all three missing men for 10 days before filing missing persons reports with authorities. Civil leaders also filed a report at the police station in Muse.

When RFA contacted Muse police for comment about the investigation, the person who responded to the call refused to answer questions over the phone.

Kham Aung, the older sister of Mai Nyi Tun, told RFA she was not aware of the meeting between the division commander and civil society leaders, but said she did not wish to see any other villagers disappear and die.

“I don’t want such things to happen to civilians anymore, whether the offenders are the military troops or any other armed groups,” she said.

The bodies of the trio were dug up on Aug. 21 in the presence of family members, local residents, a forensic physician, policemen, and civil administrators.

Tar Aik Thein Win, secretary of the Ta’ang Literature and Culture Organization, said that the spot where the villagers were killed was the site of a former TNLA camp.

“There are trenches near the site. The villagers were shot and buried in the trenches,” he told RFA, adding that the bodies showed signs of possible torture.

“It seemed like the villagers were tied to the trees when they were killed,” he said. “Their bodies were found tied in strings. I don’t know if they were killed by torture or by shooting.”

The forensic physician refused to comment on the causes of death, and now the bodies have been cremated, Tar Aik Thein Win said.

The Ta’ang, also called Palaung, are one of Myanmar’s 135 officially recognized ethnic groups. Besides Shan state, they also can be found in southwestern China’s Yunnan province and in northern Thailand.

Myanmar Military Implicated in Civilian Deaths, Arson in Rakhine Villages (Radio Free Asia)
September 4, 2020

At least two villages were set on fire and two civilians shot dead allegedly by a Myanmar military column in war-ridden Rakhine state, witnesses said Friday, as the government dismissed a cease-fire offer by the rebel Arakan Army and its allies.

At least 170 houses were torched Thursday in Phayar Paung and Taung Pauk villages, located along the Yangon-Sittwe roadway, while the bodies of two Phayar Paung residents were found with gunshot wounds, villagers who visited the communities to see the destruction told RFA’s Myanmar Service.

The two dead men — Han Maung Thein, 35, and Maung Nyunt Win, 25 — were ordinary civilians with no ties to the Arakan Army (AA), villagers said.

The AA has been fighting Myanmar forces since later 2018 in a quest for greater autonomy for ethnic Rakhines in the state.

A Myanmar military spokesman denied that troops had burned down villages and said that a military vehicle carrying police was attacked by AA landmine blasts.

Some local villagers also said that the troops came to attack and destroy the villages after AA soldiers had attacked their vehicles with roadside bombs.

The latest destructive attack in the 21-month-old Rakhine conflict came after Myanmar government spokesman Zay Htay dismissed a recent offer from the AA and two allied ethnic armies to extend a temporary unilateral cease-fire until early

November to allow for voting in general elections.

The cease-fire, which does not extend to cases where Myanmar forces launch offensives, was “propaganda,” he said.

“The AA speaks about cease-fires, but on the contrary, they are planting and detonating bombs. They are hypocritical,” Zaw Htay said during a news conference in Naypyidaw.

“If they want peace, then they should work on this process,” he said, urging the AA — declared a terrorist organization by the Myanmar government in March — to join political talks to show it is serious.

Thursday’s military attack on civilians and torching of the villages in Kyauktaw township came after a provocation by AA fighters along the Sittwe-Yangon roadway, the area’s main thoroughfare, local residents said.

“Around 5 p.m., they entered the village by vehicles,” said Phayar Paung resident Than Hla Htun.

“They started firing their guns as soon as they got out of the vehicles,” he said. “They fired both large and small guns for 20 minutes in the direction of the village. They looked for the villagers as they fired.”

‘Burned down by arson’

As terrified residents ran in all directions, soldiers began to burn the houses at 6 p.m., said Than Hla Htun, who witnessed the torching.

“Before they burned a house, they fired their guns indiscriminately into it,” he said,

Another Phayar Paung villager, who declined to be identified for safety reasons, told RFA that about 200 soldiers entered the village, fired their guns at random, and torched homes.

Before burning the homes, soldiers asked residents to come out of their houses and sit in two rows, one for men and the other for women, alongside the nearby highway for an hour prior to releasing them, he said.

“They asked if there were any AA members among us, if there were people who would attack them,” he told RFA. “We said we knew nothing about them, that we were just ordinary civilians. They then started beating us.”

The soldiers told the villagers that they must know about the AA since they were ethnic Rakhines, the resident said.

“They then went around the village and fired their guns indiscriminately,” he added. “When we looked back at the village, the houses were burning.”

Aye Saw, who lives in Kyauktaw town, confirmed the village burnings and the killings of the two civilians, and said the torched communities now are deserted.

“The houses were burned down by arson,” he said. “The houses in the villages are not close to one another. They were built in large compound, so there is no way the fire accidentally spread from house to house. They were burned down on purpose.”

A local man said the villagers who were burned out were staying and receiving meals at Buddhist monasteries across the river from Kyauktaw.

At a news conference in Myanmar’s capital Naypyidaw on Friday, Myanmar military spokesman Major General Zaw Min Tun denied that government forces burned down the communities.

At about 6:30 p.m. Thursday, a military vehicle carrying police forces from the Apauk Wa police station was attacked by AA landmine blasts, after which troops found the bodies of two enemy soldiers and a gun, he said.

‘Making up battles’

AA spokesperson Khine Thukha said the rebel force did not conduct landmine attacks in Kyauktaw township on Thursday evening.

“The military made up the attack as an excuse to burn down the villages,” he said. “The killing of the villagers and the arson in the villages are crimes committed by the military troops.”

The two bodies the Myanmar military said were AA soldiers, were in fact those of civilians who had no connections to the AA, he added.

“The military has been attacking innocent civilians by making up battles,” Khine Thukha said, adding that the violence was meant as a pretext to cancel the holding of November’s general elections in Rakhine state.

The Myanmar military has been implicated in other village shootings and burnings in conflict zones in Rakhine state.

Myanmar troops were accused of torching hundreds of homes Kyauktaw township’s Tin Ma village in March, though military officials later denied the allegation and claimed that there was no fire in the community.

However, on April 22, the government provided 90 million kyats (U.S. \$66,000) to rebuild the 500 homes.

Nearly 300 civilians have died and more than 600 have been injured in the armed conflict since December 2018, according to an RFA tally. Roughly 200,000 others have fled their homes amid the fighting and now live in official or makeshift displacement camps.

Government spokesman Zaw Htay urged the AA to join the national peace process that the Rakhine group and its allies have rejected in recent years.

“If they really want peace, if they genuinely want the rights of ethnic states, if they truly want rights as ethnic group, they should come join to peace talk table,” he said, adding that government representatives would meet with AA commanders.

AA spokesman Khine Thukha rejected Zaw Htay’s hypocrisy accusations.

“The truth is they are the ones being hypocritical,” he said, pointing to the military’s unilateral cease-fires that have excluded Rakhine state.

“They then use excessive force combining the army, navy, and air force to launch offensives,” he added. “Do they really think their actions are sincere? It is just insane.”

Myanmar soldiers tell of Rohingya killings, rapes and mass burials (The Guardian) By Hannah Ellis-Petersen
September 8, 2020

Two Myanmar soldiers have detailed a campaign of blanket killings, rape and mass burials of Rohingya Muslims in Rakhine state in video testimony that could be used as evidence of crimes against humanity in the international criminal court (ICC).

The confessions, seen by the New York Times and the human rights organisation Fortify Rights, reportedly show Pte Myo Win Tun and Pte Zaw Naing speaking about what they say were orders for them to “kill all you see”, as well as destroying dozens of villages.

Myo Win Tun said: “We indiscriminately shot at everybody. We shot the Muslim men in the foreheads and kicked the bodies into the hole.” He said he had raped a woman, and buried eight women, seven children and 15 men in one mass grave.

Zaw Naing Tun described how he had been ordered by his commanding officer to “exterminate” Rohingya people. He said he had kept watch while more senior soldiers raped Rohingya women.

It is the first time Myanmar military personnel have confessed to carrying out a campaign of violence against the minority ethnic group starting in August 2017, a campaign the UN and human rights organisations have said had genocidal intent.

Their testimony corresponds with individual accounts given by Rohingya refugees, hundreds of thousands of whom who fled over the border to Bangladesh as their families were attacked and homes set alight, and with reports by a UN fact-finding mission and Amnesty International.

The two soldiers had reportedly deserted the military and crossed over into Bangladesh, where they were held by the Arakan Army, an insurgent group fighting against Myanmar government troops in Rakhine state. This week the soldiers were transported to The Hague in the Netherlands.

The soldiers would be questioned there by ICC officials who are investigating whether Myanmar committed crimes against humanity by the mass persecution and forced deportation of Rohingya Muslims. Their testimony could be used as evidence or they could be called as witnesses.

Myanmar is already facing charges of genocide at the international court of justice (ICJ), also based in The Hague.

The soldiers’ testimony contradicts the repeated denials by Myanmar’s military and government, including the state counsellor Aung San Suu Kyi, that genocide occurred in Rakhine. They have argued that the military operation was only

targeting Rohingya militants who had attacked police border posts.

The case against Myanmar opened at the ICJ in December, where graphic accounts of mass murder and rape by the military were relayed to the court. Aung San Suu Kyi, a winner of the Nobel peace prize, addressed the court, asking for the case to be dropped and pledging to court martial any personnel who had committed human rights abuses.

However, few military figures have been put on trial for their role in the violence and those who have, and have been found guilty, have only received short prison sentences.

The 750,000 Rohingya people who fled the country have still not been able to return to their homes because of continued fears for their safety, despite promises by the Myanmar government to repatriate them safely. They continue to live in squalid conditions in refugee camps in Cox's Bazar in Bangladesh, where they are denied the right to work.

The ICC told Reuters the soldiers were not in its custody. A statement from the ICC prosecutor's office said: "The office does not publicly comment on speculation or reports regarding its ongoing investigations, neither does the office discuss specifics of any aspect of its investigative activities."

Two Children Slain as Myanmar's Rakhine War Rages Amid COVID-19 Uptick (Radio Free Asia)
September 8, 2020

At least four villagers, including two five-year-olds, died and eight others were injured when Myanmar soldiers allegedly shelled their community in Rakhine state Tuesday, a relief volunteer and local residents said, as fighting in the 21-month-long war raged on amid a spike in coronavirus infections.

The fresh fighting swelled the ranks of refugees huddled in overcrowded makeshift camps, where health officials say it's not possible to practice social distancing, and displaced civilians say they are receiving no protective gear and fear the war more than the pandemic.

Six artillery shells believed to be fired from a Myanmar army base landed in Nyaung Khet Kan village on the border between Ann and Myebon townships Tuesday morning, killing Chan Nyein Thu 27; Thura Aung, 5; schoolteacher Moe Thet, 29; and her daughter, Thu Thu Hein, 5, according to residents.

"Four people are dead and eight others have been injured, including two who are in critical condition with head injuries," said Win Hla Aung, a volunteer relief worker in charge of the Kan Taung Gyi displacement camp.

"The injured were sent to Kan Taung Gyi Hospital," he said. "The entire village had to flee."

At Kan Taung Gyi, where more than 1,000 villagers sought shelter in an internally displaced person (IDP) camp, some villagers said the soldiers fired artillery shells indiscriminately and not in response to an attack by the rebel Arakan Army (AA).

"It wasn't a battle. They fired indiscriminately. The AA rebels do not have artillery. I think it was the Tatmadaw [Myanmar military] that fired the artillery shells," said a villager who spoke on condition of anonymity for safety reasons.

Myanmar military spokesman Major General Zaw Min Tun told RFA that he had not received any reports about the shelling.

'They fear everything'

Despite a recent surge in COVID-19 infections, many villagers are more afraid of being attacked and killed in the armed conflict than they are of catching the potentially fatal respiratory virus, said Pe Than, an Arakan National Party (ANP) lawmaker from Myebon township.

"They fear everything," he told RFA. "Though the pandemic has not killed many, the infection is spreading so fast.

"It has not killed [many], but the artillery fire is causing a loss of life every few minutes," he said. "It's happening every day and it's worse than COVID-19, [which] can be prevented."

The ANP, which represents the interests of ethnic Rakhines in the state, sent an open letter dated Sept. 5 to President Win Myint, State Counselor Aung San Suu Kyi and military commander-in-chief Senior General Min Aung Hlaing calling for an immediate cessation of the government army's tactics.

The letter also accused soldiers of intentionally targeting civilians.

So far, neither the government nor the military has publicly responded.

At least 289 civilians have been killed and 641 injured in Rakhine state and in Paletwa township of neighboring Chin state since hostilities escalated in December 2018, according to an RFA tally.

Roughly 200,000 others have fled their homes amid the fighting and now live in official or makeshift displacement camps.

As of late Tuesday, Myanmar registered 1,709 confirmed cases of coronavirus, with 191 new cases reported and 10 deaths.

There were more than 552 COVID-positive cases in Rakhine state as of Monday, with more than half of those in the capital Sittwe, which has been hit hard by a surge in domestically transmitted cases.

Other Rakhine townships with significant numbers of cases are Ponnagyun, Kyauktaw, Minbya, Mrauk-U, Myebon, Buthidung, Rathedaung and Pauktaw — areas where many IDP camps and other temporary shelters are located.

‘Risk is very high’

Those living in congested official and unofficial camps are at risk for contracting COVID-19 because basic preventive measures like social distancing cannot be practiced, IDPs and health workers said.

“We are worried about getting infected with the coronavirus,” said Maung Kyaw Sein, one of about 200 displaced civilians living in small rooms at an IDP camp at the Uthalin Monastery in Sittwe.

“If someone is infected, it is very difficult to control because we can’t follow social-distancing restrictions,” he said.

Maung Soe Thein, another IDP at the Uthalin Monastery, said there is no more room in the compound to build any more structures so people can spread out.

“It is impossible for us to have six feet of social distancing because we have to live in a small room with many family members inside barracks,” he told RFA.

Zaw Zaw Tun, secretary of the Rakhine Ethnic Congress, a local NGO, said that outbreaks would likely continue unless officials can come up with a feasible plan to mitigate the risk of infection.

“We can’t enforce social distancing in camps,” he said. “If we could, we’d need to provide what the IDPs need and must create a plan to monitor them. But because we don’t have any plan, the risk is very high.”

Some IDPs said the state government has not provided any support to those living in camps amid a growing number of COVID-19 infections.

“The government hasn’t supported us with anything,” said Kyaw Hla Sein, a civilian who lives in the Metta Paramy IDP camp in Sittwe.

“Individual groups have donated a little,” he said. “We have no more hand sanitizer, although we received some face masks from donors today.”

During a recent videoconference with Aung San Suu Kyi, Rakhine state Chief Minister Nyi Pu expressed concern over the displaced civilians “because they have to live in very crowded conditions in IDP camps, and the virus has become highly contagious.”

Dr. Sai Win Zaw Hlaing, Rakhine State’s health director, acknowledged that it is impossible to enforce social distancing rules in the IDP camps.

“Because we can’t do it, we are working as much as we can to educate them how to protect themselves,” he said

The Myanmar government placed Rakhine’s 3.2 million residents under a partial lockdown on Aug. 26, allowing only shops selling essential goods to remain open. Aung San Suu Kyi pledged to send food supplies to Rakhine and to provide financial support for the state.

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AMERICAS

North & Central America

United States sanctions ICC prosecutor investigating potential war crimes (The FCPA Blog) By Stephanie L. Connor
September 4, 2020

On September 2, the United States designated the chief prosecutor from the International Criminal Court (ICC), as well as an ICC senior official, to the Specially Designated Nationals (SDN) and Blocked Persons List, the first exercise of sanctions under a June 11 executive order targeting the ICC due to its ongoing investigation of U.S. military actions in Afghanistan.

The newly designated ICC prosecutor, Fatou Bensouda, is a Gambian lawyer who had been tasked by the ICC to investigate whether war crimes were committed in Afghanistan by the Taliban, Afghan military, and U.S. forces. The other designated ICC official, Phakiso Mochokhoko, is a Lesotho national and head of the ICC's Jurisdiction, Complementarity, and Cooperation Division.

SDN assets are blocked and U.S. persons are generally prohibited from dealing with them, which will effectively prevent Bensouda and Mochokhoko from accessing the U.S. financial system or engaging in U.S. dollar-denominated transactions. Individuals and entities that provide material assistance or support to SDNs could also risk U.S. sanctions exposure, which could have far-reaching consequences for the ongoing work of the ICC, the world's only permanent international tribunal established to investigate and try genocide, war crimes, crimes against humanity and crimes of aggression.

Although the United States has not formally recognized the ICC's jurisdiction and is not a party to its founding document, the Rome Statute, U.S. citizens can be subject to its jurisdiction if the ICC is investigating crimes in countries that have joined, including Afghanistan. These new U.S. sanctions could disrupt other ongoing ICC cases supported by the United States (including war crimes investigations in Sudan and Syria).

An SDN designation is a powerful tool that has historically been used by the United States, through the Office of Foreign Assets Control (OFAC), to target adversarial states (like Iran, Cuba, or North Korea) or specific threats (like terrorism, narcotics trafficking, human rights abuses, or the proliferation of nuclear weapons). The OFAC ICC sanctions represent a profound departure from international norms, and the latest effort by the Trump administration to undercut international institutions. In 2018, then-national security adviser John Bolton denounced the ICC as "illegitimate," and Bensouda's U.S. visa was revoked after she signaled her intention to pursue the Afghanistan war crimes investigation last year. In announcing the new sanctions Wednesday, Secretary Pompeo described the ICC as a "thoroughly broken and corrupted institution." In addition to OFAC's SDN designations, the State Department has restricted the issuance of visas for certain individuals involved in the ICC's efforts to investigate U.S. personnel.

Sanctions have become an increasingly prominent part of U.S. foreign policy, and OFAC has designated a record number of persons to the SDN List under the Trump administration. Although some have suggested that the robust and unilateral use of OFAC sanctions will move the rest of the world away from the widespread use of the U.S. dollar as a global currency, it is unlikely that these ICC designations will be the turning point—particularly because China, the primary champion of a post-dollar world, is also uncomfortable with the ICC.

Given the European Union's steadfast support for the ICC, the EU could expand its Blocking Statute (which prohibits compliance with OFAC embargoes on Iran and Cuba) to include the latest ICC sanctions.

Notably, the Trump administration's June executive order targeting the ICC has provoked international outcry from U.S. allies, the American Bar Association, the International Bar Association, academics, non-government organizations, and former war crimes ambassadors.

Why America is facing off against the International Criminal Court (European Council on Foreign

Under US law, the government can impose sanctions on any country, organisation, or person deemed to pose an “unusual and extraordinary threat” to US national security or foreign policy. In the past, the United States has imposed sanctions in connection with terrorism and proliferation of weapons of mass destruction, and on countries including Iran, North Korea, and Syria. On 2 September this year, secretary of state Mike Pompeo marked a new departure in US policy by announcing sanctions on two senior officials of a treaty-based international organisation of which most major US allies are members, the International Criminal Court (ICC). The move will strike most Europeans as a blatant attack on the international rule of law, but it is also the culmination of an evolving confrontation between the US and the ICC that stretches back to the organisation’s founding.

The ICC was set up by the Rome Statute in 1998, with a brief to prosecute those responsible for the most serious international crimes – war crimes, crimes against humanity, and genocide. European countries were among the court’s strongest advocates, seeing it as a step towards a world where no one has impunity for mass atrocities. But the court is a treaty-based body, and many of the world’s most powerful states remain outside – including the US, Russia, and China. The tension between the vision of justice embodied by the ICC and the realities of international power politics has been present from the start and has been particularly marked in the court’s fluctuating and turbulent relationship with the US.

Under the Rome Statute, the ICC has jurisdiction to prosecute crimes committed by nationals of member states, but also crimes committed on the territory of member states, even if those responsible are citizens of a country that is not a member of the court. The US fought hard against this provision in the negotiations leading to the ICC’s founding, fearing that it could open US citizens to prosecution, but it lost the argument. The US regards the prosecution of its citizens before an international body without US consent as a violation of its sovereignty. Supporters of the ICC argue that if states can prosecute foreigners for war crimes committed on their territory in their own courts, they have the authority to transfer that power to an international court such as the ICC.

The early years of the court coincided with George W Bush’s presidency, and he took a number of steps to limit any potential action against US citizens. The US persuaded the United Nations Security Council to pass a series of exemptions for peacekeeping forces, preventing soldiers from non-ICC member countries from being investigated or prosecuted (though it stopped seeking exemptions after the Abu Ghraib prison scandal was revealed in 2004). Bush also launched a campaign of seeking bilateral immunity agreements with other countries and formally revoked the US signature of the Rome Statute (under Bill Clinton, the US had signed but not ratified the treaty, meaning that the US was not bound by it but was obliged not to take actions that would defeat its object and purpose). The Obama administration engaged more with the ICC but did not take any steps to ratify its statute.

For its part, the ICC also seemed in its early years to be trying to avoid any confrontation with great powers as it sought to establish itself as a fledgling international body. The first prosecutor, Luis Moreno Ocampo, moved with striking caution in opening investigations where great power interests were involved. Afghanistan joined the ICC in 2003, giving the court jurisdiction over any crimes occurring there after that date, and Ocampo opened a preliminary examination of the situation in Afghanistan in 2006. But, despite the persistent violence in the country, the prosecutor’s office did not request permission to move to a full investigation until 2017, under Ocampo’s successor Fatou Bensouda. Similarly long delays have marked the court’s examination of Colombia (again, a sensitive country for the US) and Georgia (where Russia was directly involved). The court’s restraint in these cases contrasted with the speed at which it moved in some African cases, contributing to a sense that the ICC was unduly focused on Africa.

More strikingly, after Bensouda requested permission to open an investigation in Afghanistan, the Court’s pre-trial chamber initially turned the request down in 2019, arguing it would not be “in the interests of justice” to proceed. Investigations without the support of the countries involved can be difficult, and Afghanistan as well as the US would have resisted cooperation with the court. But the chamber’s move was widely criticised as compromising judicial independence to avoid a confrontation with the US, and it was overturned by the ICC’s appeals chamber this year. Bensouda has said her investigation is looking at possible crimes committed by the Taliban, Afghan forces, and US forces, including the abuse of detainees held as part of the US “war on terror”. Pompeo said after the investigation was approved that it was “a truly breathtaking action by an unaccountable political institution masquerading as a legal body”. In June, Trump issued an executive order allowing sanctions against the ICC. Last week he named Bensouda and the head of the jurisdiction division, Phakiso Mochochoko, as targets.

In practice, the chances that the ICC will actually prosecute any US citizen are minimal, since it would be very hard to develop a viable case in the face of US non-cooperation, and even more unlikely that the court would ever gain custody over any

American it sought to charge. Nevertheless, the Trump administration, in keeping with its hyper-aggressive approach to multilateral organisations, has seized the opportunity to strike a potentially sweeping blow against the court. The US action should also be understood as a response to the court's current examination of Israeli actions in Palestine, an examination that the Trump administration has strongly opposed. A crucial question now is how aggressively the US will try to enforce its sanctions. As its actions against Iran among others have shown, US sanctions can be an enormously powerful tool, since targets are blocked from conducting any dollar-based transactions.

Luckily for Bensouda and Mochochoko, the ICC pays their salaries in euros. At the very least, it seems likely that the US will block Bensouda from appearing in person at the UN. But, if it wished, the US could try to shut down the court's Afghanistan investigation as a whole by going after organisations and companies with which it does business. It is certain that Europe and other member countries would prefer to avoid a pitched battle with the US over the ICC, but equally certain that they would feel obliged to defend the court if Trump's administration tries to put it out of action.

Changes needed to help Canada prosecute war criminals, Amnesty International says (Todayville)
September 8, 2020

A prominent human-rights organization says Canada is failing to bring suspected war criminals to justice.

In a newly released report, Amnesty International Canada depicts the federal Crimes Against Humanity and War Crimes Program as underfunded and underused.

Twenty years ago, Canada enshrined in federal law universal jurisdiction for genocide, crimes against humanity and war crimes, meaning these offences are considered criminal acts in Canada even when they are committed abroad.

But only two people, both linked to the Rwanda genocide of 1994, have been prosecuted under the legislation.

Amnesty points to the case of Bill Horace, a former Liberian warlord, as evidence of Canada's poor record in the years since.

It notes that Horace, who was shot to death in June in London, Ont., had been widely accused of committing mass murder, rape and torture in Liberia during the 1990s.

"Despite a mountain of evidence against him, Canadian officials never charged Horace, allowing him to live freely in this country since he first arrived in 2002," Amnesty Canada said in releasing the report today.

More often than not, Canada washes its hands of its responsibility, failing to take any action to prosecute alleged war criminals or opting to deport them without any guarantees they will be investigated for their misdeeds, said Alex Neve, secretary-general of Amnesty Canada.

The \$15.6-million budget for the war-crimes program has remained static over the years, but the costs of conducting investigations "have risen significantly," the report says.

It urges the Canadian government to boost the resources of the federal program, improve the protection of victims and witnesses, and remove various legal and political obstacles to prosecution.

The report was co-ordinated by Sebastien Jodoin, Canada Research Chair in Human Rights and the Environment at McGill University, and developed with the input of lawyers, legal scholars, and law students.

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South America

Sources: US stops ex Colombia warlord's deportation to Italy (AP News) By Joshua Goodman
August 31, 2020

The Trump administration has blocked the scheduled removal of a former Colombian

paramilitary boss to Italy and now intends to deport him to his South American homeland, where he's been found responsible for hundreds of war crimes.

Salvatore Mancuso received notification of the surprise reversal on Sunday, according to two people familiar with the matter who discussed the proceedings on condition of anonymity. His lawyers have 14 days to challenge the deportation order.

Mancuso's removal to Italy, where he also has citizenship, was ordered by the Department of Homeland Security in April after he completed in March a 12-year sentence for cocaine trafficking.

But he's been held in federal custody ever since as Colombia's government fights to have him returned to continue with truth and reconciliation efforts that stalled in 2008 with the extradition to the U.S. of 14 warlords, including Mancuso, the former top commander of the United Defense Forces of Colombia, or AUC.

Just a week ago, Justice Department attorneys reaffirmed before a Washington, D.C. federal court the Trump administration's pledge to remove Mancuso to Italy no later than Sept. 4.

Attorneys for Mancuso went to court seeking to force Attorney General William Barr to carry out the April 15 order removing Mancuso to Italy, arguing that that U.S. Immigration and Customs Enforcement had "illegally detained" their client beyond the maximum 90 days allowed for the removal of aliens.

However, in substituting Colombia for Italy, U.S. officials cited a provision in the U.S. Immigration and Nationality Act that allows the Attorney General to disregard the country designated for an alien's removal if it is deemed that carrying out the order would be "prejudicial to the United States," according to the two people familiar with the proceedings.

The Justice and State Department declined to comment, referring all inquiries to DHS, which didn't respond to the AP's request.

Mancuso can still prevent his removal to Colombia if granted asylum in the U.S. like his ex-wife and youngest child. In March, his immigration attorney told DHS officials that Mancuso had already signed an asylum application, saying his client was "terrified" by the prospect of returning to Colombia.

"There is absolute certainty about the torture he would face and the likelihood of his assassination," attorney Hector Mora wrote in a letter to DHS officials, which came to light in recent court filings. "He is the target of many powerful groups and individuals that were incriminated, criticized, and exposed throughout his cooperation with the U.S. government, the cooperation with the Colombian judiciary, and his multiple statements."

Mancuso, 55, was the most remorseful of the former right-wing militia leaders after demobilizing and his eagerness to discuss the paramilitaries' war crimes has already shaken Colombia's politics.

His boast in 2005 that a third of Colombia's congress was elected with paramilitary support triggered a wave of judicial investigations that ended with dozens of elected officials behind bars. His lawyers contend that others still in power have not hidden their desire to find a Colombian court to order Mancuso's arrest in an effort to silence him.

This month, President Iván Duque's government submitted to the U.S. what was its fourth extradition request for Mancuso. One of the earlier requests was unilaterally withdrawn in July after Mancuso's legal team, led by Miami defense attorney Joaquin Perez, pointed out in U.S. federal court that it was based on an arrest order already canceled by a Colombian judge.

It's not clear what happened to the other two requests but neither has been validated by a U.S. court. While Colombian courts have judged Mancuso responsible for more than 1,500 acts of murder or forced disappearance, many of the crimes are not recognized as offenses under U.S. law because they stem from his position atop AUC's chain of command — not specific orders he gave. In 2001, the U.S. designated the AUC a foreign terror organization.

Mancuso's lawyers argue the former paramilitary boss has fulfilled his obligations under a 2003 peace deal he negotiated, which caps prison terms at eight years for militia leaders who confess their crimes.

UN calls for inquiry after girls killed in Paraguay raid (BBC)
September 7, 2020

The United Nations has called for an investigation after two girls were shot dead in a raid by Paraguayan security forces on a rebel camp.

Neighbouring Argentina has identified the two victims as Argentine nationals and confirmed they were 11 years old.

The Paraguayan government had originally said they were teenage members of the Paraguayan People's Army (EPP) rebel

group.

The EPP is a small group mainly active in the north of Paraguay.

Paraguay's ministry of foreign affairs expressed "deep regret" over the deaths of the girls. It also condemned what it described as "the EPP's despicable use" of children and teenagers as human shields.

What happened?

The two girls died during a joint raid on a rebel camp carried out by the Paraguayan police and military on Wednesday in Yby Yaú, about 370km (230 miles) north of the capital Asunción.

The security forces buried the girls' bodies that same day, citing the coronavirus pandemic as the reason for the swift burial. Their clothes were also burned by the security forces.

On Wednesday, Paraguayan President Mario Abdó had described the raid on the rebel camp as "a successful operation".

"It was successful in that some members of the EPP were brought down," the president said, implying that the two girls - who were the only fatalities - were rebels.

What did Paraguayan officials say?

A forensic expert from the prosecutor's office, Cristian Ferreira, said during a news conference on Thursday that those killed were female and that forensic tests carried out before they had been buried suggested that one of the girls was 15 and the other was aged between 17 and 18.

He also said that one of the girls had been hit by six shots and the other by two. According to Mr Ferreira, one of the victims had been wearing a "tactical vest" and both had hundreds of rounds of ammunition on them.

He added that fingerprints had been taken but no matches had been found in their database. Security officials said a large number of weapons, explosives and \$16,000 (£12,000) in cash had been found in the rebel camp as well as books about Russian revolutionary Vladimir Lenin and German philosopher Karl Marx, and a DVD about Colombian drug lord Pablo Escobar.

What has emerged since?

A group of lawyers that represents political prisoners in Argentina said on Friday that the two girls were Argentine citizens who were in the camp to visit family members who belong to the EPP. The lawyers' group also said that the girls were only 11 years old.

Argentina later confirmed the victims' ages and said that they were Argentine citizens.

Following Argentina's interventions, Paraguay ordered the exhumation of the girls' bodies and fresh forensic tests confirmed they were 11.

Federico Delfino from the Paraguayan prosecutor's office said the girls had crossed into Paraguay from Argentina in November.

What has the reaction been?

The incident has driven a wedge between Paraguay and Argentina, which has demanded an explanation as to how the two girls came to be killed.

Opposition groups within Paraguay have also criticised President Abdó for initially describing the raid as "a success".

On Sunday, the regional office of the United Nations High Commissioner for Human Rights urged the Paraguayan government to investigate the deaths of the girls "impartially and without delay".

What is the Paraguayan People's Army?

The EPP is a small Marxist rebel group which has carried out a string of kidnappings and killings in Paraguay.

One of the group's main sources of income is the smuggling of marijuana and ransoms paid for those it has kidnapped.

Over the past years, the rebels have displaced scores of Mennonite settlers from an area they seek to control.

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TOPICS

Truth and Reconciliation Commission

Maldives' rocky road to transitional justice (Simal South Asian) By Mushfiq Mohamed
August 28, 2020

On 23 October 2019, a government-endorsed transitional-justice bill was tabled in the Maldivian parliament, the People's Majlis. The bill, which is currently at the committee stage, purports to redress systematic rights violations and torture in the Maldives. Yet the bill does not meet international standards. If the People's Majlis passes the bill into legislation in its current form, the Maldives risks depriving hundreds of citizens of their right to reparations for severe human-rights abuses involving state security forces.

In 2018, Ibrahim Mohamed Solih was voted in as president and given an overwhelming mandate to address past grievances and begin a process of national healing. A transitional-justice mechanism aligned with the Maldives' international obligations, and with long-term domestic political stability in mind, should address systematic and widespread attacks on civilians. As Desmond Tutu, the Chair of South Africa's Truth and Reconciliation Commission said in 2001: "Reconciliation means that those who have been on the underside of history must see there is a qualitative difference between repression and freedom." But the Maldivian government is now turning a blind eye to repeated calls by the UN's international human-rights mechanisms.

Falling short of international standards

Shortly after the Solih government assumed power, in November 2018, the UN Committee Against Torture reviewed the Maldives for the first time. The Committee applauded the new Maldivian government's plans to include transitional justice in its legislative agenda. However, it noted that the temporal jurisdiction of the transitional-justice bill, which restricted its scope to between 2012 and 2018, could deprive survivors of historic incidents of torture of remedy, as pre-2012 allegations made before 2012 that have yet to be effectively investigated.

In July 2012, the UN Human Rights Committee called on the Maldivian government to investigate and resolve severe human-rights violations meted out both in Abdul Gayoom-era prisons and during the disputed transfer of power in February 2012, when former President Mohamed Nasheed was forced to resign following protests led by the then opposition and religious hardliners, who claimed that he was responsible for mismanagement of the economy and religious discord. The concluding observations by the UN mechanism clarified steps that should be taken for redress, calling for the state party to prohibit torture in its legislation and take concrete measures to combat torture and ill-treatment, to set up an independent commission

of inquiry to investigate rights violations (including torture that took place prior to 2008), and to provide compensation to the victims.

The government is also flouting protections afforded under the International Covenant on Civil and Political Rights (ICCPR), to which the Maldives is a state party.

The ICCPR calls on state parties to ensure that effective legal remedies for rights violations are available to victims, even before the adoption of the landmark international human-rights instrument. Survivors who endured torture before the Maldives acceded to the ICCPR are fully entitled to transitional mechanisms that afford them reparations. More specifically, they are entitled to have their allegations determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the state. The Maldives, through its ICCPR obligations, is obliged to “develop the possibilities of judicial remedy” where it had not existed previously.

The UN Human Rights Committee’s General Comment on the legal obligation imposed on state parties, adopted on 29 March 2004, emphasises the importance of the guarantee of an effective remedy in order to achieve the objectives of Article 2 of the ICCPR. Reparations, in the form of legal or non-legal remedies, are specifically raised as an example of remedying violations, while reinforcing nonrecurrence. “The Committee notes that, where appropriate, reparation can involve restitution, rehabilitation and measures of satisfaction, such as public apologies, public memorials, guarantees of non-repetition and changes in relevant laws and practices, as well as bringing to justice the perpetrators of human rights violations”, reads the UN Human Rights Committee’s General Comment no. 31 [80] (paragraph 16). Holding public office or official status at one time or another should not prevent powerful individuals from accepting legal responsibility when implicated in perpetrating atrocities. Turning a blind-eye suggests impunity for internationally-recognised criminal acts, such as torture and enforced disappearances.

There is room to argue that the proposed transitional justice bill is persecutory, in that it is designed to target two former regimes – and specifically, the only two former presidents absent from the current coalition arrangement. The Maldives’ abhorrent torture record also brings the sincerity of the Solih government’s truth and reconciliation mechanism into question. The current coalition government includes Gayoom’s party. However, his presence in the government coalition should not restrict the rights of those seeking reparations; the establishment of truth commissions; and public apologies following the full disclosure of facts.

Healing historical wounds

Is transitional justice possible in a country whose political conflicts have been sporadic, fragmented and difficult to define, unlike in countries like Sri Lanka or South Africa? Is such a process possible when there is doubt about the Maldives’ ability to sustain its current political configuration and uncertainty about how delicate and unpredictable its internal politics could become? But more importantly, can politicians unilaterally decide which period of time citizens suffered most, and is it convincing if it happens to coincide with the period of time when they themselves suffered the most politically?

The primary objective of transitional justice mechanisms is to correct past wrongs, not merely for posterity, but to heal historical wounds. Such a programme would put the victims and survivors of past atrocities at the forefront, not the precious sentiments of the political elite. As the Maldivian Democracy Network’s position paper, which was shared with the government in November 2018, states, transitional justice should be “holistic and inclusive”, not an exercise of historical revision. A government that purports to promote open democracy should seek the help of experts in the field to develop its framework; the Maldivian government cannot reduce this opportunity to a political tool for historicising past grievances. It should go without saying that human-rights violators must be held to account in a manner that respects and protects the dignity and security of those affected.

If the Solih government sincerely wishes to mark a transition from fear and violence to an environment more inclined towards peace and security, it would not ratify the act in its current form.

Many attempts at introducing truth and reconciliation programmes to the Maldives in the past were derailed in favour of political expediency, with the country choosing to co-opt dictator-loyalists into the democratic movement instead of upholding due process. A culture of providing reparations for injustice does not exist in the Maldives, and the political elite has no plans to establish the mechanism that all Maldivians deserve. Rather than politicians and their grievances, the most vulnerable sections of Maldivian society – which have persisted in their calls for justice despite the state’s transgressions and neglect – deserve to be an integral part of this critical process.

Normalising abuse of power

Before the Maldives began efforts to democratise in 2004, state-sanctioned torture and persecution were routine. The understanding was that those in power had a right to abuse that power as well. Foreign observers and reportage on the

Maldives can be entirely oblivious to why Maldivian activists use post-conflict language.

Parallel to the power struggles among the political elite concentrated in Male, outer atolls in the North and South have made two significant attempts to resist the oppression of the highly centralised Maldivian government. For decades, successive governments favoured proximity to Male. Infrastructure projects, education and employment were reserved for a privileged few, while the overwhelming majority of the island communities were left out from the Maldives' development plans.

The resistance in the Northern atolls was a result of famine caused by food shortages during the Second World War. Liberation movements from the South that emerged prior to the 1960s, characterised by most Maldivian historians as "rebellions", centre around the drafting of an agreement with the British, delimiting Gan as the imperial power's air base, and diplomatic negotiations that led to the Maldives' independence from the British protectorate. It must be noted that the Maldives (then the Maldivian Islands) and Sri Lanka (formerly British Ceylon) were not part of the British Raj; instead, these two Southasian dependencies were annexed through separate treaties. Maldivian historians also note that the British presence in the islands – both during World War II and the era of decolonisation from European powers – exacerbated these grievances between the centre of power and its periphery in the Maldives.

The most recent instance of this was in the early 1960s, on Thinadhoo, a southern island. In February 1962, the Ibrahim Nasir government led a special military operation in response to unrest in Thinadhoo. Historically this event is said to have originated with skirmishes between Thinadhoo and neighbouring Gadhdhoo, considered loyal to the central government in the capital Male. Some Thinadhoo natives, however, accuse the Maldivian government of inciting hatred between the two island communities.

The military's actions resulted in the island community being inundated with violence. Peoples' valuables and property were eviscerated through brute force. Submachine gunshots were fired, killing several people. After the community was forcibly uprooted, the island was looted and set ablaze by the Maldivian defence force and its 'volunteers', more accurately described as regime-aligned militias, according to survivors and their families. To rub salt in their wounds, on 4 February 1962 the government declared Thinadhoo an "uninhabited island" (an official term used in Dhivehi vernacular to refer to islands designated for tertiary activities or tourism development). Hundreds of people from the island were brought to Male and tried for treason, others were murdered, according to historian Ali Moosa Didi's book *Siyasi Cancer* (or 'Political Cancer'). The people of Thinadhoo were then banished to nearby islands. No due process was followed, no redress for the community given; instead they were forgotten and left to their own devices.

On 28 February 1943, over 500 vessels from northern Maldives' atolls headed to the capital to demand government action to prevent starvation, a devastating ripple-effect caused by the Second World War. After dialogue with the Maldivian authorities, the resistance was diffused. Didi wrote about the cruel, degrading and inhumane treatment the leadership of the liberation movement was subjected to. "On 29 March 1943, the leaders of the movement in Malé were rounded-up and brought to trial. They were tied up and lynched. Chilli paste was smeared on their (bruised) backs. Following which they were banished to remote islands", Didi wrote in *Siyasi Cancer*.

The Maldives' legacy of state-sanctioned torture survived the second republic, with the tragic extrajudicial killing of the first president of the republic, President Mohamed Amin Didi, in early 1954. President Amin Didi was lynched while restrained in shackles, according to Dhivehi history books. The former president was laid to rest on a nearby island on 19 January 1954.

The Maldivian prison systems were routinely used as torture centres where custodial deaths and disappearances were commonplace. The death of Evan Naseem, a non-political prisoner was seen as a catalyst for the democracy movement that eventually voted-out former president, Maumoon Abdul Gayoom, then internationally known for being Asia's longest-serving leader. On 19 September 2003, there was an altercation and Naseem was tortured to death at the age of 19, around the same age as three other prisoners who were killed in subsequent unrest the following day. The Gayoom government tried to rush the burial of Naseem to avoid unrest in the capital. His story sent shockwaves through the political system in the country, initially through the sheer effort of Mariyam Manike, Naseem's grieving mother. Riots erupted in Male and Maafushi prison and government buildings were torched. Prison guards shot and killed three prisoners: Abdulla Ameen, 23; Ahmed Shiyaz, 18; and Ali Aslam, 18. At the same time, 17 other prisoners were injured. The then opposition rightly demanded speedy and tangible democratic reforms.

Sixteen years ago, on 12 August 2004, an extraordinary number of people gathered to call for democratic reform and for the release of political prisoners. The protest caused President Gayoom to declare a state of emergency, during which hundreds of individuals were detained and tortured by the state security forces. Many survivors note the brute force and sexualised nature of the torture inflicted by the state security forces, with their families mentioning child rape and other forms of sexual violence. Again, all alleged acts of treason were pardoned, in line with how the state had handled previous acts of resistance. This seemingly removed any need for reconciliation or justice for the tortured detainees. Again, there was no apology offered nor a platform provided for victims to seek reparations. The day is locally known as the 'Black Friday'.

Just as liberation movements from the South were pardoned by the Nasir government after reassuring British officials, in 2005 Gayoom pardoned all those who participated in the 12 August 2004 protest. In doing so, he signalled to the international community that the Maldives intended to embark on democratic reformation. No damages were awarded and there was no apology – the survivors were to be grateful for the Maldivian leadership’s mercy. When persecutory State actions are publicly forgotten, the subsequent wound does not heal.

These events alone demonstrate that open debate and specialised research is required in this area. Historical literature such as *Siyasi Cancer* by Ali Moosa Didi; *Dhekunu Gadubadu (The Unrest in the South)* by Ahmed Najeeb; *Alhugandu ge Handhaanthah (My Recollections)* by Mohamed Naseem; *Orchid* by Mohamed Jameel; and *Rebellion of the Southern Atolls* by Naseema Mohamed venture into the Maldives’ politically tumultuous past. A more recent publication, *Dhivehiraaдже Democracy ah Kuri Dhathuru (The Maldives’ Journey to Democracy)* by Mohamed Abdulla Shafeeq, documents the beginnings of the Maldives’ current project of democratisation.

Implementing programmes that amount to ‘selective justice’ goes against the ideals and objectives of truth and reconciliation processes. The Maldivian government and the Parliament should reconsider its current position and involve survivors of torture at every stage of the development of this bill before it becomes a law that could have grave consequences for Maldivian citizens. It is shocking that despite being victims of torture, certain government officials are choosing to bury the past to sustain their political clout, rather than provide justice for the systematically and historically unheard voices of Maldivian society.

Nyameka Goniwe, 69, Dies; Sought Justice in Her Husband’s Killing (New York Times) By Alan Cowell
August 30, 2020

Nyameka Goniwe, an activist, politician and social worker who survived the death of her husband in one of apartheid-era South Africa’s most brutal extrajudicial killings and went on to campaign in vain for his assassins to be brought to justice, died on Saturday in Cradock, South Africa. She was 69.

She was awaiting the results of a coronavirus test, which proved negative, and the cause of death was not known, a nephew, Mbulelo Goniwe, said.

Local authorities in Cradock, in the Eastern Cape region, said Ms. Goniwe had displayed symptoms such as headaches and shortness of breath and had been in self-isolation.

Ms. Goniwe was propelled to global prominence in 1985 as a 33-year-old mother of two when a hit squad abducted her husband, Matthew Goniwe, and three other men as they traveled by car from Port Elizabeth to Cradock, where Mr. Goniwe was a schoolteacher and political leader.

The men were taken to an area of dunes along the Indian Ocean coastline, where they were repeatedly stabbed and then set on fire by their attackers – all security police officials, both Black and white. The intention was apparently to silence the men, quash resistance and present the murders as an example of Black vigilante violence.

One of the assailants, Johan Martin Van Zyl, testified before South Africa’s Truth and Reconciliation Commission in 1998 and offered a detailed account of the killings of the four men: Mr. Goniwe, Sparrow Mkhonto, Fort Calata and Sicelo Mhlauli, who came to be known as the Cradock Four.

Mr. Van Zyl was seeking amnesty in return for a confession of what he depicted as political acts in the struggle against foes of apartheid. His application was refused, but, despite his admission, he was not brought to trial.

The funeral of the four men drew huge crowds and turned into a defiant statement of the anti-apartheid cause. But it also presented the newly widowed Ms. Goniwe with emotional challenges as she wrestled with her loss.

Shortly after the funeral, at a dusty soccer stadium in Cradock’s segregated Black township, where the Goniwes lived, the South African authorities declared the first of two states of emergency. These served to deepen their country’s international isolation and, paradoxically, to hasten the end of apartheid with the country’s first democratic elections in 1994 after the release of Nelson Mandela from prison in 1990.

When he visited Cradock in the 1990s, Mr. Mandela called the slain activists “the true heroes of the struggle.”

Yet Ms. Goniwe’s own story offered a granular counterpoint to the big-screen moments in South Africa’s modern history, tracing the hardship facing spouses of imprisoned activists and the brutality of their abrupt and often unexplained loss, as well as evoking one of the most tortured conundrums of the post-apartheid era: How could survivors come to terms with the actions of perpetrators?

"They have to show us remorse, that they're sorry for what they did," Ms. Goniwe told the Truth and Reconciliation Commission in 1996, long before Mr. Van Zyl's testimony.

"I don't say that, I mean, it would immediately make us happy," she said in her statement to the commission. "It's a challenge. We're going to be challenged in that kind of way and grapple with that, inside, and it will take a long time. Healing takes a long time."

Nyameka Puwani was born on June 3, 1951, in Cradock and trained as a social worker. Her parents were farm workers.

She married Matthew Goniwe in 1975 and they had two children: a daughter, Nobuzwe, and a son, Nyaniso. In 1976, Mr. Goniwe was charged with political activism and was jailed until 1981 under the Suppression of Communism Act.

"My ordeal started then," Ms. Goniwe told the Truth and Reconciliation Commission in 1996, describing the strains of life divided between her studies in social work at the University of Fort Hare in Alice, South Africa; the needs of her youngest child, who was cared for by Mr. Goniwe's family in Cradock; and her efforts to support Mr. Goniwe in prison.

In 1982, the family moved to Graaff-Reinet in the Eastern Cape before being transferred to Cradock, where, in the years before Mr. Goniwe's death, the township became a crucible of unrest that threatened to embolden disaffected Black South Africans across the land.

In her account of those years, Ms. Goniwe focused on her husband's deepening involvement in marshaling Black dissatisfaction to the extent that the township effectively slipped beyond white administrative control. "Running battles between the police and the youth became the order of the day," she said. Again her husband was detained, only to be released as revolt deepened.

He was not the only target. "The whole family bore the wrath of the security police, which took the form of harassment, early morning house raids, constant surveillance, death threats, phone bugging, short-term detentions for questioning, mysterious phone calls, tampering with cars etc.," Ms. Goniwe said.

Later she discovered that their home had been bugged. "That device could pick up the slightest sound, even the drop of a pin," she recalled, "everywhere in that house, in all rooms, so they could hear us sleeping in our bedrooms, everywhere; they could hear us argue, whatever, whatever happened in that family."

After her husband's death, Ms. Goniwe was active in efforts to promote social change, particularly in rural areas of South Africa. She later became a mayor and speaker of the local municipality council in Cradock, a position she occupied at her death.

Various organizations call for end to continue delays in justice for Nepal's victims (myRepublika)

August 30, 2020

On the International Day of the Disappeared, which falls on August 30 every year, various national and international organizations working for transitional justice-related issues based in Nepal have called for an end to continuing delays in justice for Nepal's many victims.

Issuing a joint statement on Sunday, the organizations urged the responsible authorities to undertake immediate steps toward a reinvigoration of the transitional justice process while adopting a transparent and consultative process.

"On this occasion, the victims' groups and human rights organizations in Nepal commend the patience and resilience shown by the family members of those subjected to enforced disappearance during the 10-year-long internal armed conflict from 1996-2006," reads the statement.

The organisations have also regretted for not bringing truth to the public regarding cases of disappeared, even 14 years after the signing of the Comprehensive Peace Accord in 2006.

"Although the Comprehensive Peace Agreement of 21 November 2006 between the government and the Communist Party of Nepal (CPN-Maoist), which formally ended the armed conflict, promised to make the fate or the whereabouts of the disappeared public within 60 days, thousands of families have been being denied the right to the truth about these cases for the last 14 years. This has led to wider denial of, accountability, access to justice and effective remedy and reparation," reads the joint statement.

International law, including treaties to which Nepal is a party, obligates states to provide effective remedies to the families of the disappeared and others harmed as a result of the disappearance that includes truth, justice, reparation and guarantee on

non-recurrence, according to the joint statement.

"These obligations under international law have been reflected in the Constitution of Nepal and have been reinforced by the Supreme Court in a number of cases. However, Nepal has not only failed to fulfill these binding obligations allowing for near total impunity, it has also disregarded the concerns, fears, suggestions, and demands presented by the victims' families, communities, and other concerned stakeholders," the statement said.

The organizations accused the Truth and Reconciliation Commission (TRC) and the Commission of Enquiry on Enforced Disappearances (CIEDP) of failing to deliver on their mandates.

In their statement, the organizations, have demanded the following:

- To ensure the commissions provide, rather than delay and deny, truth and justice to victims;
- Start fresh consultations to amend its law in compliance with international human rights laws and Supreme Court directives, including by removing provisions for amnesty to the perpetrators;
- Appoint a new set of commissioners under the revised Act that respects victims' basic right to truth and justice;
- Immediately ensure the social, cultural, economic, psychological and legal support suffered by the victims and families of enforced disappearance as part of victims' rights to reparation;
- Revise the Penal Code to bring it in line with international standards. As a minimum, this should include:
 - amending the definition of enforced disappearances to bring it in line with Nepal's international obligations and the Convention on the Protection of All Persons from Enforced Disappearance
 - revising the penalty for enforced disappearance in the Penal Code to make it proportionate to the gravity of the crime
 - removal of the statute of limitations for enforced disappearance cases
- Ratify International Convention for the Protection of All Persons from Enforced Disappearances Punishment.

The undersigned national and international organizations include Accountability Watch Committee, Advocacy Forum-Nepal, Amnesty International-Nepal and Conflict Victims' Common Platform (CVCP).

CIEDP working to ensure justice for conflict victims (The Himalayan Times)

August 31, 2020

The Commission of Investigation on Enforced Disappeared Persons today decided to look into 2,507 out of 3,223 complaints it received from families of conflict victims.

Issuing a press release to mark the International Day of the Victims of Enforced Disappearances, the CIEDP said preliminary investigation into 23 more complaints were recently opened to expedite settlement of conflict-era cases.

"The CIEDP believes that the spirit of transitional justice cannot be realised without addressing the trauma of disappeared persons," read the release signed by Gangadhar Adhikari, CIEDP spokesperson.

According to the CIEDP, it submitted a 14-point recommendation to the Government of Nepal on the provisions to be incorporated in new amendment to the existing law in line with internationally accepted principles of transitional justice, issues raised by the victims and directives issued by the Supreme Court.

"We have repeatedly urged the government to amend the Enforced Disappearances Inquiry, Truth and Reconciliation Commission Act-2014, as per the demands put forth by the victims. We are confident that the government will initiate the amendment process as soon as possible to make it victim-friendly. Justice delayed is justice denied," said Adhikari.

The CIEDP said further investigation into the complaints and consultation with the victims and their kin, and other necessary tasks to be carried out in the concerned districts and areas were affected due to COVID-19 pandemic and subsequent lockdown or prohibitory orders. "Despite all these hurdles, we have continued with desk works related to complaints by maintaining necessary safety measures," said Adhikari.

Sudan to cooperate with ICC (Dabanga Sudan)

September 2, 2020

**Sudan will fully cooperate with the International Criminal Court (ICC) in the Hague.
A Truth and Reconciliation Commission and memorial sites will be set up.
Imbalances in the civil service and the judiciary will be addressed.**

The transitional government and the armed movements that signed the peace agreement in the South Sudanese capital of Juba on Monday have affirmed their willingness to “full and unlimited cooperation” with the ICC regarding the indicted Sudanese.

In accordance with the Juba agreement, Sudan will allow easy access for ICC prosecutors and investigators to victims, witnesses, and investigation sites. The ICC officials will be able to move freely in all parts of the country at all times. The government and the armed movements will not interfere in ICC investigations and trials and guarantee the protection of all prosecutors, victims, and witnesses.

By cooperating with the ICC, Sudan will adhere to the 2005 Security Council Resolution 1593 that referred the Darfur case to the ICC. UN High Commissioner for Human Rights Michelle Bachelet has welcomed Sudan's decision to cooperate with the ICC.

Three months ago, ICC suspect Ali Kushayb was transferred to the Hague after he surrendered himself in the Central African Republic. The Sudanese Public Prosecution said it indicted Ali Kushayb for murder, theft, rape and violence against women at the end of 2019. An arrest warrant was subsequently issued against him.

Memorial sites

Khartoum and the rebel groups have also agreed to establish memorial sites, such as museums and documentation centres, in honour of the victims of the war in Darfur.

The purpose of these memorials is to promote reconciliation between the communities in Darfur and “to demonstrate the commitment of the people of Darfur and the government of Sudan to the protection of human rights and prevent the recurrence of acts of violence”.

The memorial sites should be used for civic activities and educational programmes.

Truth and Reconciliation Commission

The peace agreement as well stipulates the establishment of a Truth and Reconciliation Commission (TRC) in Darfur within two months.

This commission that will work for a period of ten years, and will consist of 11 members. TRC offices will be established in Khartoum and the capitals of the Darfur states.

The TRC will investigate violations of human, economic, social, environmental, and cultural rights since June 1989, when the regime of ousted President Omar Al Bashir came to power through a military coup. It will work on reconciliation between the various communities in particular, reaching “a common understanding of the past”, and facilitating “a true healing of wounds within the communities”.

Civil service

The two parties agreed to address the imbalance in the national civil service at all job levels. The staff of national banks, semi-national banks, and public companies must for 20 per cent consist of people from Darfur, provided that the appointment is made according to eligibility and competences.

Agreement has also been reached on institutional reforms of the judiciary and the public prosecution. A quota of 20 per cent for people from Darfur will improve the balance within the judiciary.

Southern Sudan

With regard to the southern Sudanese track, consisting of Blue Nile state and South and West Kordofan, the South Sudanese mediators have set a period of two weeks for the Matrix Committee to develop timetables for the implementation of the peace agreement.

Getting Nepal's flawed transitional justice process back on track (Annapurna Express) By Kamal Dev Bhattarai
September 4, 2020

Every year, August 30 is observed as the International Day of the Disappeared. It's

always a somber occasion, including in Nepal. According to the International Committee of Red Cross (ICRC), 1,326 people are still missing in Nepal from the time of the Maoist conflict (1996-2006), with thousands more awaiting truth, justice, and reparations. Tellingly, this year, neither the federal government in Nepal nor any of the major political parties organized a formal program to commemorate this day, or even issue a message.

But on the day 41 organizations of conflict victims came up with a charter of 11 points, calling on the government and other stakeholders to undertake steps to reinvigorate the Transitional Justice (TJ) process, and adopt a transparent and consultative mechanism.

This is not the first time conflict victims have made such demands. They have been vocal about their plight since the signing of the Comprehensive Peace Accord (CPA) on 21 November 2006 to formally end the Maoist war. Other vital aspects of the peace process such as integration and rehabilitation of Maoist combatants, and constitution promulgation have been completed. But transitional justice, the last crucial component, remains incomplete. The TJ mechanisms are paralyzed, the law amendment process is in limbo, demands of conflict victims unaddressed, and there is an ever-present risk of internationalization of wartime cases.

Paralyzed mechanisms

The CPA envisaged the two transitional justice mechanisms within six months of its promulgation. But only in 2015 could the Truth and Reconciliation Commission (TRC) and the Commission of Investigation on Enforced Disappeared Persons (CIEDP) come into being. It is widely believed that the two bodies were formed just to fend off domestic and international pressure, and political parties are not committed to their effective functioning.

At the start, both the TRC and the CIEDP faced logistical hurdles. Of late, there has been some improvement on this part, but the two commissions still don't have sufficient financial and other resources.

Successive governments have been reluctant to amend commissions-related laws in line with the 2015 Supreme Court verdict (more on this later). Without amending the laws, the commissions cannot go beyond the preliminary investigation of the cases filed with them.

Moreover, the commissions' autonomy has been compromised due to constant political meddling. Speaking to APEX, both incumbent and past TRC commissioners say heavy political meddling makes it difficult to investigate war-era cases independently. In some instances, politicians have even put pressure on officials not to investigate particular cases.

Then there are the disputes within these commissions. As their members are appointed on political basis, there is a lack of unity. "The commissions have been held hostage to internal disputes since their formation," confirms former TRC member Manchala Jha.

An incumbent senior TRC member speaks of how such disputes contribute to indecision. "In public, politicians commit to take the TJ process to a logical end but they often try to control our functioning," says the TRC official. Similarly, there is lack of coordination between commission members and staffs. It does not help that members often seek the suggestions of politicians, often those directly involved in the civil war.

The TRC has so far received 63,000 complaints from victims, and preliminary investigations have been completed in 3,700 cases. Through its offices in seven provinces, the TRC has finished sorting these completed cases into three sections: those that need to be put on hold, those that need to proceed with reparations, and those needing further investigation.

The Covid-19 pandemic has further hampered the commission's task. At the current rate, it could take many years to complete all investigations. In a brief comment to APEX, TRC chairperson Ganesh Dutta Bhatta says vital progress was being made on investigations when the Covid-19 crisis impeded work.

Flawed laws

The Supreme Court in its 2015 verdict has flagged some points of The Enforced Disappearances Enquiry, Truth and Reconciliation Commission Act, 2071(2014) that stand in the way of making the two commissions fully independent and compliant with international standards. There are for instance legal provisions that authorize amnesty even on grave human rights violations. The SC wants to incorporate a clear provision that the commissions cannot recommend amnesty in these cases.

Section 26(5) of the Act says: "... the Commission must decide to make a recommendation for amnesty upon considering agreement and disagreement of the victim as well as the gravity of the incident for granting amnesty to that perpetrator." The

SC finds the word 'disagreement' problematic as it may allow for amnesty even if conflict victims don't agree to it.

Another issue that needs to be addressed is investigating war-era rape and sexual violation cases. As per existing laws, FIR in rape cases should be registered within six months of the incident and there is nothing on sexual violence. Moreover, there are no records of most conflict-era sexual violence cases.

There are other ambiguities in the Act as well. According to it, "gross violations of human rights" include murder, abduction, and taking of hostage, enforced disappearance, causing mutilation or disability, physical or mental torture, rape and sexual violence, looting, possession, damage or arson of private or public property, forceful eviction from house and land or any other kind of displacement, inhuman act inconsistent with international human rights or humanitarian law, and a crime against humanity. The fear is that such a broad definition could leave no room for reconciliation.

According to the TRC official, international practice is to enlist under grave rights violations incidents of extrajudicial killing, rape and sexual violence, disappearance, and torture. But Nepal's law defines looting and arson of private property as grave rights violations as well.

Expressing its displeasure with the apex court verdict, the government had filed a review petition. After four years of deliberation, on 26 April 2020 a full bench of SC rejected the petition for a review of its 2015 verdict. In the petition, the government had questioned if the SC verdict was in keeping with the spirit of the CPA and the 2007 interim constitution. The petition aimed to nullify the verdict and restore the provision of amnesty and reconciliation at the discretion of commissions and government rather than on informed participation of victims. There is no alternative for the government to amend the law in line with the verdict.

Constant political meddling

Since the start, there has been a systematic effort to politically influence the TJ bodies. Otherwise, politicians fear being slapped with charges of grave rights violations. So they want the TJ process completed under their close watch. Both the ruling Nepal Communist Party as well as the main opposition Nepali Congress believe reconciliation should be sought by honoring the CPA's spirit—which means no prosecution on war-era cases.

Top political leaders know blanket amnesty is unviable due to national and international pressure. So, perhaps, there could be prosecutions in some token cases to showcase them before the international community?

The ruling party taskforce has now proposed a political mechanism to conclude the transitional justice process, inviting fierce criticism of conflict victims. Experts say the government move is against principles of jurisprudence and transitional justice. Similarly, the taskforce says local and provincial governments shall be motivated to successfully conclude the transitional justice process. This shows political parties want to control the process and settle it as per their wishes. "The ruling party taskforce is silent on justice. It is more focused on reparation and compensation. But the latter is not possible without the former," says the senior TRC officer.

Piecemeal approach

Since the start of the peace process, a section of politicians, rights activists, and conflict victims have taken a more prosecution-oriented approach, along the lines of criminal justice jurisprudence, while others, including former Maoists, are in favor of blanket amnesty. Transitional justice is caught between the two extremes. "The current debate and functioning of mechanisms are not in keeping with the spirit of a holistic transitional justice process," says Charan Prasai, a human rights practitioner.

The first component of transitional justice is truth-seeking or fact-finding. But the SC order fails to identify clear working procedures of truth-seeking in war-era rights violations. The two commissions have started looking into some war-era cases but they are struggling in the absence of a comprehensive investigation procedure and detailed action plan. The current path does not guarantee justice, truth, or preservation of state memory.

The second key component is the provision of prosecutions of serious rights violations. A special court is provided for but there is no specific working procedure on its functioning. The law should be clear on the state's duty to investigate, prosecute, and punish.

Another vital pillar of the TRC is related to reparations. The apex court verdicts have from time to time spelled out reparations as the victim's right, and said that there can be no discrimination in granting reparations. The first step is to classify conflict victims, as not all are likely to get similar reparations. Further steps include ensuring memorialization, provisioning of identity cards, and ensuring livelihoods for poor victims.

According to existing laws a maximum of Rs 300,000 can be provided in reparations but the basis of such an amount has not

been clarified. “In the past five years, the TJ mechanisms have failed to formulate a policy on reparations, which shows not enough attention has gone into making the process holistic,” says Prasai. Conflict victims want immediate social, cultural, economic, psychological, and legal support.

Guarantee of non-recurrence is another vital aspect of transitional justice. It calls for deep structural reforms, digging deep into the causes of the conflict. The law does not envision institutional reform, nor has there been any discussion among political parties on how to reform state mechanisms. After the signing of the CPA, there was some discussion on restructuring Nepal Army but nothing happened. “If we fail to address this issue we will set a bad precedent, and the same mistakes could be repeated in future conflicts,” says Prasai.

Risks of internationalization

If credible domestic mechanisms are not set up, there is a risk of internationalization of Nepal’s transitional justice process as per the universal jurisdiction of human rights. Nepali leaders could be arrested abroad. Some rights violation cases have already been internationalized. In 2012 Nepal Army Colonel Kumar Lama was in the UK under universal jurisdiction. Mainly, it is the Maoist leaders who fear arrest when they go abroad. “War-era cases can be internationalized under two circumstances: state reluctance to settle them, and incompetence of domestic mechanisms to deliver justice, and Nepal meets both the criteria,” says Prasai.

In 1998 London Police arrested Gen. Augusto Pinochet, army officer, and dictator of Chile, on rights violation cases. British courts rejected Pinochet’s claim he was entitled to immunity and ruled that he could be extradited to Spain to stand trial.

Post-conflict South Africa, East Timor, and Cambodia formed hybrid commissions with representations from the United Nations and other rights organizations and yet they failed.

Nepal’s election as a member of the UN Human Rights Council puts it under added pressure to act responsibly and accountably on rights issues. Suman Adhikari, the founder chairperson of the Conflict Victims Common Platform (CVCP), argues this is a humanitarian issue that cannot be confined within national borders, and so the option of knocking on the doors of the international community is always there.

Revitalizing domestic process

Experts say war-era cases should be resolved domestically by securing the trust and confidence of all stakeholders. Currently, conflict victims feel alienated. They complain that they are ignored by the TJ mechanisms, the government, as well as the political parties. Similarly, the United Nations and the international community are not lending their support to TRC and CIEDP. “One thing is crystal clear. The two commissions cannot function effectively without the active support of all national and international stakeholders,” says Prasai.

The UN and other international organizations have been urging Nepal to make the domestic process inclusive, transparent, and victim-centered. The CPA has given the UN the right to monitor rights situation until the end of the peace process. Article 9 of the CPA says: “Both parties agree to give continuity to the task of monitoring provisions related to human rights mentioned in this agreement by the United Nations Office of the High Commissioner for Human Rights, Nepal.” Perhaps this is why it has sought some stake in Nepal’s transitional justice process.

There seem to be slight differences in international perception though. European countries and the US have similar positions on Nepal’s transitional justice. The European Union is of the view that Nepal should steer its own course. In a statement on 24 January 2019, the EU said: “In particular, we support a Nepali-designed, Nepali-led process that is consistent with the 2007 and 2015 judgments of Nepal’s Supreme Court and the country’s obligations under international law.”

The UK is of the view that it is for Nepal, the Nepali government, and political parties to decide. In an interview with Republica daily on 3 February 2020, Nicola Pollitt, the British ambassador to Nepal, said: “We would like to see a victim-centric approach and that it would be in line with international practice in these areas. At the same time, we recognize that these things take time and it is not easy. Such a process anywhere in the world takes time. It is our role to support in any way we can but without interfering in what must be the Nepali process.”

India and China have not spoken much on Nepal’s transitional justice. Based on the experience of past five years, it is important that the concerns of both national and international stakeholders be addressed. For this the entire process should be revisited to ensure its broad ownership. my father,” said his son Bikash.

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Terrorism

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Piracy

Maritime piracy in Mexico... a ticking time bomb. (Yucatan Times)

August 30, 2020

Communication equipment, diving equipment, tools, wiring, metal caps, navigation instruments, watches, cell phones, and even wallets, stolen by groups of pirates from oil platforms and ships that sail in the probe of Campeche, Dos Bocas, and Veracruz, are offered through the Internet, as well as in local markets and flea markets in the State of Mexico, Tabasco, Queretaro and Iztapalapa in Mexico City.

According to a federal government report, organized crime groups operating at sea -to which Organización Editorial Mexicana had access- pirates have increased their illegal activity in Mexican seas for several years now, forcing the federal government to entrust the control of the country's seaports to the Navy.

Through intelligence work, the security cabinet detected that since 2017 assaults on national and foreign ships, as well as platforms and boats, is carried out by commands of 4 to 8 armed men who move in small boats with outboard motors, operating between the towns of Sanchez Magallanes and Dos Bocas Tabasco. On some occasions, they pose as fishermen to approach the platforms and boats.

In three years, there have been at least 351 recorded assaults by pirates of the sea. Their stolen goods are offered on the Internet, in the local informal market, and Tlalnepantla, State of Mexico, Comalcalco, Tabasco, Querétaro, and Iztapalapa and Mexico City.

Between January and April this year, authorities learned of nine moorings at sea and five more attempts against shrimp boats, a guide ship, a ship supplier, and small boats at seven oil platforms.

In four cases, the workers on the platforms gave notice after the assault to the ministerial authority. The authorities responded to the piracy act up to 4 hours late.

In the robbery of the Sonora platform, the employees locked themselves in and activated the alarm in Akal "S." During the robbery, 27 pieces of self-contained breathing apparatus were stolen.

On April 8, while sailing in Tabasco, personnel of the crane ship "Sapura 3500" had to take evasive maneuvers to prevent a criminal commando from boarding them. The most recent incident was reported on April 23, when sea pirates attacked the small boat "Gorda" in Tabasco, taking a loot of watches, mobile phones, and wallets.

In 2019, the maritime authority took reports of six robberies and ten attempted robberies, affecting 12 platforms and four ships. A year earlier, in 2018, 45 events (21 robberies and 24 attempts) were reported to vessels and platforms in the Campeche Sound.

In January 2019, pirates looted six Pemex platforms, so naval authorities indicate that offshore huachicoleros – who are involved in at least 20 percent of the 300 reports, according to Navy estimates – intercept oil tankers in Mexican waters, board them, then subject the crew and then steal the fuel with hoses connected to their vessel.

The areas identified with the highest rate of docking: Maritime-Northwest Region, where the Cantarell complex and the Ku-Maloob-Zaap (KMZ) oilfields are located; as well as the Southwest Maritime Region, on the Tabasco Coast and Abkatún-Pol-Chuc (APC), which is located between Campeche and Tabasco, 132 kilometers from the Port of Dos Bocas.

Since March 2016, former President Enrique Peña Nieto proposed to Congress the transfer of the port captaincy of the Secretariat of Communications and Transport to the Navy, because of the increase in robberies in these areas.

It was until December 14 that the Chamber of Deputies approved reforms to the Organic Laws of Federal Public Administration, Navigation and Maritime Commerce and Ports, to establish that the Secretariat of the Navy (Semar) would exercise national maritime authority.

The issue of militarization of ports was politicized so that on October 9 last year, the private maritime-port sector and related activities in Mexico rejected the initiative presented by a group of deputies from the Morena party to transfer functions of the General Coordination of Ports and Merchant Marine, of the SCT, to the military sphere of the Semar.

Despite the rejection of the merchant navy, last July from Colima, President Andres Manuel Lopez Obrador reported that the federal government would retake control of customs in Manzanillo and all ports in the country, through elements of the secretariats of the Navy and National Defense.

López Obrador said authorities are involved in acts of corruption, especially in Manzanillo.

Last hostages held by Somali pirates released after five and a half years (N World) By Nicky Harley
August 31, 2020

A British-led team of hostage negotiators are celebrating after securing the release of three kidnapped sailors in the last and longest running hijacking in the Somali piracy crisis.

For eight years, the Hostage Support Partnership has been behind the release of dozens of ‘forgotten’ people held for ransom by Somali pirates.

Now, after five and a half years the final hostages have returned home to their loved ones thanks to the efforts of John Steed and his colleagues. “It was an emotional moment to see them released,” the retired British diplomat told The National.

“We made it our mission to help all the forgotten hostages at the height of the crisis eight years ago and to see the final release marks the end of an era of Somali piracy and the pain and suffering of Somalia’s forgotten hostages.

“These three are the last of the hostages, this really is the end of the Somali pirates and we have finally achieved what we set out to do.”

The three Iranian crewmen from the Siraj fishing boat returned home last week.

They had been in captivity since March 2015 when their vessel was hijacked off the Somali coast.

Mr Steed, a former military adviser to the UN in Somalia, and his team at the Hostage Support Partnership, a pro-bono humanitarian group based in Nairobi, Kenya, brokered the release, which saw a \$180,000 ransom being paid.

The retired British colonel and his colleagues have made it their mission to rescue “forgotten hostages” – poor fishermen with no insurance who are often left languishing the longest in the hands of pirates.

Ransom money is usually sourced from well wishers within the international shipping industry but in this case the funds came from private Iranian donors. Since the height of the crisis a decade ago, thousands of crew members have been captured by Somali pirates. Naval patrols by the UN Security Council, criminal prosecutions and security measures, such as armed guards on vessels, have helped curb the gangs in recent years.

Mr Steed’s office walls were once covered in lists of those lost alongside photographs of their ships and maps of the Somali coast.

His team have tirelessly worked for free to negotiate the release of more than 60 hostages and have helped hundreds more return home.

“From the bad old days of piracy, ships taken at sea were insured and the insurance companies would pay the ransom and the ships would be released,” the 64-year-old said.

“But many are poor fishermen and the ships are not insured. The ship owners’ companies gave up on them. They would be from poor south-east Asian countries and they would get abandoned, we call them the forgotten hostages and we set about trying to help them and bring them home.

“Every time we get a group of hostages out it is always a bit emotional. Each one takes us a long time to find ways to get them out due to the number of countries involved and the lack of insurance.

“We have negotiated 62 releases and have helped well over 100 people, sometimes people released by the country need help getting back home because they are on the land and we have good contacts inside Somalia.

“These three are the last of the hostages. It is always a bit emotional giving people their lives back, this is a big achievement for all those involved.” It might be the final release, but their work is not over.

Their next project is now to help in the release of five doctors and nurses being held hostage in Somalia.

“Our work is continuing,” Mr Steed added.

“There are five other hostages in Somalia now, it’s nothing to do with pirates or the sea, they were taken hostage for money inside Somalia, one is a woman from the Red Cross, two Cuban doctors and three Kenyans. We will now be lending our expertise to help them.”

In 2010, Somali pirates took more than a thousand hostages in raids on over 200 ships, many in the central Indian Ocean, and earned at least a hundred million dollars.

In many cases, ships were captured, ransomed, and released within weeks.

Often the gangs were professional and targeted vessels based on an assessment of a ship’s owner and its cargo.

At the peak of the piracy outbreak in January 2011, Somali pirates held 736 hostages and 32 boats.

Between 2010 and 2019, more than 2,300 crew were taken.

NCC arrests 15 pirates in Lagos, Onitsha raids (Nigerian Tribune) By Seyi Sokoya
September 6, 2020

Operatives of Nigerian Copyright Commission (NCC) have arrested 15 suspected pirates during simultaneous enforcement operations carried out in piracy hotspots in Lagos and Onitsha.

Pirated Christian devotional books estimated at about half a million Naira were confiscated by copyright inspectors on August 28 during anti-piracy raids executed with armed police backup in Idumota and Ajegunle, Lagos as well as at different outlets in Onitsha Main Market, on Kanu and Moore Streets, Onitsha, Anambra State.

In a statement made available to R, it stated that the operations were sequel to surveillance activities and intelligence gathering based on petitions by stakeholders complaining of piracy of their copyright works in the states.

In Lagos, the Director of NCC Lagos Office, Mr. Matthew Ojo, who coordinated the two enforcement operations in Idumota and Ajegunle book markets indicated that six (6) suspected pirates were arrested and copies of a prayer book, “Devotion to the Most Precious Blood of Our Lord Jesus Christ” estimated at two hundred and sixty thousand Naira (N260,000) were confiscated.

According to him, the arrested suspects were Gabriel Ibeh, Ifeanyi Egbue, Stephen Njoku, Chukwudi Nwankwo, Ramond Nwaoke and Mrs. Pauline Eze.

He stated that the Commission carried out the anti-piracy raids following investigation of a petition by the Apostolate of the Most Precious Blood of Jesus Christ, concerning allegations of infringement of its publication, a prayer book entitled, “Devotion to the Most Precious Blood of Our Lord Jesus Christ”.

In a similar enforcement raid in Onitsha, Anambra State, the Commission’s operatives arrested nine suspects with suspected pirated copies of the prayer books.

The State Coordinator, NCC Onitsha Office, Mr. Gabriel Anikwem, who led the anti-piracy raid, stated that the seized prayer books: “The Voice of the Little Lillies”, “Devotion to The Most Precious Blood of Our Lord Jesus Christ’ and “The Chaplet of the Precious Blood of Jesus Devotion” were estimated at N228,000.

In his remarks, Director-General of Nigerian Copyright Commission, Mr. John Asein said the raids executed simultaneously in the two states were clear signals on the renewed anti-piracy campaign of the Commission geared at stamping out all forms of copyright piracy in the creative sector.

He urged the public to desist from patronising pirated copyright works and stressed that the Commission remained committed to proactive implementation of its statutory mandate “to ensure that right owners, many of whom are yet to

recover from the disruption occasioned by the COVID-19 pandemic are not further traumatised by the activities of pirates”.

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Gender-Based Violence

Ogun considers special court for sexual, gender-based violence (Premium Times Nigeria) By Alfred Olufemi
August 27, 2020

Plans are underway to set up a Sexual and Gender-Based Violence (SGBV) court to handle issues relating to sexual abuses and violence against residents of Ogun State, Governor Dapo Abiodun said on Wednesday.

He also restated the state’s commitment to gender equality, noting that serious steps have been taken towards strengthening relevant laws and agencies.

“We have domesticated the Violence against Persons Prohibition Act and inaugurated its management committee, chaired by the First Lady of Ogun State, Mrs Bamidele Abiodun.

“We have also reinforced our Sex and Gender-Based Violence (SGBV) response network by establishing a sexual assault referral centre, incident registers at police stations, and working out plans on setting up special courts for related cases.”

Mr Abiodun made this known while receiving Ulla Mueller, a representative of the United Nations Population Fund (UNFPA) in Nigeria and some other officials, in his office.

With Mrs Mueller were Mark Hutchinson, international operations manager, Lagos, and Omolaso Omosehin, the Lagos liaison office head.

In the statement signed by his spokesperson, Kunle Somorin, he disclosed that his administration has approved the payment of the counterpart funding for the year 2020 to the agency.

“This will be the first payment in the last five years, despite the continued support we have continued to receive from the agency in the areas of family planning; maternal health; response to gender-based violence; population dynamics and education.”

Also, he praised the UNFPA for remaining a dependable and committed ally despite the fact that the state had not fulfilled its obligations for some time now, assuring that this year’s counterpart funding would be released to the agency.

“This administration in line with our priorities saw the need to strengthen our partnership with you and we immediately resolved that we will begin to put things right, that is the reason why we paid the first tranche of our counterpart funding to you.

“It is also noteworthy of note that despite the fact that the counterpart funding was not forthcoming, your agency remained a dependable and committed ally to the state,” he said.

In her remarks, Mrs Mueller appreciated the governor for approving the payment of its counterpart funding despite paucity of funds, congratulating the state for being among the lowest in terms of the global level of maternal mortality rate in the country.

“Mueller added that the state also had a contraceptive prevalence rate of 32.1%, which means the state was not far from the family planning 2020 commitment, of 38 per cent, and called on the people of the state to join government in fighting the COVID-19 Pandemic,” Mr Somorin quoted.

In the past few months, Nigerians have protested the incessant rape incidents and other gender-based violence across the country.

PREMIUM TIMES had reported the case of Barakat Bello, who was raped and killed by hoodlums in Ibadan; Vera Omozuwa, a 100-level student of microbiology at the University of Benin; and Hadiza Saidu’s daughter and niece, who were both raped by a neighbour.

The scourge has prompted a state of emergency declared by the Nigerian Governors Forum on the increasing rate of sexual and gender-based violence in the country.

S.Africa announces gender based violence law (Anadalou Agency) By Hassan Isilow
September 7, 2020

South African President Cyril Ramaphosa said Monday the country will tighten laws on gender based violence and sexual offences which have been widespread in the rainbow nation.

Writing in his weekly newsletter, Ramaphosa said people were angry that many perpetrators of gender based violence and sexual offences are exploiting legal loopholes to avoid imprisonment.

He said citizens are frustrated that sentencing is often not proportionate to the crimes committed against women and children.

“The three amendment Bills are designed to fill the gaps that allow some perpetrators of these crimes to evade justice and to give full effect to the rights of our country’s women and children,” Ramaphosa said.

He added: “The amendments impose new obligations on law-enforcement officials and courts.”

The president said many survivors of gender-based violence have lost faith in the country’s criminal justice system.

He said victims face difficulties in obtaining protection orders, while there is a lax bail condition for suspects.

The police too were not taking domestic violence complaints seriously and inappropriate sentences contributed to an environment of cynicism and mistrust.

- Sexual offences

Ramaphosa said once the new bills are finalized, they will help restore the confidence of the country’s women that the law is there to protect them.

“The first is the Bill to amend the Criminal Law (Sexual Offences and Related Matters) Amendment Act,” he said, adding this creates a new offence of sexual intimidation, extends the ambit of the offence of incest, and extends the reporting duty of persons who suspect a sexual offence has been committed against a child.

The president also said there will be a public register for sex offenders with all their particulars.

He said the Criminal and Related Matters Amendment Bill will tighten, among others, the granting of bail to perpetrators of gender-based violence and femicide.

It also expands the offences for which minimum sentences must be imposed.

The South African leader also said Domestic violence is now defined to cover those in engagements, dating, in customary relationships, and actual or perceived romantic, intimate or sexual relationships of any duration.

“The Bill also extends the definition of ‘domestic violence’ to include the protection of older persons against abuse by family members,” he wrote.

South Africa has one of the highest incidences of rape and domestic violence in the world.

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Commentary and Perspectives

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WORTH READING

An Analysis of State Reactions to the ILC's Work on Crimes Against Humanity: A Pattern of Growing Support (African Journal of International Criminal Justice)

Leila N. Sadat and Madaline George

September 4, 2020

The international community has been engaged with the topic of crimes against humanity since the International Law Commission (ILC) began work on it in 2013, with a view to draft articles for a future convention. Between 2013 and 2019, 86 States as well as several entities and subregional groups made comments on the ILC's work at the United Nations Sixth Committee or through written comments to the ILC. This article is the culmination of the Whitney R. Harris World Law Institute's work cataloguing and analysing States' comments by assigning each statement to one of five categories – strong positive, positive, neutral, negative, and strong negative – examining both specific words and the general tenor of the comments. This article analyses the development of States' reactions to the ILC's work over time, as well as specific issues that frequently arose, observing that there is a pattern of growing support from States to use the ILC's Draft Articles on Prevention and Punishment of Crimes Against Humanity as the basis for a new convention.

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