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INTERNATIONAL CRIMINAL COURT

Central African Republic & Uganda

Official Website of the International Criminal Court
ICC Public Documents - Cases: Central African Republic
Uganda Human Rights Commission (UHRC) officials say more than half of the inmates in prisons are on remand awaiting trial therefore the need for the institutions in the Justice Law and Order Sector (JLOS) to implement the guidelines adopted from the African Charter on Human and Peoples' Rights.

Every person arrested has a right to a fair and speedy trial but this is not the case resulting in high number of detainees on remand and congestion in prisons. As of July, of the 41,837 prisoners, there are 18,566 convicts, 23,020 remands and 251 civil debtors. However, available occupancy capacity of prisons is a daily average of 16,034 prisoners. But this is exceeding by over 25,000 inmates.

Slow and weak investigations by police, financial constraints corruption, a backlog of cases and also limited human resource in the JLOS are cited as factors hindering suspects from getting justice.

Speaking at the half day event, Justice David Wangutusi of the commercial Court says that unfortunately, court is the last on the chain yet suspects are usually arrested before investigations are concluded and they have to be released after 48 hours on bond.

Wangutusi says it is worsened by police parading suspects before the media.

"If someone has already been identified as a criminal on Television, which court can believe the witness is telling the truth," Wangutusi said, " Suspect identification is very important in a trial... "I expect the police public relations officers ... to be aware of the law."

In such cases, suspects can demand damages because they have been treated as convicts even before trial regardless of whether they are acquitted or convicted hence a cost on tax payers. Wangutusi says it can be avoided if police follows the law and that with the pre-trial guidelines in place, it should be easier for the JLOS institutions to act within the confines of the law.

One of the guidelines on the conditions for pre-trial detention states that accused persons on trial should be segregated from convicted persons and given separate treatment appropriate to their status.

Roselyn Karugonjo-Segawa, the director of the Directorate of Monitoring and Inspections at the UHRC says fulfilling the rights of an arrested person and the conditions of detention in Uganda is a challenge as most of the rights are violated and the conditions for detention are not met.

"Despite a legal framework that is, on the whole, compliant with international human rights standards, implementation of the procedural safeguards for arrest and detention is still weak in Uganda," said Segawa.

Some of the commissions' recommendations include strengthening Internal and External National Oversight and Accountability Mechanisms; reviewing the Law and Practice to address the causes of Pre-trial Detention and using the Regional and International Mechanisms to improve the situation.
Also in attendance were politicians, members of parliament, government officials from the JLOS and human rights related civil society organisations.

Mitooma district Woman MP Joviah Kamateeka, also head of the Parliamentary Human Rights Committee says there has been improvement in cleanliness and also feeding of prisoners despite congestion challenges. She is however urging the prisons officials to fast track and phase out the 'bucket' system.

Darfur, Sudan

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

**The World Is Finally Getting Serious About Rape As A War Crime**
**All Africa**
**By Yasir Arman**
**August 20, 2014**

In one of his brilliant messages to Field Marshall Jafar Numeri, the late Dr. John Garang de Mabior in 1984 proposed a national constitutional conference as a mechanism to settle the issues of the civil war and to address the historical question of how Sudan is to be governed, before who governs it. It is known that Sudan is a country of historical and contemporary diversity that truly represents the diversity of the African continent. It is well established today, that Sudan needs a new national project and social contract, based on equal citizenship, democracy and social justice and one that will take Sudan into a new social, political and economic dispensation. This issue has been raised on different occasions and it is more important and relevant today, after the secession of South Sudan. Sudan needs to re-define its national project and take lessons on how to preserve its national and geographical unity on a new basis. Unsurprisingly, even after all these years, Garang's "New Sudan" vision, still remains as the only game in town, in both Sudan and South Sudan.

The Agreement of June 28, 2011 between the SPLM-N and the Sudan government indicated that the issue of the war in South Kordofan/Nuba Mountains should be settled in a wider national context through a comprehensive national constitutional process. Article 3f states, "Negotiations shall be undertaken in the context of broader dialogue and political processes at the national level, recognizing the importance of cooperation between the Parties for stability, development, democracy and constitutional reform in Sudan." Likewise the SRF in its early documents identified a peaceful comprehensive settlement as one of its mechanisms to transform Sudan in order to transition from war to peace, and from a one party system to a democratic system. This issue has taken a new dimension after the government in Khartoum admitted the need for national dialogue in the famous speech of General Omar Bashir in January this year. The Sudan government failed, however, in two rounds of talks with the SPLM-N in Addis Ababa to recognize the need for a roadmap that will provide the necessary requirements for a productive national dialogue and the need for a comprehensive approach to stop the war as a prerequisite for the national dialogue. Today, the SRF and all opposition forces are fully convinced of the urgency and need for a national constitutional dialogue and they have provided ideas on how to make this a successful process. They all agreed on three major issues:
1) The need to stop the war and address the humanitarian crisis;

2) To allow for freedoms and ensure the protection of basic human rights; and

3) Holding a national constitutional dialogue that will lead to an interim arrangement.

It is important to note that the government’s call for a national dialogue came within the background of the September 2013 uprising, which was about overthrowing the regime according to a government leaked report that quoted the security agencies saying, if the uprising were to continue for 48 hours, the regime could have been overthrown. In addition, the successful military operations by the SRF on Abu Karshola in May 2013 threatened the position of the NCP and posed serious challenge to that the regime is not immune from defeat.

The Characteristics of the Current Political Situation in Sudan:

1) There are three tracks for a peaceful settlement, which are discussing the same issues; Khartoum, Addis Ababa and Doha, while adopting a partial piecemeal solution.

2) The wars extend from Blue Nile, on the south far-east of Sudan, to Darfur, in the southwest of Sudan, with a humanitarian crisis that has displaced more than 4 million civilians internally and externally.

3) The Sudan Armed Forces are in bad shape as well. SAF is not trusted by the political leadership and General Bashir is increasingly depending on, and has become the Commander in Chief of, the Janjaweed - now called the Rapid Support Force. By doing this, he is counter-balancing the Sudan Armed Forces and using extensively hired tribal militias to fight for him in the rural areas of Sudan as well as using it to threaten any uprising in the urban areas of Sudan, which has resulted in the last six months, from January to June, in the displacement of half a million in Darfur, Nuba Mountains and Blue Nile. It is worth noting that this is a conservative United Nations statistic.

4) For years, the Sudan government has denied access for humanitarian assistance to South Kordofan/Nuba Mountains, Blue Nile and Darfur. This acts constitute a war crime in the International Humanitarian law.

5) Sudan is experiencing a deep economic crisis. It is enough to mention that the Sudan government uses more than 70% of its annual budget on war and security, and less than 2% on health and education.

6) A power struggle exists inside the core leadership group of the ruling National Congress. They use different means to undermine each other, including accusations of attempted coups and using the missiles of corruption allegations to damage each other’s reputations.

7) The national dialogue is losing momentum because the government is unprepared to meet the requirements to stop the war and allow for freedom. Ironically, after the call for national dialogue, the humanitarian situation worsened and many well known political leaders, journalists, students, youth and women were arrested. The government increased censorship of the media and an Editor in Chief of a newspaper was attacked in his office. More over, the apostasy death sentence of Miriam Yahya Ibrahim brought back into the political life of Sudan, the fundamental issue of equal citizenship and freedom of religion. Especially when speaking in the context of areas like...
South Kordofan/Nuba Mountains, Blue Nile and Sudan at large, where there is a sizeable number of Christians.

Paris Declaration

The Paris Declaration broke the political stalemate on the national dialogue and brought together major political forces, armed and unarmed, from the marginalized areas and the centre of Sudan, both traditional and new forces, which carries with it important symbolism. The declaration should be viewed as a demonstration of the goodwill of the opposition to support the national dialogue and to provide a new approach, and of injecting new momentum around the national dialogue, as well as availing the opportunity to unite the opposition forces towards ending the war and expressing their willingness to sit with the government for a national dialogue. It is also important to note that the forces of the Paris Declaration have fully agreed upon two mechanisms to effect change: the national dialogue and the national constitutional process are the preferable mechanisms.

In the absence of that, they are equally prepared for a peaceful uprising to achieve transformation. The Paris declaration is well received inside Sudan and it has brought a new equation into the Sudanese political life. It was not only well received by the opposition political parties, but equally by civil society, new social forces, and interestingly, from well known personalities within the Islamic movement, who have continuously opposed the SRF.

The Elections

General Bashir's term in office, as well as the national and regional legislatures, will come to an end in April 2015. The government is facing a catch-22 situation. On the one hand, General Bashir and his party have ruled Sudan continuously for 25 years and the voices for change are heard everywhere including within their own party. They only have two ways to go; to have credible democratic elections that are a representation of the national consensus will and bring national reconciliation that can only be achieved through a credible national dialogue and national constitutional process.

On the other hand, the other option is for them to go for the usual rigged elections that will only fuel the political crisis and result in more polarization and deepen political division within the country, creating an environment that would increase the violence in the absence of the political means and peaceful exchange of power. Therefore, in the opposition, we call upon the regional and international community to give a clear message to General Bashir and his government that the regional, and international communities will not recognize such an election. In addition, the issues of the humanitarian crisis and human rights violations should be raised up front as one of the means of putting pressure on the government to allow for a credible national dialogue.

The opposition would like to reach out to China and Russia, to convey that it is in the interest of both countries to support a credible national dialogue as a mechanism to bring peace and stability to Sudan, and for Sudan to be an effective economic and investment partner, especially since most of the viable economic projects are in the areas hit by war.

If the National Congress insists on an election regardless of national consensus and will of the people, the Sudanese opposition and civil society will definitely boycott the elections and will turn the elections into a political battlefield for peaceful uprising.
It is an open secret, the known and the hidden relationship between Sudan and the forces of the political Islam, both regionally and internationally. Sudan has increasingly become part of the Iranian alliance, which has worsened its relations with important neighbouring countries such as Egypt and Saudi Arabia. Sudan is gaining more importance in the international Muslim Brotherhood organization, especially after they lost power in Egypt and also as part of their strategy in the Middle East conflict. Sudan became strategic in its partnership with the Iranian military industrial complex in Khartoum, which is providing arms to Sudan and to other organizations. Sudan's name continues to come up in the conflicts of neighbouring countries and the continent, as in the case of Central Africa, Libya, the Lord’s Resistance Army in Uganda, Mali, as well as the Middle East. Given the fragility of our country and the need for it to reconcile within itself, coupled with the importance of refraining from instigating instability regionally and internationally, which our country paid dearly for, we, the Sudanese, believe it is high time for Sudan to change direction towards positive interaction with its neighbours and the international community, to end decades of isolation and forge a constructive partnership in the interest of peace and development.

It is also known that Sudan has become one of the important ideological training grounds for African fundamentalists. For the last 25 years, thousands of African Islamist ideologues have graduated from the African Islamic University in Khartoum, who are playing a leading role in some organisations such as the Boko Haram in Nigeria, in Somalia and in other places. The present government in Sudan has a long record and a hand in many terrorist incidents in Kenya, Ethiopia and the United States. It is worth mentioning that political Islam is threatening the unity of Africa as it did in Sudan, for the African societies are tremendously ethnically and religiously diverse. Likewise, the partnership of Iran in the Sudan military industry is fueling wars inside Sudan and in the neighborhood.

It is to be recalled that Sudan is the only country in Africa today using its air force against its own civilian population.

The Way Forward

The Paris Declaration should be used to move the national dialogue and the national constitutional process forward, and the Sudan regional and international partners should seek a new approach to make use of the momentum created by the Paris Declaration. The SPLM-N leadership, on the eve of the preparations for the SRF leadership meeting in Paris and for the Paris Declaration, met the Ethiopian Prime Minister Hailemariam Desalegn and the Chair of the AUHIP, Thabo Mbeki, the ANC and its allies in South Africa, as well as a joint meeting of the SRF leadership with the European and US partners in the search of peace for Sudan. Together we provided new ideas and we discussed the need for a new approach that will inject a new momentum into the national dialogue and constitutional process. Among them,

1) The need to unify these three forums in Khartoum, Addis Ababa and Doha into a single forum which will lead to the national dialogue or at the very least, have effective coordination between them, as well as welcoming regional and international facilitation;

2) A comprehensive cessation of hostilities from Blue Nile to Darfur, that will
address the humanitarian situation and lead eventually to a strategic ceasefire that will create a new environment, favorable for the national dialogue inside and outside of Sudan;

3) Guarantee freedoms and the release of all political detainees; and

4) The end game of the national dialogue should be clear to each and every Sudanese in order to mobilize the best energy in our society, towards a transition from war to peace and from a one-party system to a democratic system that carries national consensus and national reconciliation and healing.

In conclusion, the fundamental question will remain; Are we heading towards a national dialogue and constitutional process that is going to reproduce the current political system and deepen the present political crisis, or are we on the eve of a national dialogue that will open roads towards a new national project that enjoys national consensus and lead to the building of a new Sudan based on the fundamental principle of equal citizenship?

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Democratic Republic of the Congo

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

DR Congo War Crimes Trial of Egangela ‘a Test Case of Justice

BBC
By Associated Press
August 14, 2014

Lt Col Bedi Mobuli Egangela is charged with crimes including murder, rape and torture allegedly committed between 2005-2006 in eastern DR Congo.

"He’s a very symbolic case," the UN’s Scott Campbell told the BBC.

The former commander, known as "Colonel 106", has denied the charges.

Conflict in eastern DR Congo has continued long after the end of the country’s civil war in 2002 as numerous armed groups compete for the control of the area’s rich mineral resources.

Col Egangela was a militia leader who was incorporated into the army as part of peace deal, becoming the commander of the 106th battalion.

Mass rape Before he joined the army he had allegedly recruited child soldiers and ordered attacks on several villages in South Kivu province - and abuses against civilians are alleged to have continued when he was an army commander.

The officer then deserted from army ranks after a few years and went back to leading his Resistance Patriots Mai Mai rebel group.

About 100 alleged victims are expected to testify at the colonel’s trial, although more than 900 people have been identified as victims, the charity Avocats sans Frontieres (Lawyers without Borders) says.

"He has committed many of the most serious crimes that we see all too often in DR Congo," said Mr Campbell, from the UN mission’s human rights
"The UN Security Council and different special representatives of the [UN] secretary general have been very focused on this case as a bit of a test case to see if military justice can deliver justice for very serious crimes - and committed by a senior officer within the Congolese army."

The BBC’s Maud Jullien in the capital, Kinshasa, says earlier this year the trial of 39 mainly low-ranking soldiers charged with mass rape raised hopes that victims of army abuse would find justice.

But it ended with only two of the men being convicted for sexual violence.

Ivory Coast Leader Pardons Third of Prisoners

Ivory Coast's President Alassane Ouattara has pardoned nearly a third of the west African country's prison population, the government announced Friday.

Each year the head of state orders the release of a number of convicted criminals on August 7, when the country marks its independence from France in 1960.

A cabinet statement said more than 3,000 had been pardoned this year.

"This concerns a category of sentenced inmates who, for the most part, present no particular danger to society," the statement said. The offences, most a result of acute poverty, "are considered minor".

"The aim is to give these people a second chance to make their way in society," government spokesman Bruno Kone said.

People found guilty of military offences, human rights abuses, violent robbery, narcotics crimes, embezzling public funds, corruption, offending public morals and kidnapping children are not entitled to a pardon, Kone added.

No mention was made of jailed supporters of former president Laurent Gbagbo, who ruled over a nation mired in strife from 2000 until he was ousted in 2011, after refusing to admit defeat by Ouattara at the polls the previous year.

A post-election conflict claimed some 3,000 lives and Gbagbo's Ivorian Popular Front (FPI) party claims that at least 700 of his followers have been thrown behind bars. The ex-president has been detained at the International Criminal Court in The Hague, which in June decided to try him on charges of crimes against humanity.

Most of the country's 33 prisons are overcrowded. The largest, the Maca in the economic capital Abidjan, was built for 1,500 detainees but houses more than 4,600, according to official figures.
Several jails have been renovated to remedy serious damage done during years of crisis and in mass escapes by inmates.

**Warning Over Rampaging Youth Gangs in Abidjan**

IRIN

August 18, 2014

**Children and teenagers who were drawn into Côte d'Ivoire's 2010-2011 post-election conflict are joining armed gangs in the commercial capital Abidjan after being abandoned by politicians and others who exploited them at the time, according to local officials who blame the government for not taking action.**

Aged 10-20, the youngsters roam Abidjan districts, robbing residents and stall-owners using firearms and other weapons, and in some cases killing those who try to resist. The gang refer to themselves as "microbes" - slang for "cold-blood murder".

"The problem is that politicians used these children during the conflict to force out [former president Laurent] Gbagbo," Almamy Touré, an Abidjan imam, told reporters recently. "Today those who took them to the streets are away safely, while they [the children] are suffering."

Four gang members were killed in mid-July in a clash with security forces in Abidjan's Attécoubé District. It was the first time the security forces had taken on the "microbes".

**Abandoned**

"Since the conflict ended, we have remained at our 'bases' in Abobo, Adjamé, Attécoubé, Williamsville. None of our older brothers have come to help us, yet we fought together during the post-election crisis," said 16-year-old Daouda Konaté* in Attécoubé in central Abidjan.

Some of the older youths and young men who fought in the streets during the post-poll violence have been absorbed into the regular army. Côte d'Ivoire plunged into months of fighting (pitting supporters of then opposition leader Alassane Ouattara and Gbagbo loyalists) after incumbent Gbagbo refused to acknowledge defeat in the November 2010 presidential run-off.

"We are from poor families and this is the only activity that ensures our survival. We attack people for money to buy food, nothing more. Personally I don't know the motives of those who are armed," Konaté said.

Sprawled out on pieces of cardboard for a moment of rest, fellow gang-member Ibrahim Touré* said: "We gained experience during the conflict and we can easily disappear into the crowds when the police are chasing us. We have no other way. This is how we survive."

These children were left out of the country's post-conflict reintegration of former fighters despite having been involved in the fighting, said a senior human rights official, blaming the authorities for doing nothing as the "microbes" infested Abidjan's four most populous districts.

"We are faced with a phenomenon which encapsulates all the ills still dogging the country," said the rights official on condition of anonymity. "When these youngsters see the impunity among their older brothers, they think that they have permission to do anything."
"Failure of the authorities"

The government of President Ouattara has made some progress in addressing the impact of Côte d'Ivoire's brief civil conflict. It set up commissions to foster reconciliation, disarm fighters and investigate crimes over the election violence. However, critics say the impact of those efforts has not been far-reaching.

The human rights official observed that there seems to be a lack of attention to the threat of the "microbes" and cautioned that in the next 3-4 years the gang could become a "huge armed group" if not curbed now.

"Since the gang emerged, we have repeatedly urged the government to take responsibility. But given the rising incidents, the overarching impression is that this new form of insecurity is symptomatic of failure of the authorities," said Diakité Tawakkal, who heads local NGO Youth Without Borders.

Meanwhile, head of the Operational Decisions Coordination Centre, a special military unit tasked with fighting banditry, said families of the "microbes" gang-members bore initial responsibility for taming the youngsters' waywardness.

"Our men have battle weapons and are faced with children armed with basic weapons. We are looking for the best way out, but we think that the children's parents should be sensitized first," Yousouf Kouyaté told reporters.

Anne Ouloto, Ivoirian minister for solidarity, family and children, said the whole society was to blame, and that the allure of gang life was as a result of broken families, an argument deemed facile by Ismaël Fofana, a father of four who lives in Williamsville.

"It's easy to say parents have the main responsibility, but it is incomprehensible that the government is asking religious leaders to tackle a problem partly caused by politicians," Fofana argued.

The "microbes" have spread fear among residents, with stall-owners now closing early and opening late to evade attacks that have spawned vigilantes in certain districts, but the self-defence groups have yet to be effective, said restaurateur Aminata Kamara.

"These youths are in every intersection in the neighbourhood. We are deeply afraid at night because they can break into the houses at any time," said Abobo resident Florent Kouamé.
A Rwandan man wanted for his alleged role in his country's 1994 genocide was apprehended in northeastern Maine last week after illegally crossing the U.S.-Canadian border. Jean Leonard Teganya was arrested August 3 after a local resident of Houlton, Maine reported a "suspicious person" walking in the woods near the Canadian border, according to a U.S. Customs and Border Patrol (CBP) press release.

A Border Patrol agent took the 42-year-old Teganya into custody. While processing him for illegal entry into the U.S., he discovered that Canada had issued a warrant for Teganya's deportation to Rwanda for alleged violation of human rights under the Crimes against Humanity and the War Crimes Acts.

Last week, CBP stated that Teganya has been processed for removal and turned over to the Immigration and Customs Enforcement's office of Enforcement and Removal Operations.

"This is a good reminder that people who are wanted for war crimes, who are prohibited from entering this country, who may seek to harm us through a terrorist attack may exploit the vulnerabilities of the northern border as well," Sen. Susan Collins (R-ME) told WABI-TV.

Teganya is an ethnic Hutu, the majority group in Rwanda. In 1994, he worked as a medical intern at the University Teaching Hospital of Butare, where Hutu extremists killed over 200 patients and staff members who were Tutsis and moderate Hutus. Some medics and nurses were complicit in the slaughter.

Over 800,000 Tutsis were killed by Hutus during 100 days of blood-letting in 1994. Teganya fled the country that same year, going to Zaire, Kenya, and India, before settling in Canada in 1999.

Teganya’s father was a regional leader in the Hutu government and was sentenced to 22 years in prison for war crimes during the genocide, according to Toronto's National Post.

Teganya applied for refugee status in Canada and told the Immigration and Refugee Board (IRB) there that he did not actively participate in the massacres and only stayed at the hospital so he could complete his internship, the National Post reported.

But the IRB denied his request.

"This justification is not reasonable in the context of the Rwandan horror," the IRB found. "Although he claims that he did not actively participate in the massacres, the panel...is entitled to ask itself why the presence of the claimant on the campus did not seem to concern the extremists, who pursued their dirty work for several weeks."

Although Teganya claimed he feared a long period of torture and imprisonment before trial if he were to return to Rwanda as the son of a convicted war criminal, Canada refused his multiple bids for refugee status and ordered him deported in 2011. However, the deportation was
In fresh evidence the threat of violence in Mali -- and, specifically, attacks directed at international forces -- hasn't gone away, two U.N. peacekeepers died and nine others were hurt in a suicide attack Saturday, the U.N. mission there said.

The U.N. mission in the West African nation is there to guard against militant Islamists, which have been in the country for years and recently threatened to move on the capital, Bamako.

While there was no immediate claim of responsibility, the recent spate of attacks suggests such a threat is still very real -- especially when one considers that Saturday's attack is the third against U.N. personnel in the past week.

A motorist Saturday targeted a U.N. patrol base in Ber, a village in northern Mali not far from Timbuktu.

Two U.N. peacekeepers were seriously wounded when their vehicle struck a mine on Thursday, and another peacekeeper was hurt in a separate mine incident, MINUSMA said.

"Such violence is senseless, the MINUSMA pays too much of a toll in Mali," David Gressly, deputy special representative of the secretary-general, said in a statement. "These attacks reinforce our determination to continue our mission alongside the Malian people."

Islamist extremists carved out a large haven in northern Mali in 2012, taking advantage of a chaotic situation after a military coup by the separatist party MNLA.

Islamist militants take advantage of chaos

These forces -- including al Qaeda in the Islamic Maghreb -- began advancing toward Bamako in early 2013.

Their initial success prompted international military intervention that included forces from Chad and France, which was Mali's former colonial ruler.

With fighting on the ground and airstrikes from above, these allied forces managed to significantly stymy the Islamist extremist fighters.

Security Council condemns suicide attack against UN peacekeepers in Mali

19 Aug 2014
The UN Security Council on Monday strongly condemned a suicide attack in northern Mali, which killed two Burkinabe peacekeepers and wounded seven others.

In a press statement issued here, the Council members called on the Malian government to swiftly investigate the attack and bring the perpetrators to justice.

A vehicle exploded on Saturday next to a patrol base in the village of Ber in Timbuktu region of northern Mali, according to the United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA).

In the statement, the 15-nation body expressed their condolences to the families of the peacekeepers killed and reiterated its full support to the mission to help Mali bring lasting peace and stability to the West African country.

"The members of the Security Council reaffirmed the need to combat by all means, in accordance with the Charter of the United Nations, threats to international peace and security caused by terrorist acts, and that any acts of terrorism are criminal and unjustifiable, regardless of their motivation, wherever, whenever and by whomsoever committed," the statement said.

Following tentative security improvements in 2013, the situation in northern Mali has deteriorated since the beginning of this year when fighting renewed between government forces and Tuareg rebels.

An increase in incidents, involving improvised explosive devices, mostly targeting Malian and international security forces, has impeded the return to normalcy and resumption of economic and development activities.

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At the plea hearing held before Section I for War Crimes of the Court of BiH, the Accused Jasmin Čoloman pled not guilty.

On July 18, 2014, the Court of Bosnia and Herzegovina confirmed the Indictment charging the accused Jasmin Čoloman with the criminal offense of War Crimes against Civilians.

The Indictment, inter alia, alleges that during the armed conflict between the Army of the Republic of Bosnia and Herzegovina and the Croat Defense Council (HVO), Jasmin Čoloman, as a member of the Sabotage-Reconnaissance Platoon of the 7th Muslim Brigade of the Army of RBiH, on April 24, 1993, in the village of Počulica, Municipality of Vitez, participated in the murder and violation of bodily integrity of Croat civilians who were detained in the Youth Center.

**Indictment Confirmed in Muhamed Šišić et al.**
Court of Bosnia and Herzegovina

August 20, 2014

**On August 8, 2014 the Court of Bosnia and Herzegovina confirmed the Indictment charging the accused Muhamed Šišić, Emir Drakovac, Aziz Šuša and Tarik Šišić with the criminal offense of War Crimes against Civilians, and Emir Drakovac also with the criminal offense of War Crimes against Prisoners of War. The Indictment was confirmed in relation to all counts save for Count 3.**

The Indictment, inter alia, states that the accused Muhamed Šišić, as commander of the Sabotage Platoon, and the other accused as members of the Sabotage Platoon of the so-called Kukavička company, which until late November 1992 operated within the 31st Drina Brigade, and later on within the 1st Rogatica Brigade of the Army of RBiH, on August 27, 1992 coordinated and carried out an Army of BiH attack on a column of Serb refugees moving from the village of Jabuka, from the direction of Goražde towards Rogatica, which resulted in the death and serious bodily injury of multiple civilians.

The Indictment also charges the accused Emir Drakovac that in late 1992, in the Foča municipality, he committed the war crime of murder, torture and mutilation of a civilian and a prisoner of war.

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Police arrested Glogovac in the early hours of Wednesday morning in the northern town of Bijeljina on the order of the Bosnian state prosecution which is investigating his role in wartime crimes in the village of Kamenica near Zavidovici.

The prosecution suspects Glogovac of taking part in the inhumane treatment and torture of Bosniak and Croat civilians and prisoners of war who were illegally held in the 'Franjo Herljevic' detention centre in Kamenica.

After questioning Glogovac, the Bosnian prosecution will determine whether to file for custody.

**Bosnia Arrests Five Mostar War Crimes Suspects**  
*Source: Balkan Insight*  
Denis Dzidic  
August 19, 2014

The Bosnian State Investigation and Protection Agency has arrested five Bosniak ex-soldiers suspected of illegally imprisoning and abusing Bosnian Croat civilians in the Mostar area during wartime.

The five former Bosnian soldiers, three of whom were also wardens of wartime detention facilities, were arrested on Tuesday morning on suspicion of taking part in the illegal arrests and detentions of Bosnian Croats who they abused, tortured and sent to do forced labour, the Bosnian prosecution said.

The alleged abuses took place at the Omorikine and Skenderine wartime detention facilities and at a primary school in the village of Potoci, just north of Mostar, in 1993.

"More then 107 prisoners were held in detention, including women, children and elderly people, and several prisoners died," said prosecution spokesperson Adisa Karacic Karacic.

The state prosecutor on Wednesday asked for four of the men to be remanded in custody, naming them as Enes Curic, Ibrahim Demirovic, Samir Kreso and Habib Copelj.

The name of the fifth man has not yet been made public.

Copelj was previously sentenced to 18 months in prison for crimes in Mostar in 1993. During the hearing on Wednesday, he said that he had served his jail term.

**Kosovo Serb Leader Awaits War Crimes, Murder Trial**  
*Balkan Insight*  
Marija Ristic  
August 18, 2014

Ivanovic, a former Serbian government official and head of a Kosovo Serb political party called Freedom, Democracy, Justice, will appear before Kosovo judges for the first time at the Basic Court in Mitrovica next Tuesday, his lawyer Nebojsa Vlajic said.

"It is expected that he will enter his plea and that the indictment will be read," Vlajic said.

Ivanovic faces charges of murder, war crimes and other offenses while serving as a Kosovo Serb official during the 1998-99 war with ethnic Albanians in the former Yugoslavia.
The case against Ivanovic has sparked protests by Kosovo Serbs and allegations from the Belgrade authorities that the charges are politically motivated.

He is accused of committing war crimes during the Kosovo conflict in April 1999. He is also charged, together with former Serb policemen Dragoljub Delibasic, with committing murder during clashes that left ten ethnic Albanians dead and many more wounded in February 2000.

Ivanovic and Delibasic are further charged with inciting others to commit murder during the February 2000 violence which saw many Albanians driven from their homes.

Three other defendants in the upcoming trial – Ilija Vujacic, Nebojsa Vujacic and Aleksandar Lazovic – are also accused of aggravated murder and attempted aggravated murder in February 2000.

Ivanovic was a so-called "Bridge Watcher" at the time when the alleged offences occurred - one of the Serb militants who patrolled the main bridge in Mitrovica which divides the northern Kosovo town into Serbian and Albanian sectors.

After his arrest, the Serbian government offered guarantees that if he was released from detention pending trial, it would ensure that he would appear in court, but its pleas were ignored.

His party on Sunday called on Serbian government to again offer such guarantees, because his remand in custody is set to expire on August 27.

"We know that the prosecutor will ask for a custody extension, but if the government provides guarantees, there is a possibility he will be released," said Ksenija Bozovic, an official from the party.

The Serbian government has so far made no comment on the indictments of Ivanovic and the other three suspects.

The Balkan Conundrum: Kosovo and Regional Ripple Effects
International Relations and Security Network
Regina Joseph
August 18, 2014

Deep-seated ethnic and religious tensions continue to complicate Kosovo’s transition from former Yugoslav republic to fully-fledged democracy. Worse still, warns Regina Joseph, additional threats are now starting to coalesce within and around its borders that could keep the country locked into insecurity and instability for the foreseeable future.

Eight years on since the announcement of Kosovo’s independence, the Balkan enclave finds itself at critical junctures both domestically and regionally. Global attention might have turned away to the crises in Ukraine and the Middle East, but the fact that policymakers do not currently deem the topic of Kosovo critical enough does not diminish the likelihood that decisions over the next few years regarding the former Yugoslavia will yield international ripple effects. As the post-Cold War stasis between Russia, Europe and the US fragments into destabilizing and divergent political and commercial objectives, the struggles of Kosovo
and other Eastern European states create vulnerabilities that may yet be exploited.

Revisiting the 90s

At the domestic level, Kosovo’s rift between its Albanian majority and Serb minority—exploited more than two decades ago by former Yugoslavian president Slobodan Milosevic —remains intact, with the specter of the brutal war of the late ‘90s still hanging heavy over this small country. In the last week of July 2014, the chief prosecutor for the European Union Special Investigative Task Force (SITF) Clint Williamson affirmed a 2011 report alleging the complicity of Kosovo Liberation Army (KLA) members in such war crimes as human organ trafficking, ethnic cleansing, sexual violence and abductions. Kosovo’s Prime Minister Hashim Thaçi, the former political leader of the KLA, was not identified by name in the SITF report as one of the perpetrators among members of the now-disbanded paramilitary insurgency. However, allegations of his involvement in the 2011 report led to threats back then against anyone who participated in the report’s information-gathering process. Anticipating intimidation of the like that surrounded the release of the 2011 report, Williamson declined to provide any names in the SITF document prior to an upcoming indictment—which will take at least another year due to the necessity of establishing a special court to adjudicate these crimes against humanity. Given the sensitivities, Williamson asserted that the majority of the work will be conducted outside the country; however, some aspects of the court will remain in Kosovo.

The logistical debate over the creation of the special tribunal underlines just how far Kosovo has to go in its bid to become a mature and fully-functioning state. In the effort to cease hostilities in Kosovo, the United States and the European Union (EU) initially attempted to rapidly transform what was once a poor Yugoslavian province into a fully-fledged democracy. As a result, several of Kosovo’s future leaders emerged from the ranks of the KLA once the miasma of war cleared. Thrust suddenly into political roles, few of these new politicians could claim experience in fashioning and adhering to democratic institutions and the rule of law, a situation which led to the criticism of US and EU stakeholders as favoring stability over justice.

Present day problems

Consequently, corruption developed through ethnic and family connections continues to characterize many facets of Kosovo’s governance. Politics in Kosovo frequently appears to be less about running the country and more about the pursuit of power and personal wealth. Transparency International’s 2013 Corruption Perceptions Index ranks Kosovo 111th out of 177 countries, placing it on a par with the likes of Ethiopia and Tanzania.

The clientelism and cronyism that permeates Kosovo’s political sphere has not only stalled the installation of effective legal structures, it has also impinged on the outcome of the recently-held elections. While these resulted in a majority victory for Hashim Thaçi’s ruling PDK party, the leaders of three opposition parties vowed to challenge the results in a bid to prevent the incumbent Prime Minister and his party from governing for a third consecutive term. This led to the LDK, NISMA and AAK parties pooling their electoral percentages in an attempt to create an ex post facto coalitional majority, a move which plunged Kosovo into an all-too-
familiar period of protracted party infighting.

Unsurprisingly, this type of fractious behavior extends beyond the political sphere to the schism between Kosovo’s Albanian majority and Serb minority—a split physically embodied by the NATO-guarded barricade along the Ibar River that separates the town of Mitrovica and Kosovo itself into northern and southern enclaves inhabited by majorities of Orthodox Serbs and Muslim Albanians respectively. North Kosovo Serbs’ mistrust of Kosovo’s Albanian-led governance leads them to look instead to political and social initiatives originating from neighboring Serbia, which officially refuses to recognize Kosovo’s independence. In June 2014, the bridge barricade erected by Kosovo’s Serbs to draw a line between the northern enclave and the rest of Kosovo was ordered removed as part of the Brussels Agreement of 2013 accord brokered by Brussels between Kosovo and Serbia—an accord which requires the dismantling of all separating institutions and barriers in Kosovo. As soon as the partition was disassembled by citizens and overseen by Kosovo authorities and NATO troops, northern Kosovo Serbs, led by Serbian political party officials, unilaterally erected a new barrier consisting of potted plants and declared the alternative partition a "peace park," thus sparking new confrontations.

Outside forces

While ethnic and cultural schisms between Kosovo’s Albanian and Serb populations have always defined the lack of cohesion among its citizens, an emerging sectarianism is now threatening to augment the grievances that trouble the country. It also links Kosovo to other regional conflicts.

Kosovo’s Albanian population has been renowned for centuries for its secularism. However, outside forces have started to undermine the stability of the constitutional secularism that Kosovo’s Muslims have traditionally supported. As a result of post-war reconstruction aid provided by Salafist charities, radical Islam has filtered into some of Kosovo’s communities. The unity of the country’s Muslim community has been tested by the rise of fundamentalist political parties such as Islamic Movement Unite (LISBA), as well as reports of Albanian Kosovar jihadists traveling to and participating in Syrian and other Middle Eastern conflicts. Indeed, the day after the release of the SITF report, NATO’s Supreme Allied Commander Europe (SACEUR) General Philip Breedlove outlined his growing concerns over the spread of radicalized jihadist behavior among Kosovo and other Balkan citizens, saying "it is a danger to the entire region and beyond, not only for Kosovo."

Yet the rise of political Islam in Kosovo is not the only emerging sectarian challenge. Orthodox Christianity, the principle religion followed by Kosovo’s Serbs, is also serving political agendas. The nationalism stoked by Serbian politicians in aid of rejecting Kosovo’s independence and government is often entwined with messages from revered Orthodox patriarchs who support the Serbian nationalist cause. The disturbing modern precedent for using Orthodox Christianity in the name of provoking nationalist conflict began with Slobodan Milosevic in 1989, when he invoked Serbian grievances at rallies throughout the former Yugoslavia by citing the 600-year old battle between Kosovo’s Orthodox Christian and Muslim communities.

Currently, Orthodox Christianity is being harnessed by Russian President Vladimir Putin and his supporters, not only to bolster his political plan to be seen as a nationalist hero restoring Russian greatness through
conservative values, but also as a pretext for justifying his actions in Orthodox-majority societies within Crimea and Ukraine. Putin’s plan for manipulating Orthodox sentiment does not end with the conflict in Ukraine. He is also appealing to the "special relationships" Russia has with Orthodox-majority states like Serbia and Bulgaria in a bid to turn weaker European states away from the EU and towards his larger economic and political objectives.

Nowhere is this agenda more pronounced than in the energy sector. Russia’s need to preserve its market position as the largest oil and gas supplier to Europe has been challenged by EU and US sanctions and initiatives, especially with regards to pipeline projects that transit through the Balkans. The Gazprom-led South Stream pipeline proposes to bring gas to Central Europe via an overland juncture that begins in Bulgaria and transits through Serbia and Hungary, as well as other Balkan states. The former Yugoslavian states, whose weakened economies regard EU membership as a lifeline to prosperity, are being strong-armed on both sides, forcing them to pit Western-led economic survival against an antagonistic Russia that can use energy as a blunt-force weapon.

Bulgaria announced a halt to its South Stream construction in June 2014, which was swiftly followed by a similar announcement by Serbia. These decisions were due in no small part to pressure applied by the West in response to the Ukraine crisis. However, these developments by no means alleviate the energy poverty problems facing Kosovo and its neighbors. With climate change aggravating the catastrophic floods and droughts that Serbia, Kosovo and other regional states have experienced in the last two years, their current dependence on lignite coal for their ineffective power grids remains a serious stumbling block in overcoming barriers to healthier economies as well as membership within the highly environmentally-regulated EU structure. Over the long term, if European prospects dim or take an adverse turn, some Balkan states may find cooperating with Russia over energy—and more—strategically necessary.

Accordingly, while improvements within Kosovo continue to move forward - albeit agonizingly slowly - larger threats are starting to coalesce within and beyond its borders. Unless Kosovo’s citizens and leaders can overcome their own longstanding internal disagreements to confront the greater forces that pressure the region today, their future may remain inextricably linked to conflict, poverty and regional polarization.

**Probes Against Serbian General Only The First, Prosecutor Says**

Inteurasiareview

Igor Jovanovic

August 17, 2014

A war crimes investigation of Serbian General Dragan Zivanovic for atrocities carried out in Kosovo in 1999 marks the beginning of investigations against senior police and military officials who have not been tried in The Hague, an official said.

"It is difficult to say who would be prosecuted because it depends on the evidence. But such investigations are very important for Serbia because crimes cannot remain unanswered," deputy war crimes prosecutor Bruno Vekaric told SETimes.

The state’s war crimes prosecutor ordered an investigation against Zivanovic, former commander of the 125th Motorised Brigade of the
Yugoslav army, on suspicion that he failed to prevent war crimes against civilians in Cuska, Pavijan, Ljubenic and Zahac from April 1st 1999 to May 15th 1999.

The soldiers headed by Zivanovic allegedly killed at least 118 civilians. Twelve Serbian soldiers have been tried in Belgrade for atrocities in Pec region, and Zivanovic was the first senior officer against whom prosecutor ordered an investigation.

Kosovo officials welcomed the investigation but expressed some reservations.

Serbia has not distanced yet from that policy that caused the war, the criminals are still appreciated and respected as heroes. The Serb state is not ready yet at least to ask for forgiveness for the victims it has caused during the war," Prek Gjetaj, chairman of the Kosovo government Commission on Missing Persons, told SETimes.

Gjetaj however said that any step that intends to reveal the truth is welcomed and hailed in Kosovo.

"After 14 years, finally, we hope that those who have committed war crimes in Kosovo come in front of justice, be held accountable and take the deserved punishment. It's not only one general that should come out in front of justice, there are hundreds of generals, officers and individuals involved in the police and military structures that have committed crimes that amount to genocide," Gjetaj told SETimes.

Haki Kasumi, of the Co-ordinating Council of the Family Associations for the Missing Persons, told SETimes that the investigation will be welcomed by families that suffered criminal acts by the Serb military and police forces operating in Kosovo.

"But it should also be taken into account that Serb justice has lost the faith of the citizens of the Republic of Kosovo and that the majority of them are concerned that this proper action is delayed and could be only formal. General Zivanovic is only one of the many chains of the long chain of many Serb criminals who committed serious crimes against the Albanians, civilians that did nothing to provoke Serb armed forces," Kasumi said.

But the investigation also has some critics, including Milan Ivanovic of Kosovska Mitrovica.

"General Zivanovic was only defending his people and his country during the NATO attacks in 1999. The ICTY has condemned the entire leadership of Serbia and none among the Albanians, although prior to 1999 and after that they committed many crimes against Serbs in Kosovo," Ivanovic told SETimes.

**Probe against Serbian general is only the first, prosecutor says**

SETimes
Igor Jovanovic
August 14, 2014

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Kosovo Special Prosecutor on Monday issued an indictment against the prominent Kosovo Serb politician Oliver Ivanovic.

Oliver Ivanovic, a former Serbian government official and head of the Citizens Initiative Freedom, Democracy, Justice has been indicted for war crimes in Kosovo.

The Office of the Kosovo Special Prosecutor raised an indictment against five people on Monday.

Although the names of the accused have not been revealed, BIRN has learned that Ivanovic is accused of inciting war crimes in April 1999 and, along with one other person, of inciting an accessory to murder in February 2000.

The remaining three indictees are accused of aggravated murder and attempted aggravated murder in February 2000.

Ivanovic was arrested in January on suspicion of involvement in war crimes against ethnic Albanians, and in murders committed after the Kosovo conflict of the late 1990s ended.

He was a so-called "Bridge Watcher" at the time when the alleged offences occurred. These were Serb militants who patrolled the main bridge in the northern town of Mitrovica, dividing the town into Serbian and Albanian sectors.

After his arrest, the Serbian government issued guarantees that if Ivanović was released from detention pending trial, it would ensure that he was made available to the court. He has not been released in spite of the guarantees, however.

After he went on hunger strike in March, the authorities transferred him from prison in Pristina, where he said his safety was jeopardized, to a jail in northern Kosovo, which is mainly populated by Serbs.

MIDDLE EAST AND ASIA

Extraordinary Chambers in the Courts of Cambodia (ECCC)

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

Nuon Chea, Khieu Samphan Found Guilty, Jailed for Life
The Cambodia Dailey
By Lauren Crothers and Kuch Naren]
Thirty-nine years after Phnom Penh was forcibly emptied by gun-toting Khmer Rouge soldiers, setting off a chain of events in which an estimated 1.7 million people died, leaders of the regime were on Thursday found guilty of crimes against humanity.

The convictions and life sentences handed down to Nuon Chea and Khieu Samphan—which they plan to appeal—bring to an end the first phase of a case against them that has spanned several years and cost tens of millions of dollars.

Former Khmer Rouge leaders Nuon Chea, left, and Khieu Samphan appear on Thursday in the dock of the Khmer Rouge tribunal, where they were found guilty of crimes against humanity and sentenced to life in prison. (Video still courtesy of the Extraordinary Chambers in the Courts of Cambodia)

After reading a summary of the judgment—which focused on the pair’s criminal responsibility for the evacuation of Phnom Penh on April 17, 1975, the forced movement of people in a second distinct phase and the execution of Lon Nol soldiers and officials at a desolate site in Pursat province—88-year-old Nuon Chea, Pol Pot’s second-in-command, and 83-year-old Khieu Samphan, the regime’s former head of state, took to the dock.

Nuon Chea's inability to stand and face his judgment was a reminder of the years it has taken the U.N.-backed court—which began operations in 2007—to reach a verdict.

During the trial that spanned nearly three years, the court had been told that, as deputy secretary of the Communist Party of Kampuchea, Nuon Chea was "directly responsible and responsible as a superior" for the crimes being tried and shared, along with other party leaders, "the intent to commit the crimes involved."

After twice ordering the octogenarian to his feet, Trial Chamber President Nil Nonn conceded that he could remain seated in his wheelchair.

Judge Nonn told Nuon Chea that he was "guilty of the crimes against humanity of extermination (encompassing murder), political persecution and other inhumane acts...committed within the territory of Cambodia between April 17, 1975 and December of 1977."

Sitting in the glassed-off public gallery behind Nuon Chea, who wore dark sunglasses for the duration of the hearing, hundreds of civil parties, regime survivors, government officials and diplomats sat in almost complete silence.

Nuon Chea appeared impassive.

The Trial Chamber judges found that Khieu Samphan's liability was not as extensive as his counterpart. Judge Nonn said the judges were "not
satisfied" with evidence that he had held a position of power at the
shadowy Office 870, often attributed as having been the nerve center of
the regime. They also dismissed the charges that he had ordered the
crimes and had superior responsibility.

Still, they found the former Khmer Rouge head of state to have been part
of a joint criminal enterprise that committed crimes against humanity.
Judge Nonn repeated, word for word, the same conviction for Khieu
Samphan that he read out for Nuon Chea.

Again, the defendant was expressionless.

Because the crimes were on such a massive scale, Judge Nonn said, the
chamber sentenced both men to life behind bars-a fate that was all but
inevitable given their age and continued detention during the next portion
of their case. Initial hearings for the second phase of case 002, which will
include charges of genocide, were held last week.

Throughout the first trial, horrific stories of suffering and systematic abuse
were replayed by some of the 3,869 civil parties who applied to be part of
the case. Families were ripped apart, mothers buried their babies and
others lived on cockroaches to survive.

These stories formed a key part of the judgment's summary by illustrating
the devastating reality wrought by the forced evacuations and months
that followed.

People living under the Khmer Rouge suffered "immeasurable harm,
including physical suffering, economic loss, loss of dignity, psychological
trauma and grief arising from the loss of family members or close
relations," the summary said.

Outside the courtroom, there were mixed emotions among those who
lived to see judgment day.

Sam Yoeun, whose husband and five children perished during the three
years, eight months and 20 days the regime was in power, burst into
tears.

"I am crying because I am very satisfied with the verdict," said the 79-
year-old civil party from Svay Rieng province. "These are tears of joy. I
will go to the pagoda and light incense to tell [my family] that those who
killed them have been sentenced to life imprisonment. It will let their
souls rest in peace, because there is justice now."

But the decision did not sit well with 58-year-old Suon Vanthan.

"The verdict was too light for me," he said. "I am not happy with the
sentence of life imprisonment. These accused-Nuon Chea and Khieu
Samphan-should have been convicted and sentenced to 100 years in
prison. I wanted their bones to be handcuffed and shackled like they did
to others during their brutal leadership."

Chhuon Lang, a 67-year-old civil party from Kompong Cham province,
said she would have been "happy to see them walk out of the detention
facilities since they are very old, but only if they had been brave enough
to tell the truth about who the leaders were behind the mass killings."

In this phase of the trial, however, that was not to be.
In May 2013, Nuon Chea did tell the court he took moral responsibility for what happened during the regime, while Khieu Samphan at the same time expressed his condolences to its victims.

But ultimately, when both spoke for the last time in court in October, the two men remained defiant. Their legal teams separately said they intend to appeal the convictions, which they have 30 days to do.

Victor Koppe, the international defense lawyer for Nuon Chea, said the team's "highest priority" now is to seek the recusal of the panel of judges, who are set to try the second phase of the case, because the lawyers feel they will "no longer be impartial" in their conduct.

Arthur Vercken, one of the international lawyers for Khieu Samphan, said they plan to "fight to the very end" because the verdict was "unjust and without basis."

"There was no concrete evidence pointing to Khieu Samphan's participation in decision-making and implementing the evacuation of Phnom Penh. It is an acquittal we will be seeking at the appeals," he said.

Prosecutors were predictably pleased with the outcome. National co-prosecutor Chea Leang told reporters after the hearing that life sentences were the only appropriate penalties the court could have considered, and that the verdict helped reset the country's moral compass.

However, she added, "this judgment will not turn back time or give back life to those executed, or those who died of heat and exhaustion or lack of food and water or medical assistance; it won't rebuild families left broken in every part of Cambodia."

During the reading, Judge Nonn also told the court that 11 of the 13 proposed reparations projects for victims of the regime had been endorsed, including a National Remembrance Day and the construction of a memorial in Phnom Penh to honor victims of the evacuation.

Flanked by Deputy Prime Minister Sok An and a number of government officials and diplomats, the U.N.'s special expert on the court, David Scheffer, said after the verdict was announced that it was a landmark moment.

"Today, the winds of international justice swept through the rice fields of Cambodia, through its cities, its villages, its forests, once again it has done so. And it will do so again," he said.

Mr. An, too, was pleased with the verdict.

"For myself, I am contented with the judgment and the sentencing handed down to the accused," he said. "Today's pronouncement of judgment is clearly a testament of the success of this tribunal."

Heather Ryan, a court monitor with the Open Society Justice Initiative, said the day offered signs that the wheels of justice are turning, no matter how slow.

"I think this is an important day for the court; the court has established itself at a new level of legitimacy, and that's really important."
Reaction to the sentencing of two Khmer Rouge leaders to life in prison continued to come in on Friday, as analysts and observers took stock of the UN-backed tribunal and the long process of trying two men accused of leading one of the gravest regimes of the 20th century.

Leaders Nuon Chea, 87, and Khieu Samphan, 82, were given life sentences on Thursday for their leadership roles in the brutal regime, particularly in the atrocities crimes committed by Khmer Rouge cadre as they forced Cambodians to exit cities and work in disastrous agricultural collectives.

But while the verdict signaled a completion to this phase of the trial (there is one more), critics say the court could have done a lot more for Cambodians.

Brad Adams, director of the Asia division at Human Rights Watch called the verdicts "too little too late."

"Nuon Chea and Khieu Samphan were leaders of the worst government possibly in the history of the world," he said. "They should have been convicted a long time ago."

The tribunal moved too slowly and has not pursued enough suspects, he said. "This trial process should have been finished five years ago. We should be seeing many more people on trial for these crimes."

Nuon Chea and Khieu Samphan, who say they will appeal the decision, are facing a second phase in their trial later this year. So far, the court has completed only one trial since its inception in 2006, that of Comrade Duch, who in 2012 received a life sentence for his role as supervisor of the torture center Tuol Sleng.

Another defendant, Ieng Sary, died in tribunal custody, while his wife, Ieng Thirith, another suspect, was found mentally unfit to stand trial. Five more potential defendants have not been formally arrested or indicted, as the court sits on two cases it may never finish.

Given all that, some observers say the court has failed to bring a larger sense of justice to Cambodians who suffered under the regime, or to members of the next generation, who know little of the atrocities and are growing up in country where justice is rarely meted out fairly.

"The world should have done more in bringing many Khmer Rouge leaders to trial already," said James Tyner, a professor at Kent State University, in Ohio. "The world turned its back on Cambodia from 1975 to 1979, and for the last four decades, the world has continued to turn its back on bringing any sense of justice to this situation."

That sense of justice is hard to gauge, but for some, not enough was done to upset Cambodia's culture of impunity, one that has led to mob killings of thieves, major mistrust of the national court system, and, at the beginning at least, high hopes for the tribunal.

Peter Maguire, a legal scholar and author of "Facing Death in Cambodia,"
which examines the Khmer Rouge's legacy, said the court deserves credit for a "small victory" in bringing some leaders to trial. But injustice is apparent to many Cambodians today, even in the tribunal process, he said. "Why does a motorbike thief get killed, and why are these people who were responsible for the deaths of 2 million Cambodians living the rest of their lives in an air-conditioned jail with access to the beset Western medicine?"

"Justice is pretty important for people to feel at peace," Adams, of Human Rights Watch, said. "And if I were living in a village and still could see a person who killed my family living freely and protected by the government, I would not be at peace."

Laura McGrew, a consultant for the Open Society Justice Initiative, a New York-based organization that has monitored the tribunal process, said some sense of justice has reached at least some victims, many of whom were worried Nuon Chea and Khieu Samphan would receive less than life sentences, or, worse, be released by a court that was initially plagued with allegations of political interference and corruption.

That fear, at least, has been allayed, she said. "Many are still waiting for more explanations, however, as to why these crimes were committed, and to hear more heartfelt confessions and apologies from the accused persons and those that worked under them."

John Ciorciari, a professor of public policy at the University of Michigan who has written a book about the tribunal, said the verdicts will at least help victims know that their suffering has been recognized and "that people who were responsible for it, at least some of those people, have been held accountable and that society is moving forward with the kind of rule of law that will respect the right of future defendants, as well as victims."

Jeffrey Brand, head of the Center for Law and Global Justice at the University of San Francisco School of Law, said the verdicts of two men, 40 years after the fact, will not be a vindication for the crimes of the Khmer Rouge.

"Yet the verdicts are critically important," he said. "They force the world to pay attention and serve as a reminder of the threat of genocidal policies to our fragile global community. Their most important legacy may be what they may help prevent in the future, rather than what they have done to vindicate the horrific crimes of the past."

After Khmer Rouge Verdicts, Lawyers Fear Bias for Next Trial
The Cambodia Daily
By Lauren Crothers
August 9, 2014

Nuon Chea and Khieu Samphan woke on Friday as guilty men, sentenced to life in prison on Thursday for crimes against humanity by a panel of judges at the Khmer Rouge tribunal, whose decision will eventually be either upheld or reversed by the Supreme Court Chamber when both legal teams file appeals.

The case against them, which was split into smaller, more manageable trials in 2011, will now press ahead, but with mixed feelings among interested parties as to whether or not the former Khmer Rouge leaders can be tried fairly in a genocide case by the same judges who convicted them.
Speaking to reporters after the verdict on Thursday, defense lawyers for Nuon Chea said their "highest priority" would be to seek a recusal of the judges, who they said would not be impartial in their adjudication of the next phase of Case 002. One of those judges, Silvia Cartwright, tendered her resignation in June, and will be replaced by Reserve Judge Claudia Fenz.

On Friday, Nuon Chea's international defense lawyer, Victor Koppe, said that motion would be filed soon with the Supreme Court Chamber.

"It's a unique situation that they have manevured themselves into," he said. "It's a genuinely inconceivable that they can switch off and really look at this without any bias. I think it's impossible."

The charges in the next portion of the trial relate to criminal accusations of genocide, internal purges and rape, as well as a number of crime sites around Cambodia.

In a decision released by the Supreme Court Chamber last week in response to an appeal of severance made by the legal team for Khieu Samphan, judges said that using the same panel in a second trial could result in bias.

"Where...the same judges consider and determine multiple counts against the same accused, questions arise regarding judicial impartiality, to the extent that adjudicating a portion of charges may in the same or subsequent trials cause a bias (or appearance of bias) against the accused or a bias resulting from having made findings of fact relevant to the other case, a concern, as previously signaled, contemplated in international jurisprudence and municipal systems," it said.

Mr. Koppe said, therefore, that the Supreme Court Chamber judges may be "quite inclined to be receptive to the bias argument" in his team's motion, which will be filed within the coming days.

"But the thing is, it will take a year before we have a decision, meanwhile we will go ahead" with the proceedings, he added.

Arthur Vercken, a defense lawyer for Khieu Samphan, said the team has yet to decide whether or not they will also seek a recusal.

International Co-Prosecutor Nicholas Koumjian said parties to the proceedings had been asked in November if they would seek a recusal of the panel, but that prosecutors declined.

"In a case like this, in my view, there is absolutely no bias when judges make a decision that parties don't like if it is made in a fair process and applying law to evidence," he said. "During trials, judges make decisions.... There's no basis to recuse judges for bias when they make decision based on law and evidence after hearing from the parties involved."

Court monitor Heather Ryan, who works with the Open Society Justice Initiative, said after the verdict on Thursday that the next phase of the case against Nuon Chea and Khieu Samphan "certainly presents a practical challenge."
"What you have to do is rely on the professional integrity of judges, who stand back and say, 'I'm not going to assume guilt just because of these earlier findings,'" Ms. Ryan said.

"I know that's not easy and in a way, there's a little bit of falseness to it. But it's sort of the best we have. I don't think the problem is necessarily worse having the same judges than having completely new judges, because they would know the judgment, they would have the same facts to go on and you'd have similar problems."

**After Verdict, KR Suspect Remains Defiant**

The Phnom Penh Post
By May Titthara and Kevin Ponniah
August 9, 2014

**Im Chem has long lived in fear that the Khmer Rouge tribunal would come to her placid village and detain her. But this week, the feeling is particularly palpable.**

On Thursday, hundreds of kilometres away in Phnom Penh, senior regime leaders Nuon Chea and Khieu Samphan were found guilty of crimes against humanity and sentenced to life in prison.

Chem, who is being investigated as part of the government-opposed Case 004, is considered by prosecutors at the UN-backed court as one of five people beyond the senior leadership "most responsible" for the crimes of the ultra-communist regime.

During the Khmer Rouge's bloody reign, she is alleged to have led internal purges and presided over the deaths of tens of thousands. She is worried that the tribunal is moving closer to indicting her.

Villagers gather at a pagoda in Anlong Veng to watch the sentencing of Nuon Chea and Khieu Samphan

"We want to hear the exact words from the court that they are stopping and will not deal with any more cases, so that we can live with happiness in our minds," she says, before offering a grim, but fanciful, warning.

"But if they still continue, it could make the Khmer Rouge come back again. And more problems will come in the future, because it will affect all [former] Khmer Rouge that are living around the country."

While the 72-year-old has a legitimate reason to believe she may one day see the inside of a courtroom, her words reflect the feelings of many former cadres in Anlong Veng, where the last hard-line communist soldiers ceremonially changed into government army uniforms in early 1999 - marking the end of the civil war and the Cambodian communist movement.

Although the tribunal has made it clear that they are only going after high-ranking regime officials, lower-level former cadre here are still beset by fear that if the court pushes on, they could be implicated.

"They are so scared. They don't want the court to continue to other cases, because they are afraid that one day the court will come to arrest them,"
says Yim Phanna, the governor of Anlong Veng since 2006 and a former guerrilla commander who led mass defections to the government in March 1998.

Anlong Veng has been the beneficiary of swathes of government development funds since the war ended, and Phanna says people here - some of whom were jungle fighters for almost 30 years - want to look towards a prosperous future, rather than a war-torn past.

"I think I support this verdict, [but] now it should stop. Don't waste the money."

Sang Sa Roeung, who guides tourists around the derelict house of his former boss, Ta Mok, the notorious zone leader known as "the butcher", who died in 2006 before he could go to trial, takes a less conciliatory approach.

Leaning on a hut at the entrance to the site, his prosthetic leg peeking out from the bottom of his trousers, Sa Roeung says the verdict against Chea and Samphan has left him "heartbroken", because all the Khmer Rouge leaders did was try to save the nation from Vietnamese imperialism.

"I am still wondering why the international judge did not listen to their [arguments], because they said yuon [a term for Vietnamese considered derogatory by many] were killing Khmer," he says, as a group of beer-swilling men seated behind him nod in agreement.

He calls for the court to be shuttered, because he believes it will come after men like him if it pursues further cases, such as that involving Chem.

Chem is one of three individuals targeted for prosecution as part of Case 004. With fellow suspect Ta Tith, she is accused of being part of a joint criminal enterprise "to purge the Northwest Zone and execute all perceived enemies of the DK [Democratic Kampuchea] regime".

Chem served as the head of Preah Net Preah district, in the Northwest Zone, from June 1977 - when the purges began - until the fall of the regime.

As part of this role, Chem is believed to have run the Phnom Trayoung security centre, where an estimated 40,000 people died from starvation, overwork and executions.

While Case 002/02, involving Chea and Samphan, will only start evidentiary hearings later this year and is likely to take years to adjudicate, Chem, unlike other suspects in Cases 003 and 004, appears to be healthy.
In years to come, if these cases ever get off the ground - which most observers believe will not happen due to the government's vociferous opposition - she could be alive and fit for trial.

When Post Weekend visited her house on the outskirts of Anlong Veng town on Thursday afternoon, Chem had just returned from her daily ritual of planting crops a kilometre away.

With a wide smile, she explained that despite her age, she always rides a bicycle back and forth.

When the subject of the accusations against her are brought up, her face darkens. Conditions at Phnom Trayoung under her watch are said to have been brutal.

"I deny all the accusations against me. I was doing the same as other normal people during that time. Three of my kids also died," she says, speaking louder, as two of her grandchildren scuttle around and hug her legs.

Suspect in Case 004, Im Chem, at her home

"During that time, what we did was try to protect the nation. We tried to help people live in happiness. And in Trapeang Thma [the regime's largest irrigation project and a crime site in Case 004], I came late, so I don't know about the people who were killed [there]. I just urged people to do farming.

"Why are they accusing us of crimes against humanity?"

Sitting on a wooden bench underneath her stilted house, Chem starts to get more agitated. On the wall behind her is a Cambodian People's Party election poster from last year bearing the smiling face of Prime Minister Hun Sen beaming down on new roads and development projects.

"If they want to continue with the other cases, it seems like they want to bring Cambodia back into civil war," she says, noting the fact that the premier has made the same argument.

In February 2012, Chem was visited and notified about the investigation by the tribunal's then international co-investigating judge, Laurent Kasper-Ansermet.

While the case continues to be stalled in its investigative phase and is subject to deep divides between Cambodian and international investigators as to whether it should be pursued, Chem has recently been assigned two lawyers, who she says have visited her once and made her feel better about the case.

While she did not want a foreign lawyer, her Cambodian lawyer, Bit Seanglim, said the court would not recognise him if she did not have one, she says.

She no longer wants to talk to the media about the allegations.

Sang Sa Roeung, who fought under brutal Khmer Rouge leader Ta Mok
Sang Sa Roeung, who fought under brutal Khmer Rouge leader Ta Mok
Charlotte Pert

"I have denied the accusations against me since the beginning...I cannot
accept [them]. So if the court asks me about this, I will refer them to talk
to my lawyers."

Chem exhorts the families of victims who want her to go on trial to think
about their own elderly mothers, and what it would be like for them to be
detained at the court.

She is haunted by the idea of her family watching her dragged away and
put in the dock.

"I have said again and again, I will not go to the court at all, even [if]
people from the court come to arrest me. I have done nothing wrong, so
why do I need to go to the court?"

Additional Khmer Rouge Suspect To Appear at Tribunal Monday
VOA Khmer
By Sok Khemara
August 11, 2014

Im Chaem, a former Khmer Rouge cadre and potential suspect at
the UN-backed tribunal, could appear before the court on Monday,
officials say.

"The court summoned her, but I don't know what the problem is," Yim
Phanna, governor of the former Khmer Rouge stronghold of Anglong Veng
district, Oddar Meanchey province, told VOA Khmer Sunday. "My official
reported to me that she will go to the court on Monday."

Im Chaem, 68, is among a small group of suspects that could be indicted
in two more cases at the tribunal. The court has so far finished Case 001,
for torture chief Duch, and is in the midst of Case 002, for leaders Nuon
Chea and Khieu Samphan.

Im Chaem is a suspect in Case 004, a case that has been slow to move, in
part, critics say, because of political interference from high levels of the
Cambodian government.

Her potential appearance at court follows a guilty verdict for Nuon Chea
and Khieu Samphan in the first of two phases of their atrocity crimes
trials, in which they were both given life sentences for the leadership roles
in the regime.

"They've tried the leaders already," Yim Phanna said Sunday. "Why are
they calling her?"

Tribunal spokesman Neth Pheaktra said he had no information on
developments of Case 004. But a source close to the court confirmed that
Im Chaem will appear Monday to answer questions before the tribunal,
and possibly be indicted.

Im Chaem, who has been implicated in the purge of the Northwest Zone
and as head of a security center where some 40,000 people died, was not
immediately available for comment. However, she has said in the past she
does not consider herself guilty of atrocity crimes.
Im Chaem, a former Khmer Rouge leader facing possible indictment at the UN-backed Khmer Rouge tribunal, did not appear at the court on Monday, as expected by some, leading to questions about the court's ability to enforce potential summons going forward.

Officials close to Im Chaem in the former Khmer Rouge stronghold of Anlong Veng district, Oddar Meanchey province, say she did not go to the court because she was busy, and tribunal spokesman Lars Olsen called reports that she had been summoned a "rumor."

It is unclear what will happen next, but tribunal monitors say they court needs to officially release the names of potential suspects in upcoming cases-something officials there have refused to do.

Im Chaem, a former Khmer Rouge commander who has been implicated in regime purges and thousands of deaths at a rural detention center, is listed as a potential suspect in Case 004, which the court has yet to prosecute.

Local authorities in Anlong Veng, speaking on condition of anonymity, say she has received a summons to appear before the court. But it appears she is so far ignoring it.

Im Chaem has said in the past she does not consider herself guilty of atrocity crimes, and she recently told local media she will not go to the court if summoned.

A former Khmer Rouge commander who is listed as a suspect at the UN-backed tribunal says she will not cooperate with the court.

Im Chaem, 68, is accused of atrocity crimes for her role in purges of Khmer Rouge cadre and for running a detention center where tens of thousands of people died.

She told VOA Khmer she refused to sign or accept an indictment when presented it recently by officials from the tribunal, including the international co-investigating judge, Mark Harmon.

"They read me the summons and asked me to answer it, but I didn't do it," Im Chaem said by phone from her home in the former Khmer Rouge stronghold of Anlong Veng district, Oddar Meanchey province. "I didn't give any testimony, because they just wrote things down without reasons or truth. They were just sort of unreasonable allegations."

When Harmon had a translator read her the indictment and ask her to sign it, she refused, she said. "I did not keep it. I said to him, 'Let's give that to my lawyer.'"
What the court can do to pursue the case—which has seen strong opposition by senior members of the Cambodian government, including Prime Minister Hun Sen—is unclear. Tribunal officials declined to comment on the indictment, or Im Chaem's statements.

Secret Cambodia Diary Helped to Convict Two Khmer Rouge Ringleaders
The Independent
By Todd Pitman
August 18, 2014

Nearly 40 years ago, hunched on the floor of the wood-and-leaf hut he was forced to live in away from his children, Cambodian school inspector Poch Younly kept a secret diary recounting the horrors of life under the Khmer Rouge, the radical communist regime whose extreme experiment in social engineering took the lives of 1.7 million Cambodians from overwork, medical neglect, starvation and execution.

Acutely aware that he could be killed if discovered, Mr Younly hid the diary inside a clay vase. In those dark days, when religion and schools were banned and anyone deemed educated was a threat, he had no right to own so much as a pen and paper.

"Why is it that I have to die here like a cat or a dog... without any reason, without any meaning?" he wrote in the notebook's last pages. Four decades later, that question still haunts Cambodia.

Mr Younly did not survive that era. But his diary did. It was part of the vast case file which this week helped convict the only two surviving Khmer Rouge leaders still facing justice - 83-year-old former president Khieu Samphan and 88-year-old Nuon Chea, right-hand man of the group's infamous late leader, Pol Pot. Last week, a UN-backed tribunal sentenced both men to life in prison for crimes against humanity.

Made public for the first time last year, the diary is astonishingly rare - one of just four known first-hand accounts penned by victims and survivors, compared to 453 such documents written by communist cadres.

It is "the story of all of us who survived," said Youk Chhang, who runs the Documentation Centre of Cambodia, which has amassed millions of documents, photographs, films and verbal testimonies from the Khmer Rouge era.

Mr Younly's account is vital because the majority of Cambodians living today were born after the Khmer Rouge were ousted in 1979, and even those who survived can forget how bad it was.

"People forget how hungry we were," said Youk Chhang, who still has dark scars on his legs from shackles. "It's hard to describe to young people what starvation felt like." Som Seng Eath today with one of her daughters

Written in Khmer, the diary fills about 100 pages and is divided into two sections. The first summarises Mr Younly’s family history and his arranged marriage to his then 15-year-old wife. The rest, written as a letter addressed to his children, describes life under the Khmer Rouge and is dated only at the start and the end - 9 February and 29 July, 1976 - with a final post-script entered a few days later.
When Khmer Rouge forces seized Phnom Penh on 17 April, 1975, the couple were living with eight of their children in a rural town called Kampong Chhnang. Three days later, the guerrillas arrived and residents cheered, relieved the war was finally over, his 86-year-old widow Som Seng Eath recalled.

But within hours, everything changed. Every soul was ordered to leave on foot. The Khmer Rouge were emptying cities, marching millions into the countryside to work as manual labourers. Mr Younly recounts marching for nearly two weeks. On 1 May, they reached the village of Chumteav Chreng.

"We worked day and night clearing wood to make arable land," Mr Younly wrote. "We worked 10 to 13 hours a day." Food supplies dwindled, and Mr Younly and his wife grew so desperate, they traded clothes and a family locket for salt, sugar and medicine.

The following month, Mr Younly fell ill. He could not work, but he had the privacy to write. Months later, he began sensing his end was near. "By now, my body resembles a corpse, thin with only skin and bones," he wrote.

At one point, Mr Younly writes of his regret at not being able to see all of his children. "Let me die," he continued. "Let my destiny take me wherever it goes... My children, I miss you; I love you." He wrote until there were no pages left, his wife said. On 1 August, 1976, he wrote a postscript, asking his family to take care of the diary.

Hours later he was arrested by authorities because one of his sons had attempted to exchange an Omega watch Mr Younly had bought in America 15 years earlier for fermented fish. Private property was illegal; hiding it was worse.

"I never saw him again," Som Seng Eath said, the tears streaming 38 years later. Mr Younly died several weeks later, in a nearby prison.

Som Seng Eath says the diary is too painful to read now. She says she didn't understand its importance at the time. But she can never forget what he said about it. "He once looked up at me and said, 'Protect this no matter what, even if I die'." His widow passed the diary to one of her daughters. It was the daughter's husband who suggested giving it to the documentation centre to protect the fragile, yellowed pages of history.

Iraqi High Tribunal
Grotian Moment: The International War Crimes Trial Blog
US Unlikely to Undertake Yazidi Rescue Mission in Iraq
AlJazeera America
August 14, 2014

A U.S. mission to evacuate Iraqi civilians trapped on a mountain by Sunni militant fighters is "far less likely" after a U.S. assessment team sent there on Wednesday found the
humanitarian situation not as grave as expected, the Pentagon said.

A team of U.S. military and humanitarian aid personnel sent to Mount Sinjar in northern Iraq to assess the situation of thousands of members of the Yazidi religious minority found far fewer people than previously feared and in better condition than expected, the Pentagon said in a statement.

"Based on this assessment," the Pentagon said, "an evacuation mission is far less likely."

The Pentagon credited the better-than-expected situation to airdrops of food and water, U.S. air strikes on Sunni militant targets, efforts of Kurdish peshmerga fighters and the ability of thousands of Yazidis to evacuate the mountain in recent nights.

The White House said earlier that the United States had not ruled out using American ground forces in an operation to extract the trapped civilians, but added the troops would not engage in combat.

The team of fewer than 20 U.S. personnel flew in darkness early in the morning to Mount Sinjar, where thousands of members of the Yazidi religious minority fled to escape an advance by Islamic State fighters, a U.S. official said. The team returned safely to the Kurdistan capital of Irbil by air.

The United States has 130 U.S. military personnel in Irbil, drawing up options ranging from creating a safe corridor to an airlift to rescue those besieged on Mount Sinjar.

"These 130 personnel are not going to be in a combat role in Iraq," White House deputy national security adviser Ben Rhodes told reporters traveling with President Barack Obama, who is on vacation on Martha's Vineyard island in Massachusetts.

Rhodes noted that Obama had repeatedly ruled out "reintroducing U.S. forces into combat on the ground in Iraq." But he added: "There are a variety of ways in which we can support the safe removal of those people from the mountain."

Rhodes said the intention was to work with Kurdish forces already operating in the region and with the Iraqi military.

Kurdish fighters had been guarding Yazidi towns when armed Islamic State convoys swept in, and have already helped many thousands escape to safe areas to the north.

Obama has been deeply reluctant to revive any military role in Iraq after withdrawing the last combat troops in 2011 to end eight years of costly war that eroded the United States' reputation around the world.

The president agreed last Thursday to send back more than 700 troops to help advise and guide Iraqi and Kurdish forces after a devastating sweep across northwestern Iraq by the Islamic State, who have declared a caliphate covering much of the country.

U.S. warplanes have since carried out a series of attacks on Islamic State forces, including on some approaching Irbil and on roadblocks and artillery around Mount Sinjar to the west.
Army Colonel Steve Warren, a Pentagon spokesman, said on Wednesday that the air attacks, combined with operations by Kurdistan's peshmerga armed forces, had "slowed, if not stopped" attacks on the terrified families who had fled to the mountain.

U.S. and British military forces have been dropping supplies of food and water to those on Mount Sinjar in the last week and Rhodes said other countries were also offering to help, including Australia, Canada and France.

U.N. agencies have rushed emergency supplies to the Dohuk region by the Syrian and Turkish borders, where the office of the U.N. High Commissioner for Refugees says about 400,000 refugees have fled, including Yazidis, Christians and other minorities.

Islamic State Executes 700 People from Syrian Tribe, Monitoring Group Says

AlJazeera America

August 16, 2014


Over the past two weeks, armed group the Islamic State (IS) has executed 700 members of a Syrian tribe, the majority of them civilians, a human rights monitoring group said on Saturday.

The Syrian Observatory for Human Rights (SOHR), which has tracked violence on all sides of the three-year-old conflict, said that reliable sources reported beheadings were used to execute many of the al-Sheitaat tribe, which is from Deir al-Zor province in Syria.

A conflict between IS and the al-Sheitaat tribe, who number about 70,000, flared after the armed group took over two oil fields in July.

"Those who were executed are all al-Sheitaat," Observatory director Rami Abdelrahman said by telephone from Britain. "Some were arrested, judged and killed."

News agencies could not independently verify reports from Syria due to security conditions and reporting restrictions. Abdelrahman, meanwhile, said that the fate of 1,800 other members of the tribe was unknown.

Sheik Rafaa Aakla al-Raju, leader of the al-Sheitaat tribe, called in a video message issued last week for other tribes to join the fight against IS.

"We appeal to the other tribes to stand by us because it will be their turn next...If (Islamic State) are done with us the other tribes will be targeted after al-Sheitaat. They are the next target," he said.

IS has captured most of Deir al-Zor and declared it to be part of its "caliphate," along with large swathes of territory it has captured across the border in Iraq.

SOHR said the al-Sheitaat tribe had previously agreed not to oppose the armed group's authority, in exchange for it not harassing or attacking its members.
Fighting between IS and the tribe erupted after the deal between the two sides collapsed, with the tribe refusing to bow to Islamic State's control.

US 'Told Syria Rebels' to Seek Intervention
AlJazeera
August 16, 2014

US officials have asked the Syrian opposition to call on the international community to hit positions belonging to the Islamic State group and help rebels eliminate the self-declared jihadists, Al Jazeera has learned from sources inside the opposition.

The Syrian National Coalition, the main political opposition bloc, and the leadership of the Free Syrian Army, a loose conglomeration of armed rebel, are expected to make the appeal from Turkey on Saturday, the sources said.

The news come as the US is carrying out air strikes on Islamic State targets in Iraq and a day after the UN Security Council unanimously adopted a resolution that aims to weaken the Islamic State and al-Nusra Front, al-Qaeda's Syria branch.

Commenting on the resolution, the Syrian Coalition's Special Representative to the UN, Najib Ghadbian, said: "The Syrian Coalition calls for targeted air strikes in Syria. Strikes should be backed up by intensive train and equip programmes for the moderate Syrian opposition forces that have been effectively fighting ISIS [Islamic State] for over a year."

Another member of the coalition told Al Jazeera that the group was "getting different promises" from the US.

The Islamic State, an al-Qaeda splinter group, has in the recent months seized swaths of territory in Iraq and Syria and declared a caliphate.

In Syria, the group enforced its rule in the province of Raqqa and other eastern parts of the country through conducting public executions and imposing strict social codes that have many residents living in fear while others have been forced to flee their homes.

Activists who stood up against the rule of the Islamic State have been met by a brutal crackdown. Many of those activists had already been campaigning for the fall of President Bashar al-Assad's rule since 2011.

Opposition politicians in exile have expressed dismay as to why three years of bloodshed has not led to the same rapid response by the international community as the escalating crisis in Iraq.

The Islamic State's swift push to the borders of Iraq's autonomous ethnic Kurdish region and towards Baghdad prompted President Barack Obama to authorise airstrikes on the group's strongholds earlier this month. Since then, US military aircraft have carried out several bombings and air-dropped food and water to help tens of thousands of civilians fleeing the fighters' advance.

On Saturday morning, the US launched more air strikes on positions belonging to the Islamic State in northern Iraq, according to the Kurdish news agency Roodaw.
Sanctions against 'emirs'

Friday's resolution named six people who will be subject to an international travel ban, asset freeze and arms embargo, including Islamic State spokesman Abu Muhammad al-Adnani, an Iraqi described by UN experts as one of the group's "most influential emirs" and close to its leader Abu Bakr al-Baghdadi.

The Security Council resolution "deplores and condemns in the strongest terms the terrorist acts of ISIL [Islamic State] and its violent extremist ideology, and its continued gross, systematic and widespread abuses of human rights and violations of international humanitarian law".

The resolution, drafted by Britain, condemned the recruitment of foreign fighters and expressed readiness to blacklist people financing or facilitating travel of foreign fighters.

The resolution is under Chapter 7 of the UN Charter, which makes it legally binding for UN member states and gives the council authority to enforce decisions with economic sanctions or force. However, it does not mandate military force to tackle the fighters.

**Obama Condemns Killing of Reporter, U.S. Hits Militants in Iraq**

*Reuters*
By Alexander Dziadosz and Steve Holland
August 20, 2014

**U.S. President Barack Obama expressed revulsion on Wednesday at the beheading of an American journalist by Islamist militants and vowed the United States would do what it must to protect its citizens as international condemnation of the insurgents grew.**

Not long after Obama called Islamic State a "cancer" with a bankrupt ideology, the Pentagon said U.S. aircraft conducted 14 air strikes in the vicinity of Iraq's Mosul Dam, destroying or damaging militants' Humvees, trucks and explosives.

Islamic State posted a video on Tuesday that purported to show the beheading of journalist James Foley in revenge for U.S. air strikes in Iraq. It prompted widespread horror that could push Western powers into further action against the group.

Britain's prime minister cut short his vacation as UK intelligence tried to identify Foley's killer, while France called for international coordination against the Islamist militants fighting in Syria and Iraq.

U.S. officials said on Wednesday that intelligence analysts had concluded that the Islamic State video, titled "A Message to America," was authentic. It also showed images of another U.S. journalist, Steven Sotloff, whose fate the group said depends on how the United States acts in Iraq.

The gruesome video presented Obama with bleak options that could define American involvement in Iraq and the public reaction to it, potentially dragging him further into a conflict he built much of his presidency on ending.

Obama called the beheading of Foley "an act of violence that shocked the conscience of the entire world" and said the militants had killed innocent civilians, subjected women and children to torture, rape and slavery and
targeted Muslims, Christians and religious minorities.

"So ISIL speaks for no religion. Their victims are overwhelmingly Muslim, and no faith teaches people to massacre innocents. No just God would stand for what they did yesterday and what they do every single day," Obama said in brief comments to reporters in Edgartown, Massachusetts, where he has been vacationing. He said he had spoken with Foley's family.

"ISIL has no ideology of any value to human beings. Their ideology is bankrupt."

U.S. Secretary of State John Kerry said the United States would "never back down in the face of such evil.

"ISIL and the wickedness it represents must be destroyed, and those responsible for this heinous, vicious atrocity will be held accountable," Kerry said in a statement.

INTELLIGENCE SERVICES

British anti-terrorist police began an investigation of the video, in which Foley's killer spoke with a London accent.

Apparently a British national, the killer is just one of hundreds of European Muslims drawn to join Islamic State in Iraq and Syria, who authorities say pose a security threat to U.S. and European interests if they return home from the Middle East.

The video showed a high level of technical proficiency and the use of a British voice may have been intended to make its contents clear to audiences in the United States, Islamic State's declared enemy.

Foreign Secretary Philip Hammond said he was not surprised to hear the British accent and that large numbers of British nationals were fighting in Iraq and Syria.

"Our intelligence services will be looking very carefully on both sides of the Atlantic at this video to establish its authenticity, to try to identify the individual concerned and then we will work together to try to locate him," Hammond told Sky news.

France said it wanted the permanent members of the U.N. Security Council and regional countries, including Arab states and Iran, to coordinate action against Islamic State. President Francois Hollande called for an international conference to discuss how to tackle the group.

U.N. Secretary-General Ban Ki-moon condemned "the horrific murder of journalist James Foley, an abominable crime that underscores the campaign of terror the Islamic State of Iraq and the Levant continues to wage against the people of Iraq and Syria," U.N. spokesman Stephane Dujarric said.

Iraqi Foreign Minister Hoshiyar Zebari urged the world to back his country against Islamic State, which he described as a threat to the world, not just to the minority ethnic groups whose members it has killed in Iraq.

Germany and Italy said they were ready to send arms to bolster the military capabilities of Iraqi Kurds fighting Islamic State in northern Iraq.
Sending arms into conflict zones is a major departure for Germany, which has often shied away from direct involvement in military conflicts since World War Two due to its Nazi past.

The video's message was unambiguous, warning of greater retaliation to come against Americans following nearly two weeks of U.S. air strikes that have pounded militant positions and halted the advance of Islamic State, which until this month had captured a third of Iraq with little resistance.

Foley, 40, was kidnapped on Nov. 22, 2012, in northern Syria, according to GlobalPost. He had earlier been kidnapped and released in Libya.

Sotloff, who appeared at the end of the video, went missing in northern Syria while reporting in July 2013. He has written for TIME among other news organizations.

On Facebook, Foley's mother, Diane Foley, said: "We have never been prouder of our son Jim. He gave his life trying to expose the world to the suffering of the Syrian people.

"We implore the kidnappers to spare the lives of the remaining hostages. Like Jim, they are innocents. They have no control over American government policy in Iraq, Syria or anywhere in the world."

The video was posted after the United States resumed air strikes in Iraq this month for the first time since the end of the U.S. occupation in 2011.

U.S. Senator John McCain, a Republican, said Foley's death should serve as a turning point for Obama in his deliberations over how to deal with Islamic State. "First of all, you've got to dramatically increase the air strikes. And those air strikes have to be devoted to Syria as well," McCain said in a telephone interview.

**ISLAMIC STATE**

Islamic State, which has declared a caliphate in the parts of Iraq and Syria it controls, opened the video with a clip of Obama saying he had authorized strikes in Iraq.

The words "Obama authorizes military operations against the Islamic State effectively placing America upon a slippery slope towards a new war front against Muslims" appeared in English and Arabic on the screen.

It showed black and white aerial footage of air strikes with text saying: "American aggression against the Islamic State."

A man identified as Foley, head shaven and dressed in an orange outfit similar to uniforms worn by prisoners at the U.S. detention camp in Guantanamo Bay, is seen kneeling in the desert next to a man holding a knife and clad head to toe in black.

"I call on my friends, family and loved ones to rise up against my real killers, the U.S. government, for what will happen to me is only a result of their complacency and criminality," the kneeling man says.

The man next to him, in a black mask, speaks in a British accent and says, "This is James Wright Foley, an American citizen, of your country. As a government, you have been at the forefront of the aggression towards the Islamic State."
"Today your military air force is attacking us daily in Iraq. Your strikes have caused casualties amongst Muslims. You are no longer fighting an insurgency. We are an Islamic army, and a state that has been accepted by a large number of Muslims worldwide."

Following his statement, he beheads the kneeling man. At the end of the video, words on the side of the screen say, "Steven Joel Sotloff," as another prisoner in an orange jumpsuit is shown on screen. "The life of this American citizen, Obama, depends on your next decision," the masked man says.

University of Virginia political scholar Larry Sabato said the killing was like the beheading of American journalist Daniel Pearl in Pakistan in 2002. He said it could help bolster a perception among Americans that the United States will have to be more aggressive in dealing with Islamic State militants.

Syria has been the most dangerous country for journalists for more than two years. At least 69 other journalists have been killed covering the conflict there and more than 80 journalists have been kidnapped in Syria.

The U.S.-based Committee to Protect Journalists estimates that approximately 20 journalists are currently missing in Syria. Many of them are believed to be held by Islamic State.

As well as taking territory, Islamic State has seized a number of oil wells in northern Iraq. The government in Baghdad said it was troubled by reports that Islamic State was smuggling oil to export markets and warned that the purchase of such supplies could help the group fund its operations.
Former prime minister Saad al-Hariri returned to Lebanon on Friday for the first time in three years, on a visit seen as reasserting a moderate influence over the Sunni community following a deadly incursion by Islamist militants.

Hariri, Lebanon's most influential Sunni politician, left Lebanon in 2011 after his government was toppled by a coalition including the Iranian-backed Shi'ite group Hezbollah, and has split his time between France and Saudi Arabia, whose rulers support him.

With no prior announcement, Hariri arrived at the Lebanese government's headquarters in Beirut in a Mercedes with blacked-out windows. He grinned widely as he walked into the building, where he met Prime Minister Tammam Salam.

"I have come back to Beirut today after an absence of three years and four months. It was the harshest punishment of my life and my return is my most important reward," he said in remarks to members of his Future Movement published by his media office.

Politicians and public figures expressed hope that his return would help stabilise Lebanon, which is plagued by violence and stuck in political deadlock. Divided politicians have failed in several attempts to elect a new president.

Hariri announced this week that Saudi Arabia would donate $1 billion in military aid to Lebanese security forces to help them in the fight against Islamist militants.

In his first detailed comments since arriving, he credited the Saudi Arabian donation for allowing him to come back, saying it had "opened the path for the return to my beloved country."

Hariri met Interior Minister Nohad Machnouk, as well as U.S. Ambassador David Hale. There was a chorus of support from other prominent figures including Christian Maronite Patriarch Beshara al-Rai and Shi'ite Parliament Speaker Nabih Berri.

Hariri's visit followed a deadly incursion by Sunni Islamist militants who crossed from Syria last Saturday and seized the Sunni town of Arsal in the northeast, where tens of thousands of Syrian refugees have taken shelter. The gunmen withdrew on Wednesday after five days of battles with the army.

The incursion by militants, including fighters affiliated to Islamic State, which has seized large areas of Iraq and Syria, was the most serious spillover yet of the Syrian conflict and triggered unrest in other parts of Lebanon, notably the predominantly Sunni northern city of Tripoli.

SAUDI CONCERN

With the influence of hardline Sunni Islamist groups expanding in neighbouring Syria and Iraq, Hariri's arrival was greeted with relief by Lebanese concerned that his absence had left Sunnis vulnerable to radical influences.

His return coincides with growing signs of alarm in Saudi Arabia about Islamic State's reach. In his comments to Future members, Hariri said the party's role was "defending moderation and preventing extremism from渗透."
Walid Jumblatt, Lebanon's most influential Druze leader, who describes himself as a centrist but has switched alliance many times in the last decade, told Reuters it was "very positive":

"Facing the radicals, his presence is very important."

Political commentator Michael Young said that, since Hariri left, "a vacuum has formed in the Sunni community".

"This was becoming increasingly dangerous because this community was becoming more and more radicalised," he said. "(Hariri's) return is probably an effort with the Saudis to reassert a certain amount of control over the Sunni community."

Hariri also visited the grave of his father, Rafik al-Hariri, another former prime minister whose assassination in Beirut in 2005 pushed Saad to enter political life.

Hariri blames Syrian President Bashar al-Assad for the murder. A special tribunal in the Netherlands has been trying four members of Hezbollah, allied with Assad, in absentia for the killing. The group denies any involvement.

Hariri criticised Hezbollah's intervention in Syria, saying it would "only bring harm to Lebanon" but added that if Hezbollah had made mistakes it did not mean that "we respond to them with similar mistakes."

Assad cracked down on Syria's pro-democracy movement in 2011 in a move that has led to a full-scale civil war pitting Sunni rebels against Assad's Alawite sect and Shi'ite fighters.

Since then, rocket fire, suicide attacks and gun battles connected to Syria's war have plagued its smaller Mediterranean neighbour and worsened its perennial political deadlock, which runs largely along sectarian lines.

Lebanon has been without a president since May, when Michel Suleiman's term expired. Hariri urged lawmakers to move forward with electing a new president. "ELECTING the president is everyone's responsibility. It is not true that it is a responsibility borne by Saad al-Hariri alone," he said in the Future Movement meeting.

Tripoli has seen regular skirmishes between Sunni and Alawite militiamen. Firebrand Sunni clerics such as Salafist leader Ahmad al-Assir have urged Sunnis to fight the Beirut government, which includes Hezbollah.

**STL Spokesman Resigns Due to Personal Reasons**

*The Daily Star*

August 13, 2014

The spokesperson of the Special Tribunal for Lebanon, Marten Youssef, said Tuesday that he resigned from his post for personal reasons.

Speaking to the National News Agency, Youssef said the decision to resign was based on personal reasons and had nothing to do with the court.

In a letter to the media, Youssef wrote that time had come for him to
resign from his position, which he has held for three-and-a-half years with the U.N.-backed court.

"My conviction in the work of the STL remains. I thank you from the bottom of my heart for giving me an opportunity to defend my beliefs, even when you disagreed with me," Youssef said.

"I will truly miss working with you all and will miss Lebanon, with all of its uniqueness and complexities. As I have told many of you before, this country has become another home for me, so I am certain I will be back here in the future."

Youssef was appointed as the tribunal's spokesperson in April of 2011. He was born and raised in Egypt's Ismailiya and holds Canadian citizenship. He studied Political Sciences at the Trinity Western University in British Columbia and then did journalism studies at the Langara College in Vancouver.

Before joining the STL, Youssef worked as a journalist in the Middle East, Africa and Canada. He was the senior courts and justice reporter for Abu Dhabi-based The National newspaper.

The court has not yet announced who would replace Youssef, but speaking to Al-Jadeed TV Tuesday evening, the former spokesperson urged journalists in Lebanon and abroad to apply for the position.

In his email, Youssef said he will now be going to Canada to start his own business.

During his years with the STL, Youssef was the point of contact for journalists and has appeared in dozens of interviews, explaining the court's work and defending the tribunal against allegations.

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The last day of the prosecution's closing arguments. "It [forced pregnancy] was orchestrated in a bid to annihilate Bangladeshi identity," she added.

The prosecutor argued that the woman could be shot dead after seven to eight days of confinement and rape at the army camp. "Instead of killing her, they released the woman so that she could bring a new race," Tureen said, adding, women were used as an instrument to fulfil their plan.

"The war was over 42 years ago. But the war heroines and the war children are still fighting against the society and it will go on," the prosecutor observed.

She then prayed to the tribunal to order Qaisar to compensate if he was proved guilty of facilitating rape.

Tribunal Chairman Justice Obaidul Hassan asked the prosecutor how they would order for compensation if Qaisar was awarded capital punishment after evaluation of evidence.

Tureen suggested that the tribunal could order compensation for the victims from the accused's property.

Around three million people were killed and more than a quarter million women violated during the nine-month-long bloody war that started on March 26, 1971.

The defence began placing their closing arguments after the prosecution had completed their part yesterday.

Former state minister Qaisar faces 16 charges for his alleged involvement in crimes against humanity and genocide during the war.

The proceedings of the case were adjourned until Sunday when the defence are expected to continue with their closing arguments.

TRIBUNAL-1

The International Crimes Tribunal-1 sent war crimes suspect Sirajul Hoque alias Siraj Master to jail after he was hauled before the court yesterday morning.

The three-member tribunal also asked the prosecution to submit a progress report of the ongoing investigation against three suspects including Sirajul in a war crimes case on August 20.

Two others -- Khan Akram Hossain and Abdul Latif Talukder -- have already been arrested.

The tribunal yesterday accepted a prayer of the prosecution after they had filed an application for interrogating Sirajul at a safe home.

In reply to a question, the septuagenarian war crimes suspect told the tribunal that he had no financial ability to appoint a lawyer and wanted to conduct the case on his own.

Earlier in 2009, war crimes victim and freedom fighter Nimai Chandra Das of Ragheuduttakathi village filed a case against 20-30 people, including Sirajul, Akram and Abdul Latif, with a Bagerhat court after the
The government had initiated war crimes trial.

The case was later shifted to the tribunal-1 and an agency started its investigation into the allegations on May 21, 2013.

Sirajul was arrested in Dema Union Parishad of Bagerhat on July 21 following an order of the tribunal.

**There was no Qaisar Bahini**

*The Daily Star*

August 11, 2014

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**Defence counsels of war crimes accused Syed Mohammad Qaisar yesterday claimed that their client did not form any force named "Qaisar Bahini" and even there was no such force in Habiganj and Brahmanbaria during the Liberation War.**

According to the prosecution, Qaisar had formed "Qaisar Bahini" with four hundred to five hundred people in mid-April of 1971 to assist the Pakistani army that committed numerous crimes against humanity during the war and the testimonies of several prosecution witnesses supported these facts.

But, SM Shahjahan, a defence counsel of Qaisar, yesterday mentioned before the tribunal that several prosecution witnesses testified that Qaisar's hometown Madhabpur of Habiganj was under the control of pro-liberation people until April 27-28 in 1971 and there was no way to form such force there.

Shahjahan said a case was filed against Qaisar under the Collaborators Act, 1972 immediately after the war but he was acquitted from the charges and the case documents did not mention Qaisar as the founder or leader of the "Qaisar Bahini".

Even, the prosecution's documents didn't support their claim, claimed the defence counsel.

When the tribunal asked why Qaisar was tried in absentia in the collaborators case, Shahjahan could not give any answer.

But, according to the prosecution, Qaisar had fled the country at the last part of the war and had returned to home after the political changeover, caused by the assassination of Bangabandhu Sheikh Mujibur Rahman on August 15, 1975.

Shahjahan also placed arguments on first and second charges framed against Qaisar and tried to discredit the testimonies of the prosecution witnesses showing "contradiction and discrepancies" in their depositions.

The three-member International Crimes Tribunal-2 led by Justice Obaidul Hassan with members Justice Md Mozibur Rahman Miah and Justice Md Shahinur Islam adjourned the case proceedings until today, when they will place further arguments.

Qaisar who was a state minister of HM Ershad cabinet, faces 16 charges, including genocide, committed in Habiganj and Brahmanbaria during the war in 1971. The accused, however, pleaded not guilty before the tribunal.

Twelve people including the two have been made accused in the case.
A tribunal in Dhaka today framed five war crimes charges against former Jatiya Party lawmaker Abdul Jabbar for his alleged crimes against humanity committed during the country's Liberation War in 1971.

Jabbar, who was chairman of Mathbaria Peace Committee in Pirojpur in 1971, has been charged with killing, mass killing, looting and forced conversion committed during the nine-month war.

The fugitive suspected had "played a key role" in the formation of the Razakar Bhabini and had "led the force" in committing crimes in Mathbaria area.

After framing the charges, International Crimes Tribunal-1 set September 7 for starting the trial through hearing opening statements.

Both prosecutor Zahid Imam and defense counsel Mohammd Abul Hasan were present at the court room when the charge was framed against Jabbar.

The prosecution on May 11 submitted formal charges against Jabbar.

According to the investigators, Jabbar along with his accomplices forcefully converted 200 Hindus to Islam at Phuljhuri village in the last week of May 1971.

The probe report also cites Jabbar's involvement in killing two freedom fighters in the village.

Apart from that, Jabbar participated in the killing of one person in Phuljhuri and setting fire to 360 houses, the report said.

He and his cohorts on October 6, 1971 detained 37 people of Angulkata and Mathbaria villages of the upazila. Of them, 22 were later killed and the others injured.

Jabbar's involvement was also found in the killing of 11 people, and looting of and setting fire to 60 houses at Noli village of Pirojpur.

Accused in a case under collaborators' act, he became a fugitive after the liberation till political changeover of August 15, 1975. Jabbar then became active in the politics and was elected lawmaker from Mathbaria in 1986 and 1988 with Jatiya Party ticket.

Family members of the martyrs of 1971, freedom fighters and local people of Mothbaria town raised voice when he was given grand alliance ticket for the 2008 election.

According to the war crimes investigation agency, Jabbar has been on run since 2009.

2 War Crimes Accused Held in Netrakona
The Daily Star
August 12, 2014

Two accused in a war crimes case were arrested by Netrakona
police this morning.

The arrestees -- Obaidul Hauque Taher and Ataur Rahaman Noni -- are residents of Mukyrpara in the town, reports our Netrakona correspondent.

The duo was arrested as they were accused of a case filed for killing freedom fighter Badiuzzaman Mukta of Netrakona during the 1971 Liberation War, said Kawser Ahmad, officer-in-charge of Netrakona Sadar Police Station.

Ali Reza Kanchon, a nephew of Mukta, filed the case with the Court of Senior Judicial Magistrate in Netrakona in August of 2010.

Azhar Played Role in Forming Al-Badr
The Daily Star
August 19, 2014

War crimes accused ATM Azharul Islam, president of Islami Chhatra Sangha of Rangpur town in 1971, played an active role in organising Al-Badr, a notorious auxiliary force of the Pakistan army, the prosecution said yesterday.

Prosecutor Zead Al Malum said at least two documents had already been submitted to the International Crimes Tribunal-1 to prove the claim against Jamaat-e-Islami Assistant Secretary General Azharul, who was in the dock at the time.

Referring to a report of Jamaat mouthpiece Daily Sangram, he tried to establish that Azharul had opposed the country's Liberation War.

The report headlined "Rangpur-e dushkritikarider haate Mesbahuddiner shahadat [Mesbahuddin killed by miscreants in Rangpur]" was published on September 13, 1971. Mesbahuddin had been a member of Islami Chhatra Sangha, the then student wing of Jamaat.

As per the report, the then Chhatra Sangha's Rangpur district president Azam Ali and city unit president Azharul Islam in a statement deeply mourned the death of Mesbahuddin. It also says "Indian agents" killed him.

During the Liberation War in 1971, the anti-liberation elements described freedom seekers as "miscreants" and "Indian agents".

Azam and Azharul in the statement also said "miscreants" would not be able to foil the victory of the "Islamic movement" by killing one or two Mujahids (fighters) like "martyr Mesbahuddin", according to the report.

"Indian agents" would not attain their "ulterior motive" behind carrying out atrocities. The "miscreants" became active since they had been offered amnesty by the then president, the statement said, requesting Pakistan president Yahya Khan to show no mercy to the "miscreants".

In September 1971, Yahya declared amnesty to "miscreants" (freedom fighters) and asked them to surrender.

The prosecution has so far produced 19 witnesses, including the investigation officer, and submitted 27 documents to prove six charges brought against Azharul for his alleged involvement in crimes against humanity committed during the war.
The court adjourned the proceedings of the case against Azharul until today. The prosecution will now place arguments on separate charges.

Meanwhile, the tribunal adjourned until October 26 the hearing of a contempt rule issued against four people, including the incumbent editor of Daily Sangram, after the defence sought time.

Meanwhile, the International Crimes Tribunal-2 permitted investigators to quiz detained war crimes suspect Forkan Mallik at a "safe home" at Dhanmondi in the capital.

The three-member tribunal led by Justice Obaidul Hassan passed the order after the prosecution submitted a petition seeking to glean information from the accused about his alleged involvement in crimes committed in Patuakhali during the Liberation War.

The court also directed the prosecution to submit an investigation report or a progress report of the investigation into the allegations brought against the alleged Razakar commander of Mirzaganj upazila of Patuakhali.

On June 25, detectives arrested Forkan in Barisal city following an arrest warrant by a Patuakhali court in a criminal case. One Abdul Hamid of Forkan’s village Shoulabunia of Mirzaganj filed the case in 2009.

In the case, the complaint said Forkan had assisted Pakistan armymen to kill president of Mirzaganj Awami League Abdul Qader Joarder and Debendranath and his wife during the war in 1971.

The investigation agency of the war crimes tribunal has begun looking into the allegations of war crimes against Forkan on receiving the case documents from the Patuakhali court.

In another case against Syed Mohammad Qaisar, state minister of Ershad regime, the tribunal heard the closing arguments of defence counsels for the seventh day yesterday.

Qaisar, the alleged founder of anti-liberation force Qaisar Bahini, faces 16 charges of war crimes, including genocide, committed in Brahmanbaria and Habiganj during the Liberation War.

He has been denying the allegations.

Prosecution Failed to Prove Charges
The Daily Star
August 20, 2014

The defence counsel of war crimes accused Syed Mohammad Qaisar yesterday claimed that prosecution had failed to prove any of the 16 charges brought against his client over his alleged involvement in crimes against humanity and genocide during the Liberation War in 1971.

"I beg your lordship to acquit him [of the charges]," said defence lawyer SM Shahjahan before the three-member International Crimes Tribunal-2 led by Justice Obaidul Hassan.

Shahjahan, on the eighth day of defence arguments, placed his submission on a genocide charge against Qaisar. The prosecution is
expected to rebut defence's arguments today and with that the proceedings of the case will come to an end.

According to the charge, on November 15, 1971, Qaisar led a group of members of 'Qaisar Bahani' and the members of Pakistani armed forces to Daura, Nishcintapur and 20 other villages under Nasirnagar Police Station of Brahmanbaria between 07:30am and 03:30pm.

They created terror by indiscriminate shooting, killing 108 civilians, most of whom were Hindus, and set houses on fire, the charge said.

Displaying a book titled 'Muktijuddhe Brahmanbaria', the defence counsel said the book mentioned the same incident to have taken place from November 10 to November 11.

He also mentioned that Qaisar's father was taken to India by freedom fighters and remained confined there from April 14 to April 30 and that the crimes for which seven charges were framed against the accused took place between April 27 and April 30.

Shahjahan questioned the probability of Qaisar's involvement in any crimes mentioned in the charges as his father was held captive in India at that time.

He also argued over the genocide issue and questioned the reliability of hearsay witnesses.

The tribunal did not accept his arguments as these matters, the tribunal said, had already been settled in earlier judgments in war crimes cases.

TRIBUNAL-1

Meanwhile, in another war crimes case against Jamaat-e-Islami Assistant Secretary General ATM Azharul Islam, prosecutor Tapas Kanti Baul, during the closing arguments, tried to establish how the accused had facilitated the killings of 11 innocent civilians at Dakhiganj Cremation Ground in Rangpur on April 3, 1971.

Quoting the deposition of four witnesses, Tapas said Azhar, the then president of Rangpur district unit Islami Chhatra Sangha (ICS), used to visit Rangpur Cantonment on his 50cc motorcycle, hoisting the Pakistani flag, and hold meetings with Pakistani army officers.

Proceedings in the case were adjourned until today. The prosecution is supposed to continue placing arguments at the tribunal-1 led by Justice M Enayetur Rahim.

Azharul, who is facing six war crimes charges for his alleged involvement in the crimes against humanity and genocide, was produced before the tribunal.

Testimonies Prove Azhar Abetted Killing of 14
The Daily Star
August 20, 2014

The prosecution yesterday said the testimonies of seven of its witnesses had proved that war crimes accused ATM Azharul Islam abetted and facilitated the killing of more than 14 people in Moksedpur village of Rangpur on April 16, 1971.
Placing the closing arguments for the second day at the International Crimes Tribunal-1, prosecutor Tapas Kanti Baul cited the relevant portions of the testimonies to support the claim.

According to the charge, on that day in 1971, Azharul, then president of Islami Chhatra Sangha of Rangpur unit, arrived around 1:00pm at Taxerhat Railgumti under Badarganj Police Station by a train and proceeded towards Dhap Para of Moksedpur. It was pre-planned, and he was accompanied by armed Jamaat-e-Islami, Islami Chhatra Sangha members and the Pakistani army, it says.

On the way, the Pakistani army with the help of Azharul and his accomplices plundered many roadside houses before setting those on fire.


One Yusuf Ali sustained a bullet injury in that incident but died after the Liberation War.

Among the seven prosecution witnesses, three directly witnessed the incident.

One of them, Mokbul Hossain, saw Azharul and two Pakistani army men shoot dead his mother Anjiron Nesa while she was fleeing for life. Mokbul, who was also running for life, saw this from a field.

Another witness, Abdur Rahman, said that on April 16, 1971, the Pakistani army, Azharul and Jamaat supporters came to rail gate no 6 in Rangpur and went to Taxerhat, opening fire on people. Rahman said he later heard from locals that about 14 people were killed.

Prosecutor Tapas said that if the depositions of the witnesses were put together, it proved that Azharul abetted and facilitated the killings.

Jamaat leader Azhar, facing six charges of murder, genocide and crimes against humanity in 1971, was present at the dock yesterday. The tribunal adjourned the proceedings until today.

Meanwhile, the tribunal fixed September 24 for submission of the progress report on the ongoing war crimes probe against three suspects--Sirajul Islam alias Siraj Master, Khan Akram Hossain and Abdul Latif Talukder of Bagerhat. The three were brought to the tribunal yesterday.
Born just over a year ago, Dosmeda Bibi has spent her entire short life confined to a camp for one of the world's most persecuted religious minorities. And like a growing number of other Muslim Rohingya children who are going hungry, she's showing the first signs of severe malnutrition.

Her stomach is bloated and her skin clings tightly to the bones of her tiny arms and legs. While others her age are sitting or standing, the baby girl cannot flip from her back to her stomach without a gentle nudge from her mom.

"I'm scared she won't live much longer," whispers Hameda Begum as she gazes into her daughter's dark, sunken eyes. "We barely have any food. On some days I can only scrape together a few bites of rice for her to eat."

Burma's child malnutrition rate was already among the region's highest, but it's an increasingly familiar sight in the country's westernmost state of Arakan, which is home to almost all of the country's 1.3 million Rohingya Muslims.

More than 140,000 have been trapped in crowded, dirty camps since extremist Buddhist mobs began chasing them from their homes two years ago, killing up to 280 people. The others are stuck in villages isolated by systematic discrimination, with restrictions on their movement and limited access to food, clean water, education and health care.

Even before the violence, the European Community Humanitarian Office reported parts of the country's second-poorest state had acute malnutrition rates hitting 23 percent—far beyond the 15 percent emergency level set by the World Health Organization.

With seasonal rains now beating down on the plastic tents and bamboo shacks inside Rohingya camps, the situation has become even more miserable and dangerous for kids like Dosmeda.

Naked boys and girls run barefoot on the muddy, narrow pathways, or play in pools of raw sewage, exposing them to potential waterborne diseases that kill. Some have black hair tinged with patches of red or blond, a tell-tale sign of nutrient deficiency commonly seen in places experiencing famine.

After a 10-day visit to the area last month, Yanghee Lee, the UN Special Rapporteur on human rights in Burma, summed up what she saw.

"The situation is deplorable," she said.

Myanmar, a predominantly Buddhist nation, only recently emerged from a half-century of repressive military rule and self-imposed isolation. Despite occasional expressions of concern, the United States, Britain and others in the international community have largely stood by as conditions for the Rohingya deteriorated.

Some ambassadors and donor countries say privately that coming down too hard on the new, nominally civilian government will undermine efforts to implement sweeping reforms and note there has already been a
dramatic backslide. Others don't want to jeopardize much-needed multi-billion dollar development projects in the country.

But their hesitancy to act has emboldened Buddhist extremists, now dictating the terms of aid distribution in Arakan State.

Last month, even Bertrand Bainvel, country representative for the UN's children's agency Unicef—which says the number of severe malnutrition cases has more than doubled between March and June to reach nearly 1,000 cases—apologized for the use of the word "Rohingya." It was uttered during a presentation about projects for kids in Arakan, rather than the government-insisted term "Bengali."

He promised that Unicef would not use the word again, those present at the meeting said, though he sidestepped repeated queries from The Associated Press about the incident.

The government claims ethnic Rohingya are illegal migrants from neighboring Bangladesh and denies them citizenship, even though many of their families arrived generations ago. With their dark South Asian features, they are looked upon with disdain by the vast majority of the nation's 60 million people. Even Nobel Prize winner Aung San Suu Kyi, whether for reasons personal or political, has remained largely silent as members of the religious minority have been chased down by knife-wielding mobs.

Conditions in the camps—and elsewhere in Arakan—went from bad to worse in February after the government expelled their main health lifeline, the Nobel-prize winning Doctors Without Borders (MSF).

A month later, other humanitarian groups were temporarily evacuated after extremist Buddhists stormed their residences and offices, saying they were giving Muslims preferential treatment. Many have since returned, but their operations have been severely restricted.

Doctors Without Borders has remained barred. In a move apparently timed to US Secretary of State John Kerry's arrival in Burma on Friday, the government said the aid group could get back to work, though it remains unclear when that will happen and what conditions will apply.

Reshma Adatia, Holland-based Doctors Without Borders operational adviser, said Kerry and other foreign ministers attending a regional meeting in Burma this weekend should pressure the government to allow all aid groups to return immediately without restrictions.

"It's important for foreign governments and international actors to really push that access to essential humanitarian assistance is required, and it's required today," she said. "We're talking about hundreds of thousands that are at risk right now."

The father of Dosmeda, the malnourished baby, died at sea while working as a fisherman just before she was born.

After Buddhist mobs attacked the family's home, her pregnant mother, Hameda Begum, moved into the Ohn Taw Gyi camp outside Sittwe.

Unable to work, and without a husband to help, she had a hard time finding enough to eat in the months leading up to her due date. When the baby was born, the 18-year-old mother was unable to produce milk.
"I could only give her what adults ate—rice or ground-up fish," Hamedda said of her first child. "But the food rations we got were small. Sometimes we didn't get any at all."

She knew her baby was sick, but she didn't understand malnutrition was to blame.

"She just kept getting skinnier and skinnier," she said.

The first two years of a child's life—when the brain and body are developing—are critical for physical and mental development. Without adequate nutrition, little girls like Dosmeda are prone to stunting, a condition that will shape the rest of their lives. As adults, they are weaker, prone to illnesses and have limited cognitive capacity. They are also likely to be less productive on the job, studies show, earning lower wages that keep them stuck in poverty.

Dosmeda is now getting help from France-based Action Against Hunger, one of the only foreign aid organizations that has been allowed to continue operating in the camps. But she continues to wither, looking worse by the day. The baby is the only family the young mother has in the camp, and she's desperate to save her.

"All I can think about all day is my daughter. How can I help her? How can I make her healthy, give her a longer life?" Hamedda said. "If something happens, I don't know what I'll do. I don't think I can live without her."

**Route Home Blocked for Child Soldiers**  
Democratic Voice of Burma  
August 19, 2014

**A full two years after the Burmese government pledged to release all children from military service, many young victims of underage recruitment remain trapped in the army's ranks.**

Under a 2012 agreement between Naypyidaw and the United Nations Children's Fund, all underage recruits were to be sent home to their families.

Yet some soldiers say they were recruited as minors and that the Burmese military hasn't done enough to tackle the problem. They say bureaucratic processes are deliberately keeping young soldiers from returning to their families.

"I applied for discharge at the end of 2012, and the only development since that time was when my battalion received a fax indicating that I would be discharged soon," said an under-aged recruit who wished to remain anonymous. "I have received no update for over a year."

On the first of August, the Burmese government was widely praised for the release of 91 children and persons under the age of 18. The United Nations children's fund, UNICEF, congratulated the government, stating that the action indicated a real commitment to upholding international law.

While several such releases have granted freedom to some 360 children since the agreement was made in 2012, the piecemeal release of coerced under-aged recruits has done little to relieve the heartache of parents still longing for their lost boys.
"We just really want to have our son discharged," a parent of one such boy told DVB. "It has been a long while, a very long while."

The Burmese government's pledge also guarantees freedom for those who were recruited as minors but have since come of age while serving in the military. For those young persons, bureaucratic stumbling blocks are often preventing them from being discharged.

"There are usually delays when a [child soldier] seeking to discharge cannot provide all necessary paperwork," said Thet Wai, an activist working with Facilitators Network, which is partnered with the International Labour Organization (ILO). He said that even when soldiers present all of the necessary paper, authorities are creating delays during processing measures, which he argues betrays "their lack of respect for the law".

As the government stalls on the release of children already serving in the military, many say that even more are still being forced into the ranks. The ILO believes that about 50 youths have been forcibly recruited since 2013.

Charu Lata Hogg, the Asia programme manager for Child Soldiers International, told DVB earlier this month that without reforms to recruitment procedures, accountability and monitoring, Burma's children will remain at risk; some are kidnapped from temples or markets, others duped into enlisting with the promise of an education.
who remain in Afghanistan after the pullout, has been delayed by problems with Afghanistan’s presidential election. The agreement must be signed by whoever becomes president.

The U.S.-led International Security Assistance Force in Kabul said in a statement Tuesday that it remains "committed to protecting the Afghan people" and has worked with Afghan forces to reduce casualties and minimize civilian risk while conducting operations. It said there has been a "significant reduction in ISAF-related civilian casualties," which have decreased by 77 percent in the past year. ISAF said it also "thoroughly investigates all credible reports" of such casualties when possible.

Visiting officials from Amnesty said they had met with NATO military officials in Kabul in the past two days.

The report criticized the U.S. military justice system, saying it had failed to hold American troops in Afghanistan accountable for abuses. It called on the future Afghan government to ensure that accountability for unlawful civilian killings is "guaranteed" in any future security agreements signed with the United States.

In brief interviews Monday, several survivors and witnesses described some of the alleged coalition attacks investigated by Amnesty researchers. Nader Shah, 37, a farmer in Nangahar province, said five of his relatives had been shooting birds with shotguns one night last fall when they were attacked by U.S. helicopters in their village. He said there had been no Taliban activity in the area.

"We were told that the Americans had technology that could tell who had dangerous weapons or not, but they killed my cousins and my other relatives just for shooting birds," Shah said, speaking in Pashto. "We heard explosions and people screaming, and we ran and found everyone dead."

A village leader from Laghman province, Abdul Mana, 30, described a 2012 incident from the report in which a NATO airstrike allegedly killed seven women at night. He said the women had stepped out to gather firewood and were killed by U.S. attack helicopters.

"Everyone in the village recognized that they were American," Abdul Mana said. He said village leaders had complained to local NATO officials and had met with President Hamid Karzai, who promised compensation to victims' families. "Those who are behind this should be prosecuted and brought to justice," Abdul Mana said.

In a statement Monday after Karzai met with Amnesty officials, his office said that he was "happy" they had investigated the incidents and that his "principal focus" in recent years had been to stop such civilian killings. "This has been the major source of tension between our government and our allies," the statement quoted him as saying.

Olof Blomqvist, an Amnesty official in Kabul, said the group's most significant conclusion was "the shocking lack of justice and the impunity in cases where people are allegedly killed by U.S. and NATO forces." The report said U.S. prosecutions for alleged military abuses here have been "extremely rare."

In one of the few such prosecutions, the U.S. military charged Army Staff
Sgt. Robert Bales in the massacre of 16 villagers in Kandahar province, including women and children, in March 2012. He pleaded guilty in a trial at a U.S. military base last year and was sentenced to life in prison without parole.

U.S. Victims of Hamas Terror Attacks Go After Bank
Washington Post
By Associated Press
August 13, 2014

Steve Averbach was seated on a packed commuter bus in Jerusalem in 2003 when a Hamas suicide bomber disguised as an Orthodox Jew set off an explosion that left the New Jersey native paralyzed.

More than a decade later, Averbach's family - he died in 2010 - and about 140 other American victims of two dozen terror attacks in Israel, Gaza and the West Bank during a Palestinian uprising from 2001 to 2004 want the Jordan-based Arab Bank to pay a price as well. A civil trial that's set to begin Thursday in federal court in Brooklyn will see the victims try to convince a jury that the bank helped Hamas finance a "death and dismemberment benefit plan" for martyrs. It comes after a lengthy legal battle over what evidence jurors will see and amid a backdrop of renewed hostilities between Israelis and Palestinians.

Lawyers for the plaintiffs call it the first terrorism financing case to go to trial in the United States and say it could result in the bank paying unspecified damages. Arab Bank, which has hundreds of branches around the world, including in New York and in the Palestinian territories, has denied it knew it was doing business with terrorists when it processed electronic transfers.

"Arab Bank has great sympathy for all victims of terrorism but is not liable for the tragic acts described by plaintiffs," it said in a statement.


The suit accuses Arab Bank of setting up accounts to channel funds from an organization run by the Saudi government, the Saudi Committee for Supporting Al Quds Intifada, to at least two militant groups, Hamas and Palestinian Islamic Jihad. It also alleges that bank officials were aware that the funds were for an insurance program that provided a standard benefit worth more than $5,000 to the families of Palestinians who were killed in attacks on Israel, including suicide bombers.

The case had stalled in recent years as the bank fought demands that it turn over customer account information and other financial records, arguing that doing so would violate banking secrecy laws in Jordan and elsewhere. In 2010, a judge issued sanctions against the bank for its "recalcitrance" in withholding evidence - a penalty that would allow the court to instruct the jury that it could infer that it knowingly worked with terrorist organizations.

The ruling was later upheld by an appeals court. When Arab Bank asked the Supreme Court to intervene, the court sought the U.S. government's input on whether it should hear the case - a request that reportedly
created a dilemma for President Barack Obama's administration on how to respond in a way that wouldn't harm diplomatic relations with Jordan.

A brief filed by Solicitor General Donald B. Verrilli Jr. described the Arab Bank as "a constructive partner with the United States in working to prevent terrorist financing" and "a leading participant in a number of regional forums on anti-money laundering and combating the financing of terrorism." But Verrilli concluded the Supreme Court should not intervene and should let the case play out, and the court agreed.

Another federal judge in the same Brooklyn courthouse threw out the case of a U.S. man wounded in the Middle East who sought to hold Arab Bank liable for providing material support to Hamas.

"Moral blame should only follow if the harm caused by providing bank services to terrorists is foreseeable," U.S. District Judge Jack Weinstein wrote. He added: "Hamas is not the defendant; the bank is. And the evidence does not prove that the bank acted with an improper state of mind or proximately caused plaintiff's injury."

Panelists Say Corporate Responsibility Extends to Cybersecurity, National Security
Bloomberg
By Adrianne Appel
August 18, 2014

Businesses have a responsibility to know what data in their company needs to be protected from cyberattacks and why because the nation's security depends on it, panelists at the American Bar Association Annual Meeting in Boston said Aug. 9.

The panel, which include high-ranking government cybersecurity officials, a member of Congress and a contract research scientist for the government, addressed some of the thousands of lawyers attending the meeting.

On Aug. 12, the ABA announced that at the meeting its House of Delegates passed a resolution calling on "all private and public sector organizations to develop, implement, and maintain an appropriate cyber security program." In 2013, the ABA House of Delegates adopted a separate cybersecurity resolution calling for an end to government-sponsored hacking of networks utilized by lawyers.

Determining Vulnerabilities Companies need to determine where their cybersecurity vulnerabilities are, Sean Kanuck, national intelligence officer for cyber issues at the Office of the Director of National Intelligence, said. "What are you trying to protect, from whom and why? What is it that they want from you?" Kanuck said during a panel on cybersecurity evolution and response planning.

Companies have a responsibility to safeguard their clients' data, Kanuck said. "Think about how careful you are supposed to be with their money," he said. "Do you treat their data the same way?"

Companies should expect that they will get hacked and put systems in place so they can continue to operate once targeted, Harriet Goldman, director of advanced cyber at MITRE Corp., said.

"If someone wants to get at your customer information, they will be successful, even with good cybersecurity," Goldman said. "Make the
A cyberattack on a business that is part of the nation’s critical infrastructure rises to the level of a national security issue, Suzanne Spaulding, under secretary at the National Protection and Programs Directorate, Department of Homeland Security, said.

"What happens if the electricity goes out, can we deliver water?" she asked. "If the transportation infrastructure goes down, what are the cascading effects?"

Rep. Jim Langevin (D-R.I.) said threats to the U.S. "come not only from peer or near-peer nations bent on destruction or on economic advantage but also from criminal groups that possess state-level capabilities and have immense skills, great financial incentive, and in many cases legal havens that afford them almost complete sanctuary."

More Regulation Needed Langevin said he is worried that critical infrastructure businesses, including utilities, haven't added cybersecurity protections. In February, the National Institute of Standards and Technology finalized voluntary cybersecurity framework designed to arm critical parts of the private sector against attacks.

In May, Langevin successfully pushed for an amendment to the House Commerce-Justice-Science appropriations bill for fiscal year 2015 to require the Department of Commerce to assess the extent to which companies have adopted the NIST framework.

"The government needs the ability to step in and require basic protections," as was the case with the airline industry, Langevin, co-founder of the Congressional Cybersecurity Caucus, said. "Carriers have every financial incentive to act safely to get passengers from A to B," he said. "Yet we still need the Federal Aviation Administration."

Policies that penalize utility companies if they spend ratepayer money on cybersecurity need to be removed, Langevin said. "We should give industry more certainty that they won't be penalized," he said.

Congress Should Encourage Insurers Insurance companies are beginning to consider cybersecurity among companies they insure, and this will push the business community toward tighter security, Langevin said. "Clearly insurance companies have a stake in whether their clients, especially the owners and operators of critical infrastructure, are taking needed steps to secure their networks," Langevin said. He added that Congress can encourage the insurance industry forward through incentives in stand-alone legislation or through incentives that would accompany updates to the NIST framework.

On the consumer side, a metric should be established so that shareholders can easily see that a company has a level two of cybersecurity or a level three, Langevin said. "It will go a long way toward making sure companies step up and do what they should," he said.

"There are real questions about the disclosures that companies are making to their shareholders regarding their vulnerabilities in cyberspace," Langevin added.

The SEC's Division of Corporation Finance issued guidance in October
Third-Party, BYOD Security When looking at where the vulnerabilities are within a business, it is important to consider third parties, Kanuck said. "You may have consultants and auditors who have access to your data but who don't have the same security practices as you," he said. Likewise, it is important to know who your clients are, Kanuck said. "Are they who they say they are?" he said.

Employees and the devices they use are another area to scrutinize, especially if a business has a bring your own device (BYOD) policy, Kanuck said. After a device goes home with an employee, anyone may end up using it. "When you have a BYOD policy, whatever is happening in that household or wherever it may travel, all that is coming into your institution," he said.

Industries need to develop best practices for cybersecurity, with benchmarks, he added.

Police Warn Sharing James Foley Killing Video is a Crime
The Guardian
By Josh Halliday
August 20, 2014

Scotland Yard has warned internet users they could be arrested under terrorism legislation if they viewed or shared the video of James Foley's murder, as Twitter and YouTube attempted to remove all trace of the footage from the web.

Twitter suspended dozens of accounts that published the graphic footage while YouTube tried to remove several copies of the video, which was first uploaded on Tuesday night.

Twitter CEO Dick Costolo tweeted: "We have been and are actively suspending accounts as we discover them related to this graphic imagery. Thank you."

The unprecedented social media clampdown came as the Metropolitan police warned that even viewing the video could constitute a criminal offence in the UK.

The force said in a statement: "The MPS counter-terrorism command (SO15) is investigating the contents of the video that was posted online in relation to the alleged murder of James Foley. We would like to remind the public that viewing, downloading or disseminating extremist material within the UK may constitute an offence under terrorism legislation."

The video was shared hundreds, if not thousands, of times by Twitter users who reacted with shock and horror at the slaying. But several Twitter accounts connected to British jihadis, who previously claimed to be fighting alongside Islamic State militants in Syria, were careful not to publish the video - most likely over fears that their accounts would be closed.

One of the Twitter users, who used the moniker Al Britaniyya, retweeted a photograph of a burning Stars and Stripes and said: "So the US want to bombarded us with air strikes in iraq and not give a damn whos killed but want cry when a dusty journalist is killed."
"By Allah we won't forget our muslim brothers and sisters who were killed by United States of shaytiaan the blood of a muslim is not cheap.

And in time they to [sic] shall weep as our mothers weeped [sic] for their children." Another mocked the outpouring of grief for Foley and described journalists as "a cult within themselves". A third posted: "Why shouldn't America be angry after all an American life is worth 10x a Muslims."

The extremists are among many hundreds being closely monitored by the intelligence services. Raffaello Pantucci, director of international security studies at the Royal United Services Institute, studied the Twitter accounts of some prominent western Isis fighters.

He said: "They're all very gleeful about it. It seems to be the usual reaction of 'This is a wonderful thing' and 'Why does the world get so excited when an American is killed when dozens are killed in Gaza?' It's a classic reaction."

**Attorney General Visits Missouri Town for Meetings on Fatal Shooting**
**Reuters**
By Scott Malone and Carey Gillam
August 20, 2014

Attorney General Eric Holder met with community members in Ferguson, Missouri, on Wednesday and vowed a thorough civil rights probe into the fatal police shooting of an unarmed black teenager that has set off 12 nights of racially charged protests.

Holder, the first African-American to head the Justice Department, spoke in person with students and then community leaders at a community college during a visit to Ferguson for a briefing on a Justice Department investigation into the Aug. 9 killing of 18-year-old Michael Brown.

He later met privately with Brown's parents at the St. Louis U.S. Attorney's Office, but no details of that session were immediately available.

Also on Wednesday, a grand jury investigating the fatal shooting began hearing evidence in the case, though protesters stepped up their demands that the local criminal inquiry be turned over to a special prosecutor.

Before a briefing at local FBI headquarters, Holder said the thrust of his department's probe differed from the investigation conducted by local authorities.

"We are looking for violations of federal, criminal civil rights statutes," he said.

The Justice Department is seeking specifically to determine whether federal prosecutors can bring criminal charges against Darren Wilson, the police officer who shot Brown, for violating Brown's civil rights by use of excessive force.

His visit came hours after dozens of protesters were arrested in the latest street disturbances. Many of the protests have been peaceful, but others, especially smaller ones late at night, have been punctuated by looting, vandalism and clashes between demonstrators and police.

EYES OF THE WORLD The turmoil has cast the St. Louis suburb of 21,000...
people into the international spotlight as a symbol of often troubled U.S. race relations. Ferguson is predominantly black, but its police force, political leadership and public education administration are dominated by whites. Activists and demonstrators have complained that Brown's death was the culmination of years of unfair police targeting of blacks.

An hour before sundown on Wednesday, a few dozen protesters began marching peacefully along a main thoroughfare that has been the scene of nightly demonstrations and sporadic violence.

The group chanted: "Hands up, don't shoot," which has become demonstrators' rallying cry, as they moved along a street fronted by businesses with boarded-up windows and the ruins of a gasoline station burned out in a previous night of unrest.

A thunderstorm and heavy rains struck just after dark, scattering demonstrators, including an angry crowd that had surrounded a couple carrying a pro-police sign. Officers intervened to rescue the couple and escorted them to safety.

Some protesters returned to the streets as showers abated.

Among students meeting with Holder at St. Louis Community College was Molyric Welch, 27, who said her brother died three years ago after Ferguson police used a stun gun on him.

"A lot has happened here," she said. "He (Holder) promised things were going to change."

But Melvin Brown, 61, a pastor visiting Ferguson from Rockford, Illinois, to support the protests, was skeptical. "I don't have any faith in it," he said. "The whole system is corrupt."

GRAND JURY St. Louis County Prosecuting Attorney Bob McCulloch said his office could continue presenting evidence to the grand jury - which meets once a week - through mid-October as he confronts conflicting pressures for speed and thoroughness.

"On one side, people are saying: 'You're rushing to justice,' and on the other side, they're saying: 'You're dragging this thing out,'" he told a news conference. "We're going to present this as expeditiously as possible, but we are not going to present it in a half-hearted manner."

Outside McCulloch's office, scores of protesters led by clergy members called for his removal from the case. They also demanded the appointment of a special prosecutor, an expedited grand jury proceeding and the immediate arrest of the 28-year-old officer involved in the shooting. Wilson has been placed on leave and gone into seclusion.

McCulloch's father was a police officer killed in the line of duty by a black man, and his critics say he has a record of discriminatory handling of cases involving police and suspected mistreatment of blacks.

"There is no trust in Bob McCulloch," said Clinton Stancil, senior pastor of Wayman AME Church in St. Louis. "We are seeking justice. We don't think he can be fair."

McCulloch has repeatedly promised a fair and impartial investigation.
Accounts of Brown’s slaying differ. According to police, Wilson reported that Brown reached into the policeman’s cruiser when Wilson approached him on the street, then grabbed for the officer’s gun.

A companion of Brown said the teenager was initially shot after the officer tried to grab him through the car window and again after Brown staggered back with his hands in the air.

Holder said during his visit that he had assigned the most experienced agents and prosecutors to the investigation.

Hundreds of people have already been interviewed and federal medical examiners have performed an independent autopsy, the third conducted in the killing.

The case has reignited a national debate over racial disparities in the U.S. criminal justice system and has drawn sharp words from top U.N. officials and human rights groups about police tactics and respect for civil liberties.

Police say thugs and outside agitators have caused most of the trouble at the nightly demonstrations.

On Tuesday, protesters were fewer in number and more subdued than on previous nights. But the relative calm dissolved just before midnight as police in riot gear ordered lingering demonstrators to disperse, then charged the crowd to make about 50 arrests.

One officer from a neighboring community was suspended from duty for pointing a semi-automatic assault rifle at a peaceful protester, before a superior stepped in, forced the officer to lower his weapon and escorted him away from the scene, the St. Louis County Police Department said.

After Foley Killing, U.S. Defends Refusal to Pay Ransom to Terrorist Groups that Kidnap Washington Post
By Karen DeYoung and Adam Goldman
August 21, 2014

The Obama administration sharply defended its refusal to negotiate with or pay ransom to terrorist groups that kidnap, following the videotaped execution this week of American photojournalist James Foley by the Islamic State.

"We believe that paying ransoms or making concessions would put all Americans overseas at greater risk" and would provide funding for groups whose capabilities "we are trying to degrade," Marie Harf, a State Department spokeswoman, said in a briefing Thursday. Harf said it is illegal for any American citizen to pay ransom to a group, such as the Islamic State, that the U.S. government has designated as a terrorist organization.

In late 2013, more than a year after Foley was captured while reporting on Syria's civil war, his family received several e-mails from the Islamic State, including one demanding 100 million Euros, about $133 million, for his freedom, according to GlobalPost, Foley's employer. The amount, many times the ransom demanded for other Western hostages, indicated that the Islamic State was not serious about releasing Foley, U.S. officials said. His family and GlobalPost agreed, said Richard Byrne, the company's vice president and director of communications. "I don't think there was a negotiation," he said.
GlobalPost has said that it shared with federal officials all communications it received from the kidnappers, including a final e-mail last week saying they were about to execute Foley.

Earlier this summer, U.S. Special Operations forces had tried to rescue Foley and three other Americans known to be held by the Islamic State. Defense Secretary Chuck Hagel on Thursday described the raid - in which one U.S. service member was injured - as "flawless" and said that the intelligence indicating the hostage location was correct.

The hostages apparently had been moved. According to an activist in the north-central city of Raqqah, which is controlled by the Islamic State, the rescue attempt took place over the July 4 weekend. The hostages were being held at a training camp and makeshift prison about 25 miles east of Raqqah, said the activist, who spoke on the condition of anonymity because he feared for his safety. He said that a large convoy of trucks had left the facility the day before the raid.

Three other Americans are known to be held by the Islamic State, including Steven Sotloff, a freelance journalist who was threatened in the video that showed Foley's beheading. The other two are not journalists, and were in Syria for humanitarian purposes. Harf and other administration officials acknowledged that other countries have negotiated with, and paid ransom to, terrorist kidnappers. Four French and two Spanish journalists were released by the Islamic State earlier this year, reportedly following ransom payments. It is unclear whether the money was paid by their companies, their governments or their families.

One of the four, Nicolas Henin of the French magazine Le Point, who said he was imprisoned for seven months alongside Foley before he was released in April, said Thursday that "some countries, many countries, actually do negotiate." Asked why he was released, Henin said in an interview with the BBC that "I don't know if it is money, or it is prisoner exchange." Harf said that ransom payments are "one of the main ways ISIL has been funded. .?.?.We believe just in 2014 that that's in the millions of dollars." ISIL is one of several acronyms that refer to the Islamic State.

Britain also has refused to pay ransom to terrorists for hostages. Harf said the administration is in "conversations" with countries that have a different policy.

British officials said Thursday that they are investigating the identity of the masked, knife-wielding man who read a statement threatening attacks against the West before slitting Foley's throat.

Prime Minister David Cameron has acknowledged that the man, who spoke with what experts say is a London accent, is "likely British," but officials have not divulged any other details about his identity.

Britain's Guardian newspaper, based on the account of a former Islamic State hostage, has reported that the executioner was one of three British nationals who guarded foreign captives in the Raqqah area. Because of their nationalities, the three apparently were known as "the Beatles." Didier Francois, another French journalist who was held captive with Foley before being released with Henin, was asked in an interview on Europe 1 radio whether he recognized the executioner. "Recognized is a very big word. I see roughly who it is," he said.
François said the freed French journalists had been threatened by their captors and told not to speak publicly about those who were left behind. "If you make public the fact they are being held or that you were together, reprisals will follow against them," he said. "Their exact words were: 'They'll be punished.'"

Security analysts said British authorities may have a good idea of the killer's name and background, having used voice-recognition technology, as well as other details apparent from the video, including his height.

About 500 Britons have gone to Syria to join the civil war there - most of them with the Islamic State - and their movements and communications are closely tracked by British intelligence. Many have made no secret of their whereabouts, boasting on Twitter and Facebook of their latest attacks, and calling their relatives back home.

"There's a very strong chance this person has spoken to friends and family in the U.K.,” said Sajjan Gohel, director for international security at the Asia-Pacific Foundation.

South & Central America

Argentina

Bolivia Deports Argentine 'Dirty War' Officer Paez
BBC
August 11, 2014

Bolivia says it has extradited an Argentine ex-officer accused of crimes against humanity committed under Argentina's military rule (1976-1983).

The officer, Jorge Horacio Paez Senestrari, was captured on Friday in the Bolivian city of Santa Cruz.

He is accused of torture and aggravated homicide in Argentina's north-western San Juan province.

An estimated 30,000 people were tortured and killed during this period, in a campaign known as the "Dirty War".

On the run Mr Paez, 68, had been on the run since 2011 and Interpol had issued a red notice, the highest possible alert, for his arrest.

He was detained in an apartment he had rented in Santa Cruz, which police said he only left at night for an hour at a time to buy basic supplies.

Bolivian Interior Minister Jorge Perez said Mr Paez had "played a direct role in Operation Condor", a plan under which the military governments of
Argentina, Bolivia, Brazil, Chile, Paraguay and Uruguay collaborated to eliminate their political opponents in the 1970s and '80s.

Mr Paez served as a captain in the 22nd Mountain Infantry Regiment.

He had been held in a prison in the Argentine province of San Juan pending his trial, but a court had ordered his release in 2011.

When he failed to attend a court hearing, police issued an international warrant for his arrest.

His trial on charges of crimes against humanity is now expected to resume.

Investigations into human rights abuses committed under Argentine military rule have led to the imprisonment of key figures of the military junta, including that of Gen Jorge Rafael Videla who died in prison last year while serving a life sentence.

Colombia

Rebel Commander Vows FARC Will Accept Consequences of Victimization
Columbia Reports

August 9, 2014

The FARC's supreme leader, "Timochenko," vowed on Friday that his rebel group will "explain as much as possible" about victimization and "accept the consequences" of the rebels' actions in the 50 years of armed conflict against the state.

In an editorial published on the FARC's website, the FARC leader assured that his group will accept the "corresponding consequences" of civilian victimization during 50 years of violence.

Timochenko group is currently negotiating peace with the administration of President Juan Manuel Santos and in the process of allowing victim representatives to the peace talks table while a historic or truth commission will be formed to clarify responsibility for the millions of victims of the decades-long military conflict.

However, the FARC leader stressed that "holding us responsible for all evil is the fashionable topic, always has been. Distorting what we say, manipulating it, demonizing it."

"We are of the best disposition, which undoubtedly exists, to explain as much as will be necessary and assume the corresponding consequences, knowing we will face the lowness and deceit of those who desperately aspire to annihilate us."

"We are of the best disposition, which undoubtedly exists, to explain as much as will be necessary and assume the corresponding consequences, knowing we will face the lowness and deceit of those who desperately aspire to annihilate us," Timochenko said.

In the same editorial, the FARC boss said his organization refuses to take full responsibility for the violence, and called on state institutions,
mainstream media, Colombia's political dynasties and economic power houses to take responsibility for what the FARC considers their contribution to political violence that has cost more than 220,000 lives since 1958.

"We plainly reject, for being directly opposed to the historic reality, the idea that the ruling class, its traditional political parties and proxies of today, its governments, the State in general, economic powerhouses, the mainstream press and many other sectors in the shadows of power, have their hands clean of Colombian people's blood." said Timochenko.

Consequently, the FARC insist that signing a peace accord must guarantee that "Colombia does not continue to be the same. In this we are different from our adversaries. They just want to get rid of us in order to not change anything, so everything continues the way it. They growl and threaten when this becomes complicated, but there's no way, we are different than them."

Timochenko's vow to carry the consequences of his actions as rebel leader comes at a time the United Nations and the National University are forming victim representatives' groups to engage in the talks.

The FARC and the government previously admitted their role as victimizers in the conflict, after which a process began to involve the victims in creating processes that can lead to asking forgiveness and compensating victims.

In the event the two negotiating teams and victim representatives find agreement, the negotiators will discuss a bilateral ceasefire, the logistics of ending the war, disarmament, and the reintegrating of rebel fighters and active supporters.

Once demobilized, the FARC will be subjected to a system of transitional justice that could allow lower-ranked fighters to enter reintegration programs rather than prison, and offer lower than common sentences to commanders.

The government and rebels began formal talks in late 2012.

FARC Guerrilla Leader Rejects Legal Framework as Peace Talks Resume with Colombia's Government

Columbia Reports

August 12, 2014

The lead negotiator for Colombia's largest armed group, the FARC has reiterated the group's opposition to the legal framework for peace, on Tuesday, as the latest rounds of peace talks with the government began. Tuesday's peace talk round began with what many believe is the most sensitive point of the six-point agenda for the talks in Havana, how to deal with the victims of 50-year-old conflict.

Both sides of the ongoing conflict blame the other for the war that has killed 220,000 people and caused more than five million others to flee their homes.

"This matter is very important because it is going to hand us the keys to clear the path toward the reconciliation of the Colombian family," said
FARC's chief negotiator Ivan Marquez, quoted in French newswire AFP.

But just as the talks get under way again, FARC's chief negotiator, Ivan Marquez, rejects to abide the legal framework and transitional justice in a press release published Tuesday on the grounds that it has not been discussed with them.

"This legal framework doesn't exist because it hasn't been agreed by both parties. The General Agreement infers that none of the parties can claim exclusive rights to define in a unilateral way topics that haven't been discussed at the table", Marquez said before the start of the 27th round of conversations, according to FARC press release.

Among other things the legal framework for peace states that FARC members convicted of war crimes against humanity can not hold public offices or participate in politics.

According to Colombia's RCN Radio, Marquez said that initiatives as the legal framework tramples the smooth progress of the peace talks and "puts us on alert".

The government delegation, led by former vice president Humberto de la Calle, made no statements to the press, local newspaper reports. On Saturday the first 12 of 60 victims will deliver their testimony, so their demands are considered in an eventually agreement. So far the government and FARC have partially reached agreement on three points out of six. The three in mention concerns a land reform, which provides a land bank to reallocate land seized under the decades long conflict, political participation for FARC members and and fighting the drug trafficking that has fueled the conflict and filled FARC's treasury.

The peace talks are President Santos' main priority and when he took office for a second term last week, he promised to end the conflict. His campaign that led to reelection mainly focused on the peace process.

The government did not respond with an official statement, but Prosecutor-General Alejandro Ordonez was quoted as striking out against the FARC's statement.

"This proves what we have said repeatedly, and what we're going to keep saying: What FARC wants is absolute, complete and militant impunity," Ordonez said according to Colombia's LA FM radio station.

"There is no doubt that victims of paramilitary violence or the State should be compensated. But those who are sitting in Havana are the perpetrators of FARC, they have to tell the truth, give reparations to their victims, recognize its victims. These episodes delegitimize the process."

Colombia Conflict Victims Face Victimizers at FARC Peace Talks in Cuba

Columbia Reports

August 16, 2014

The first 12 of 60 victim representatives met with the delegations of rebel group FARC and the Colombian government in Cuba to discuss the treatment of victims in the event of a peace deal between the country's oldest rebel group and the state.

Each victim met individually with the delegations and was given some 15
The victims are accompanied by representatives from the United Nations (UN) and the National University (NU), who have been selecting the victims and have organized several victim forums to allow other victims to speak their mind of victims' role in the ending of the 50-year-long armed conflict. The first group of victims consists of victims of the several parties involved in the conflict; Five are victims of FARC atrocities, three victims of state atrocities, three victims of state-aligned paramilitary groups and one representative of victims of unknown perpetrators. Military victims of war crimes and family members of killed politicians have criticized the victims representation and have demanded presence at the peace talks.

Their claims are controversial as the state and its security forces are among the primary victimizers in the conflict.

Senator Sofia Gaviria (Liberal Party), whose brother was killed by the FARC and whose politically powerful family has faced accusations of ties to paramilitary groups, told Caracol Radio that the government and the FARC had been manipulating which victims to allow to the talks. This was denied by the government delegation chief, former Vice-President Humberto de la Calle, who on Friday stressed that the UN and the NU, and "not the government or the FARC have chosen this group of victims."

According to De la Calle, "the victims were chosen taking the critically chosen and agreed criteria to guarantee the pluralism and balance of the victims' presence in Cuba."

At the beginning of Saturday's meeting both victims and negotiators from the warring parties held a minute of silence to commemorate those who were killed in the 50 years since rebel groups like the FARC and the smaller ELN took up arms.

The organizers reported on Twitter that the meeting proceeded "behind closed doors and in an atmosphere of respect."

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TOPICS

Terrorism

David Cameron to look at Tougher Laws to Curb Jihadi Threat
The Telegraph
By Steven Swinford
August 21, 2014
David Cameron has said he is prepared to consider "even tougher" laws to counter terrorism, but refused to recall Parliament.

The Prime Minister said he was "deeply shocked" by the murder of James Foley, which he condemned as a "brutal and barbaric act". He said it was "increasingly likely" that his killer was British.

Mr Cameron broke off his holiday in Cornwall to chair a meeting in response to the crisis, during which he pledged to "redouble" efforts to stop British extremists travelling abroad to join the Islamic State in Iraq and the Levant (Isil). He insisted that Britain will "not get involved" in another Iraq war and put "combat boots on the ground", as he said the country would demonstrate its "resolve and patience".

Mr Cameron is expected to remain in Downing Street for now, but could return to his holiday later this week. He refused to recall MPs from their holidays to debate Britain's response to the crisis, despite repeated calls by Tory backbenchers.

Philip Hammond, the Foreign Secretary, said British troops could travel to Iraq to train Kurdish forces in a significant escalation of the country's involvement in the conflict.

He said the Government was "absolutely aware" that a significant number of British nationals, thought to be about 400, have travelled abroad and been involved in "terrible crimes, probably in the commission of atrocities".

Speaking after his meeting with ministers and officials, Mr Cameron said: "Let me condemn the barbaric and brutal act that has taken place, and let's be clear what this act is - it is an act of murder, and murder without any justification.

"We have not identified the individual responsible, but from what we have seen it looks increasingly likely that it is a British citizen.

"This is deeply shocking. But we know that far too many British citizens have travelled to Iraq and travelled to Syria to take part in extremism and violence. And what we must do is redouble all our efforts to stop people from going.

"To take away the passports of those contemplating travel, to arrest and prosecute those who take part in this extremism and violence. To take extremist material off the internet and do everything we can to keep our people safe. And that is what this Government will do.

"Here at home we have clear laws, tough laws and of course we'll always look at new proposals for even tougher laws to deal with terrorism or extremism. But this is not a time for a knee-jerk reaction, it is time for what Britain always shows in these circumstances, and that is resolve."

Downing Street sources confirmed that Mr Cameron had watched the video in which a masked and robed man, speaking with a London accent, beheads Mr Foley.

During the meeting in Downing Street, Mr Cameron and officials discussed "refreshing" police guidance to make it clear that people
should be arrested for "inciting or supporting terrorism" by handing out leaflets or flying the Isis flag.

Intelligence agencies have been working to establish the identity of the man using voice recognition software to see if he is someone already known to the services. They are examining the footage to try to establish where the beheading took place, while they are also trying to establish who uploaded the video.

They are also working on the theory that the man who killed Mr Foley may not be the same individual who speaks in the video. The services have also been working to remove the video from the internet, amid fears that it could encourage other extremists to travel to Syria and Iraq. The meeting discussed how Britain has already used its powers to withhold the passports of 23 individuals to stop them from travelling over the past year.

Nigel Farage, the UK Independence Party leader, said ministers should go further and revoke the citizenship of Britons who become jihadists. He said: "I would say that in choosing to quit the UK to fight abroad, they have rendered themselves effectively stateless by conforming to an ideology of wanting to create a terrifying caliphate. If they choose to leave the UK they simply should not be allowed to return."

"Where intelligence identifies UK nationals fighting for Is their repatriation absolutely should be blocked."

Terrorism trial of Mideast Bank Worries the Financial World
The New York Times
By Stephanie Clifford and Jessica Silver-Greenberg
August 13, 2014

The judge called it the Beirut account.

It was a basic bank account at Arab Bank's Al-Mazra branch in Beirut, Lebanon, unremarkable except for the name on the account: Osama Hamdan, a spokesman for the terrorist group Hamas.

For the six years Mr. Hamdan maintained the account, at least three wire transfers sent to it were earmarked for Hamas, transactions that officials at Arab Bank vetted and initialed, the plaintiffs say.

Now, the Beirut account is at the center of a trial in Federal District Court in Brooklyn, where the plaintiffs say the case will shed light on the shadowy and interconnected network that finances terrorists.

The account and ones like it make up a critical financial infrastructure for a network that, at times, operates like a Social Security system for terrorists, the plaintiffs say. Family members were instructed to go to Arab Bank branches to collect charitable funds after their relatives died in a terrorism attempt, the plaintiffs say.

While American authorities have prosecuted banks for processing tainted money, this is the first civil trial against a bank under the Anti-Terrorism Act. Opening arguments are scheduled for Thursday.

Sarri Singer was on a bus in Jerusalem in 2003 when a suicide bomber blew himself up. She is one of 297 plaintiffs suing Arab Bank over 24 attacks attributed to Hamas, which they say used an account at the
The trial is to begin in Brooklyn on Thursday. Credit Damon Winter/The New York Times

The case has a long history of controversy. It has split the Obama administration and drawn the attention of the Supreme Court, and has the government of Jordan, where the bank has its headquarters, arguing that it opens the entire Middle East banking infrastructure to severe risk. And it has some bank executives watching the trial with frayed nerves, concerned that a finding of liability here could mean that doing business in many areas of the world may become too risky.

Arab Bank contends that it properly screened for terrorists, checking names against the applicable lists of individuals and organizations designated as terrorists. As soon as Mr. Hamdan was added to one of those lists in 2003, the bank says, it shut down the account. A series of harsh rulings, however, has limited the bank's ability to defend itself at trial. A dispute over the bank's failure to turn over evidence requested by the plaintiffs led Judge Nina Gershon to rule that the jury would be instructed that "it may, but is not required to, infer" that the bank provided financial services to designated terrorist organizations and individuals, and that it processed payments to terrorists for a charity called the Saudi Committee.

Judge Gershon also restricted the bank's ability to offer information at trial that could counter that inference. The 297 plaintiffs represent those who were killed, injured or had a family member killed in 24 Hamas attacks from 2001 to 2004. The plaintiffs argue that Arab Bank handled transactions on behalf of people or organizations it knew were associated with terrorism.

One of the plaintiffs, Sarri Anne Singer, then a New Jersey resident, was on bus No. 14A in Jerusalem in June 2003 to meet a friend for dinner. A suicide bomber a few seats away detonated his bomb, killing at least 16 people. Ms. Singer was struck by shrapnel, and survived the attack, for which Hamas claimed responsibility.

Another group of plaintiffs, the Sokolow family, lived on Long Island and was vacationing in Israel in 2002. They were exiting a shoe store near their hotel when a suicide bomber blew herself up. Mark and Rena Sokolow and two of their daughters, Jamie and Lauren, all suffered injuries. The plaintiffs allege that charities like the Saudi Committee sent payments to terrorists and their families that the bank processed, pointing to a Saudi Committee spreadsheet that listed "the names of martyrs and their beneficiaries, as well as the martyrs' causes of death," according to an order from Judge Gershon.

The plaintiffs also have as evidence ads like one that ran in an Arab-language newspaper in 2002: "The relatives of the martyrs, whose names hereby follow, are requested to head for the Arab Bank branches in their places of residence in order to receive the tenth payment from the honorable Saudi Committee - a sum of 5,316.06 USD for each family."

That sum was the precise amount a man named Shuhail Ahmad Isma'il al-Masri received via Arab Bank, according to a wire transfer record that plaintiffs obtained. Mr. al-Masri said in a television interview that he received the money as a "salary" because he was the father of the suicide bomber who attacked a Sbarro pizza parlor in Jerusalem in 2001, killing or injuring 130 people, including some of the plaintiffs in this case.
Arab Bank, however, maintains that it had nothing to do with selecting the Saudi Committee payment recipients; it screened the transactions against blacklists, and none were flagged (the terrorists' relatives, who received the payments, were not listed on the blacklists, the bank says). The Saudi Committee has never been designated as a terrorist-affiliated group on an official American list, it says, and of the 180,000 Saudi Committee transactions run through Arab Bank during this period, the plaintiffs are questioning only a handful. Some of that defense may not be heard at trial because of Judge Gershon's order, which the bank appealed. Bank officials said they were prohibited from turning over a huge number of requested documents because of foreign bank secrecy laws. The Court of Appeals for the Second Circuit declined to review Judge Gershon's ruling; the appeal then went to the Supreme Court, which asked the Obama administration for guidance.

The response was hardly straightforward. State Department officials supported Arab Bank, saying Jordan was a helpful American ally. The Justice Department's national security division did not want to intervene against American victims of terrorist attacks. And tax and Treasury officials sided with the plaintiffs because their efforts to crack down on tax evasion through foreign accounts would have been hampered had foreign-bank secrecy laws superseded those of the United States.

Jordan also weighed in, saying that "forcing Arab Bank to stand trial under the sanctions order" could harm the bank's economic and reputational standing, and "could lead to economic and political instability in a region that can ill afford any more of either." The Supreme Court ultimately declined to hear the case, allowing the judge's sanctions to stand. The stakes of the civil case are high, and not just for Arab Bank but for the banking industry, several lawyers who handle bank business say. They say a victory for the plaintiffs could further accelerate a wide-scale retrenchment among banks doing business in strife-torn areas. At its most extreme, a verdict against Arab Bank, some bank lawyers worry, could mean that banks could be on the hook for wrongdoing by their clients even if the financial institutions followed banking rules.

The government is simultaneously trying to prevent tainted funds from coursing through the American financial system, and those investigations have already ensnared some banking giants, including the British bank HSBC and France's BNP Paribas. For large European banks, processing those payments into dollars was a lucrative business - one that American prosecutors say led them to open their doors to countries like Iran.

BNP Paribas, France's largest bank, pleaded guilty to rare criminal charges and paid a record $8.9 billion penalty for processing billions of dollars on behalf of Sudan.

Those came after a string of cases against Lloyds, Credit Suisse, Barclays and Standard Chartered. All the banks reached deals with American authorities over accusations that they did business with countries facing United States sanctions.

Together, those cases have cast a chill throughout the industry, leading
a number of banks to eliminate some high-risk businesses altogether. JPMorgan Chase, Bank of America and Citigroup, for example, have all whittled down their money-transfer services to areas like Mexico.

In New York Counterterrorism Sting, a Setback for Federal Law Enforcement
The Washington Post
By Adam Goldman
August 14, 2014

When Ahmed Abassi arrived in the United States for the first time in March 2013, the Tunisian student settled into a historic, neo-Gothic apartment building in Manhattan's Financial District.

Unknown to him, the apartment was wired with audio recording devices, and Abassi's American host was an undercover FBI agent. Abassi, then 26 and suspected of terrorism ties, had landed in an FBI sting, part of an elaborate operation that stretched from New York to Quebec City to a small town in Tunisia.

Abassi was caught on tape discussing "the principle that America should be wiped off the face of the earth," with people he believed to be co-conspirators, one of whom was the FBI agent, according to court records. At one point, Abassi suggested "putting bacteria in the air or in a water supply."

But last month, Abassi, who declined to be interviewed, pleaded guilty to relatively minor charges that did not include any terrorism enhancements that could have sent him to prison for years, and he is not contesting a deportation order.

The case was a rare setback for the FBI and federal prosecutors, which have successfully targeted suspected terrorists using sting operations, typically ending with the defendants about to embark on what they believe is a terrorist attack with fake weapons or bombs supplied by the bureau. Guilty verdicts and long prison sentences follow.

According to a recent report by Human Rights Watch, nearly 50 percent of the more than 500 federal counterterrorism convictions since the Sept. 11, 2001, attacks have "resulted from informant-based cases; almost 30 percent of those cases were sting operations in which the informant played an active role in the underlying plot."

Among the more prominent prosecutions, a Moroccan man was convicted for planning a suicide bombing at the Capitol. Amine Mohamed El Khalifi, an illegal immigrant who lived in Alexandria, was arrested wearing a suicide vest that he believed to be real and had been provided by undercover FBI agents. In Portland, a Somali-American was convicted of planning to remotely detonate an 1,800 pound bomb at a Christmas tree lighting ceremony. The device was, in fact, inert and had been supplied by the bureau. In one 2009 case, the FBI arrested a group of men in New York state - the "Newburgh Four" - and charged them with plotting to blow up a pair of synagogues in the Bronx with fake bombs provided by an informant. Human rights groups allege that the government is making terrorists out of people who otherwise would not have the ability or the will to move forward with an attack. "The government pursues people with mental or intellectual disabilities or people who are desperately poor with an
aggressive informant or undercover agent to get them to agree to commit terrorist acts," said Andrea Prasow, deputy director of Human Rights Watch's Washington office.

And the use of sting operations has also drawn some criticism from the bench. In the Newburgh case, the federal judge said the government "made them terrorists" and said the "buffoonery" of one of the defendants was "positively Shakespearean in scope." But no defendant, including in the Newburgh case, has successfully claimed in court that he was entrapped by overzealous investigators. At a recent security forum in Aspen, Colo., former FBI director Robert Mueller defended the bureau's tactics against charges of entrapment. Mueller said agents and prosecutors go to great lengths to make sure they do not cross that line.

"We know at the outset that anytime we do this that the defense is going to be entrapment and there has to be substantial predication to get over that hurdle," he said. "It's been the defense in probably dozens of terrorism cases that have been tried since Sept. 11. And I challenge you to find one of those cases in which the defendant has been acquitted asserting that defense. I don't believe there is one out there." Abassi was arrested last year and charged with two counts of fraud and misuse of visas to facilitate an act of international terrorism. Federal prosecutors in the Southern District of New York withdrew the terrorism enhancements against Abassi before they could be adjudicated, and some activists said an entrapment defense might have tested the government's winning record.

An FBI spokesman in New York declined to comment.

Abassi was more talker than terrorist and resisted attempts to move beyond words to direct action, according to his attorney, Sabrina P. Shroff, a federal public defender. She described the case against her client as a failed entrapment in which the government attempted to prey on Abassi's "bad thoughts and bad speech."

Abassi first came to the attention of the FBI in Canada, where he was studying for an engineering degree at Laval University in Quebec City, according to court records. His family said his sister followed him to Canada, where he also met and married a Tunisian woman. Among Abassi's new circle of friends was Chiheb Esseghaier, a doctoral student. The FBI and Canadian authorities began to suspect that Esseghaier and Abassi were part of a terrorist cell, according to court records.

Esseghaier introduced Abassi to a man from New York, Tamer El Noury, who said he was born in Egypt and had immigrated to the United States when he was a child. He looked like one of Abassi's favorite performers, a Syrian singer named George Wassouf. The two got along famously. When in Quebec, Noury came to Abassi's house to eat.

Neither Abassi nor his wife, Yousra, ever suspected that Noury was an FBI agent. "We had no idea," his wife said in an interview. The New Yorker appeared wealthy and said he ran a successful real estate company in the city. As a wedding gift, he said he would pay for Abassi and Yousra to visit Manhattan, she said.

Abassi declined the invitation, and instead he and his wife flew to
Tunisia in December 2012 to renew their wedding vows. "We danced, we invited all our relatives and friends and we enjoyed together," his wife said. The euphoria didn't last. That month, the Canadians revoked Abassi's visa without explanation. Officials decided to test Abassi's willingness to conduct an act of terrorism.

Noury began what Abassi's attorney described as an aggressive campaign to get her client to come to New York from Tunisia. Cut off from his wife, who was able to return to Canada to finish her education, Abassi seemed determined to secure a new visa so he could return to her side. He wanted to finish his master's degree, and he had a job offer with a major mining company. But no Canadian visa was forthcoming. Noury called Abassi's wife in February 2013.

"We can get him in New York where he can stay with me in the apartment, or he will have his own apartment, and if, God willing, you can take some time off from work, we can bring you here to stay with him so that you can spend some time together," said Noury, according to a transcript of the call. Abassi agreed to fly to New York after U.S. law enforcement arranged a visa for the "sole purpose of advancing the investigation," according to court records. In March 2013, Abassi flew to John F. Kennedy International Airport, where he was briefly questioned by immigration authorities. Noury met him at the airport. The two drove to the downtown apartment, where the call to prayer sounded electronically five times a day to highlight Noury's piety. The undercover agent provided Abassi with a cellphone and laptop. The rent was free. An unexpected visitor soon arrived: Esseghaier, who said he was attending a scientific conference in New York. The three men met frequently. Authorities say Esseghaier told Abassi about his plans for a terrorist attack. But Abassi did not want any part of them, frustrating the conspirator, who urged Noury to throw him out of the apartment. Esseghaier called Abassi "useless" and not a "true brother."

Abassi continued to make inflammatory statements, however. He argued that the Koran allowed "Muslims to attack Americans in the same ways Americans had attacked Muslims, including the killing of women and children," according to court records. On April 22, 2013, Abassi was questioned by the FBI. Prosecutors said he lied repeatedly about his relationship with Esseghaier and whether he knew the Tunisian planned to engage in terrorism. The FBI arrested Abassi. That same day, Canadian authorities took Esseghaier and another man into custody, charging them with conspiracy to attack an Amtrak train traveling from New York to Toronto. U.S. prosecutors said Abassi acknowledged possibly radicalizing Esseghaier, and that the two had talked about committing terrorist acts, according to court records. They said Abassi did not want to participate in Esseghaier's plans only because "the number of American casualties from such an operation would be too few."

Shroff said her client did not radicalize Esseghaier. "If you actually listen to the conversations between Chiheb [Esseghaier] and Ahmed, you'll realize Ahmed is talking about words and verses from the Koran," his attorney said. "He's telling Chiheb what's in the Koran. That is not radicalizing." Authorities also said the men had received guidance from members of al-Qaeda.
end the U.S. operation against Abassi prematurely because the Canadians were concerned about the threat Esseghaier posed and arrested him. The official said more will come out about the men, including Abassi, when Esseghaier goes on trial in Canada. The official said the men were part of a cell and presented a serious threat, one the FBI helped eliminate.

"It was a good case," the official said. Abassi spent months in jail, part of that time in a segregated housing unit, before his attorney received transcripts of the FBI recordings. Shroff said it was apparent to her that Abassi had not provided the evidence the FBI needed to make its case, that he had not stepped over the line into active participation in a plot.

Prosecutors seemed to reach a similar conclusion. They told Shroff they would drop the terrorism enhancements if Abassi agreed to plead guilty to the charges that included putting false information on an application for a green card - the same one the undercover agent helped him complete - and making a false statement to immigration officials.

"Mr. Abassi would not be asked at the time of the plea, if he accepted this offer, to in any way admit that either of these crimes touched on a crime of international terrorism," Assistant U.S. Attorney Michael Ferrara told the judge during a hearing in April. Ferrara would not discuss the case, but another U.S. law enforcement official said there were considerations if the case went to trial, including revealing the true identity of the FBI undercover agent.

"There were strategic discussions," the official said. "We had a good undercover who would then be exposed. Was it worth it to get a couple of extra years in prison? It's not clear the judge would have given him more time." The official added that Abassi pleaded guilty to a felony and "will never again be in the U.S. That's much better than letting him float around out there and never be charged at all."

For Shroff, the reason prosecutors backed off is clear: "He was entrapped," she said. At sentencing, prosecutors called for a longer prison term than the six months suggested by the guidelines, arguing that Abassi was far more dangerous than "simply an immigration fraudster" and had "dangerous, extremist views."

In a phone interview, his sister Amira Abassi said: "My brother is not a monster. That is the reality. He is not evil." On July 16, Judge Miriam Cedarbaum waved away government calls for a stern sentence. The 84-year-old judge told Abassi to stay clear of trouble. "I hope that you will think very seriously about the events of the last year and will decide to always abide by the laws of the United States," she said. "And if you do that, I wish you good luck."

Abassi is being held in an immigration detention facility in New Jersey, where he awaits deportation to Tunisia.

Palestinian Shift Brings War Crimes Case Closer to Isreal
Reuters
By Anthony Deutsch and Dan Williams
August 7, 2014

The possibility of a war crimes investigation into the conduct of
Israeli forces in Gaza, until recently unthinkable, has grown after the Palestinians said this week they wanted to become a party to the International Criminal Court.

The world's permanent war crimes court in The Hague declined two years ago to investigate allegations against the Israeli military in 2008-2009, citing the uncertain legal status of the Palestinian Authority.

A lot has changed since then. Fresh allegations of war crimes have flowed in recent weeks from fighting in Gaza, where Israel responded to a surge in rocket attacks by Hamas militants with air strikes and a ground incursion. The Palestinians this week unexpectedly said they are just one procedural step away from ICC membership.

The legal groundwork for such a move was laid in Nov 2012 when the 193-member U.N. General Assembly overwhelmingly approved the de facto recognition of the sovereign state of Palestine by upgrading the Palestinian Authority's observer status to "non-member state" from "entity."

If the Palestinians were to sign the ICC's founding treaty, the Rome Statute, the court would have jurisdiction over crimes committed in the Palestinian territories.

With Palestinian authorization, an ICC investigation could then examine events as far back as July 1, 2002, when the court opened with a mandate to try individuals for war crimes, crimes against humanity and genocide.

"If Palestine applies it will be admitted to the ICC," John Dugard, international law professor and a former U.N. Special Rapporteur for the Palestinian territories, told Reuters.

"The U.N. has spoken and it has recognized the state of Palestine and it is now for the ICC to admit Palestine. I cannot see how that can be resisted." Dugard said the Palestinians could then ask prosecutors to investigate alleged crimes in July and August in Gaza, but also the legality of Israeli West Bank settlements.

"The settlements are an ongoing crime and it is quite clear that the settlements constitute a war crime under the Rome Statute and that is what Israel is desperately worried about," Dugan said.

Israel says the settlements are legal, as it captured the West Bank from Jordan, rather than a sovereign Palestine, in the 1967 Middle East war. War crimes accusations accompanied Israel's incursion into Gaza in July. Given the far higher toll of civilian deaths and destruction on the Palestinian side, a U.N. inquiry was launched into human rights violations. Israeli officials said force was used proportionately. But Israel's closest ally, Washington, called the shelling of a U.N.-run school "disgraceful".

State Department spokeswoman Jen Psaki called for a probe into attacks on U.N. schools in densely populated Gaza. "While they have the right to defend themselves, there is more they can do" to prevent civilian deaths, she said. Gaza officials say 1,874 Palestinians, most of them civilians, have been killed, while Israel counted 64 soldiers and
three civilian deaths on its side.

Israeli officials said the hostilities were justified self defense against militant attacks and that all efforts have been made to avoid civilian deaths. Roughly 47 percent of those killed in Gaza were combatants, Israel said. One Israeli official, who spoke on condition of anonymity because the legal strategy is confidential, said the Israeli government is planning a defense of the Gaza operation and that counter-claims, including against the administration of President Mahmoud Abbas, could follow if the ICC launches a case.

"We are talking about terrorism involving officials, security personnel and others, from his administration, and emanating from areas under his control," the official said. Israel has taken great care to adhere to the laws of war and conducts internal investigations to ensure military personnel follow rules of conduct and morality, the official said. Israeli forces destroyed or damaged some 3,000 homes in Gaza during this war, according to Palestinian estimates. The Israelis don't dispute attacking homes, but Israeli jurists said they were pre-vetted and approved as legitimate military targets. Richard Kemp, a retired British army colonel who formerly commanded forces in Afghanistan and Iraq and has been studying the Israeli military's doctrine, believes the operations were conducted within the law. "That does not mean that in the heat of the moment it would not be possible for an individual soldier or commander to act outside the laws of war," he said.

"That kind of adherence to the law does not preclude accidental killing of civilians. If it is done accidentally, if it is not a general theme or policy of negligence, then that is not a deliberate breach. Accidents happen in every army." The ICC, with 122 member countries, is a court of last resort, meaning that it intervenes only when a state is unable or unwilling to prosecute alleged crimes. The United States, China and Russia have notably not joined. On top of criticism of being sluggish, prosecutors also have faced criticism from analysts for only bringing charges against Africans, while atrocities in conflicts in the politically-sensitive Middle East, such as Iraq, Syria and Egypt, go unpunished. The ICC defends its procedures.

"The selection of situations and cases, and persons to be investigated, is always an independent prosecutorial decision based on the Rome Statute legal framework and the evidence collected. Geographical and political consideration will thus never form part of any decision making," the prosecutor's office said in a statement to Reuters.

ICC membership has been described by diplomats and officials as the Palestinian "nuclear option" because it is the key leverage the Palestinians hold in negotiations. It would also expose the Palestinians themselves to possible prosecution. Nearly a month of fighting in Gaza "left us no choice" but to seek a case against Israel at the ICC, Palestinian Foreign Minister Raid al-Malki said on Tuesday after meeting with prosecutors to discuss joining the court.

"An investigation by the ICC is becoming crucial in the absence of a real system of accountability, due to the existence of a pervasive culture of impunity given to Israel and resulting from the lack of action by the international community," he said.

Malki said "there is no difficulty for us to show or build the case. Israel
is in clear violation of international law. Factions within the Palestinian Authority are divided about joining the ICC and analysts say Hamas is unlikely to agree if its leaders might be prosecuted. Hassan Al-Aouri, legal advisor to President Mahmoud Abbas, told Voice of Palestine radio on Wednesday that Hamas and the Islamic Jihad have rejected the idea of ICC membership.

"We are trying to convince them it is necessary to go to the court," Aouri said. "At the end of the day the president is the one in charge and the leadership will study the issue and will make a decision."

Even if the ICC were to issue arrest warrants against officials in Israel and the Palestinian territories, it is uncertain how they would be brought to trial. The ICC has no police force and relies on the cooperation of member states to transfer suspects to The Hague.

Piracy

Piracy Still a Threat- Maritime Security Union
Defense Web
August 11, 2014

In spite of a global drop in maritime piracy, the threat still remains, especially off West Africa and sporadically off the Horn of Africa, according to the World MarSec Union.

Dave Daniel Rachimi, CEO of the World MarSec Union (WMU), noted that there are still occasional acts of piracy along the Yemeni and Omani coastlines, and there has been a significant rise in piracy activity in the Straits of Malacca, as well as in Malaysian and Indonesian waters - the International Maritime Bureau has recorded 133 incidents of piracy and robbery at sea around the world for the first seven months of this year. Rachimi told defenceWeb that piracy has risen enormously off Nigeria, Benin and Togo. For example, on 9 August a product tanker 200 nautical miles off Nigeria was attacked by up to three pirate boats operating from a suspected mothership. The pirates fired on the vessel and unsuccessfully attempted to board it, according to Dryad Maritime.

"It is unusual to see an attempted hijack of an underway tanker at such ranges from the shore and the numbers of craft involved suggest that this was an attempt at cargo theft. This could be a real game changer for this specific type of crime if repeated; one that would match the strategic shock earlier in the year when a tanker, MT Kerala, was snatched from an anchorage off Angola," said Ian Millen, Chief Operating Officer of Dryad Maritime. "The victim vessel was in transit between a Gulf of Guinea port and a destination further south. If the departure and destination ports were known, and the mother ship had a suitable equipment fit, it is possible that the pirates could sit along the likely route and intercept the vessel whilst underway."
With attacks against ships still ongoing and the nature of pirate operations changing, it seems there is still the need for maritime security. Private maritime security companies (PMSCs) are quick to point out that no ship with armed guards on board has ever been hijacked Rachimi told defenceWeb that his union, the only PMSC union in the world, was set up to protect tankers, cargo vessels, container vessels, cattle ships, passenger vessels and general cargo vessels. The idea for the union originated four years ago out of a need to regulate the business of securing ships that travel in pirated waters.

Members pay a yearly fee to join the union under the conditions that they uphold its rules and protocols, meaning that they are expected to conduct business under the highest standards of the law, and to treat each member and associates fairly and justly. "We only hire trained military to protect cargo and we vet various PMSC companies so that if a ship owner would use our resources they are basically guaranteed a safe and lucrative mission," Rachimi said.

One of the benefits of the WMU is that it is able to offer economies of scale through its ability to purchase mission equipment in bulk. This extends to 35 high risk area (HRA) ports and includes armoury vessels, protective gear, satellite phones, kidnap and ransom insurance, security guard insurance, flights, hotels etc.

At the moment WMU counts 35 PMSCs that use its services (this totals 15% of all registered PMSCs), including members and non-member PMSCs. Membership is being expanded to agents, logistical partners, etc. Going forward, WMU will use an independent external examiner to test weapons proficiency, medic kits and operating procedures before, during, and after a mission.

**Maritime Workers Threaten to Withdraw Service Over Pirates Attacks in Bayelsa**

*Hellenic Shipping News*

August 18, 2014

**Maritime workers in Bayelsa State have threatened to withdraw their services in protest over incessant pirates' attacks on passenger boats in the creeks in recent times.**

Lamenting what they described as the insensitivity of the state government to their plight, the boat operators, under the auspices of the Maritime Workers Union of Nigeria, have issued a two-week ultimatum to the government to address the insecurity on the waterways, failure of which they will withdraw their services.

Mr. Lloyd Sese, Chairman of Maritime Worker Union, on Thursday, in Yenagoa, said that the waterways was no longer safe for any meaningful business due to the incessant attacks on passenger boats by the rampaging pirates leading to the death of some boat drivers and passengers. Governor Seriake Dickson had last week approved the appointments of a former leader of the defunct Movement of the Emancipation of the Niger Delta (MEND), Ebikabowei Victor-Ben, A.K.A. Boyloaf and 10 others into its special task force to curb criminality in the creeks.

It is hoped that the ex-militants, who know the creek better than most people will be able to help the government curb criminality in the area.

**Piracy Gets Lucrative Again**
August 19, 2014: Recently there was another piracy incident near the Malacca Strait. On July 15th pirates boarded the MT Oriental Glory, an 85 meter (276 feet) long tanker going from Singapore to Borneo with a valuable cargo; 2,500 tons of marine (for ship engines) diesel.

The cargo was worth over two million dollars and the pirates got it all. The small tanker was missing for several days because the pirates had someone with them who knew how to disable the communications systems and disable the engines.

The pirates apparently had another tanker or barge standing by to offload the marine diesel. The pirates also looted the ship of any portable valuables but simply locked up the crew of fifteen. Three crewmen were slightly injured during the nighttime takeover. This was the ninth such pirate attack since April and police believe it is the same gang.

These pirates are well organized, apparently research their targets carefully and use competent people to board the target ships at night and quickly overwhelm the crew. These pirates are armed but disciplined and don't fire unless they have to. The pirates know that as long as they don't kill anyone there will not be a major police effort to hunt them down.

This sort of thing is part of a pattern that evolved even before an international effort to suppress Somali piracy succeeded in the last few years. While the Somali piracy was being suppressed there was a major increase in attacks in the Straits of Malacca and the South China Sea. Big as in a sevenfold increase from 2009 to 2013 (when there were 150 attacks).

There was also a jump (to 50 attacks a year) off Nigeria. What made Somalia so special was the fact that that ships and crews could be taken and held for ransom for long periods.

Everywhere else the pirates were usually only interested in robbing the crew and stealing anything portable that they could get into their small boats. Off the Nigerian coast pirates occasionally take some ship officers with them to hold for ransom. But off Nigeria and the Malacca Strait some pirates have developed more complex but much more lucrative tactics. This involves recruiting someone who knows how to find and turn off tracking devices as well as someone familiar with marine engines. Then the pirates use their own personnel or force the crew to move small tankers to remote locations where most of the cargo (of oil) can be transferred to another ship and later sold on the black market.

While that sort of thing requires a lot of organization, nerve and luck there have been at least two pirate gangs, one in Nigeria and another from somewhere around the Malacca Strait (Singapore, Malaysia or Indonesia) that have figured out how to do this. Nevertheless most of the attacks off Nigeria and Malacca Strait are still armed robbery.

Given the amount of portable electronics on a seagoing ship (both
company and personal), a half dozen armed pirates can net several thousand dollars per ship hit. There are fences on shore who pay cash for this stuff and quickly move it out of the country. But stealing several thousand tons of fuel oil from a small tanker is worth a thousand times more.

While there are plenty of targets off Nigeria, there are even more near the Malacca Strait. Over 50,000 large ships moving through the Strait of Malacca each year and nearly as many of the smaller ships the pirates favor for cargo hijacking. That's lots of targets. The 800 kilometer long strait is between Malaysia and Indonesia and is 65 kilometers wide at its narrowest and depth are generally 27-37 meters (90-120 feet). The shallow and tricky waters in the strait forces the big ships to go slow enough (under 30 kilometers an hour) for speed boats to catch them.

There's no easy solution to the piracy in the Strait of Malacca. Pirates usually function on the margins of society, trying to get a cut of the good life in situations where there aren't many options. This is usually in areas where state control is weakest or absent, in failing and "flailed" states. A flailing state is something like Nigeria, Indonesia, or the Philippines, where the government is managing to keep things together but is faced with serious problems with regions that are sometimes out of control. In a failed state there are areas where there isn't much government at all and pirates can do whatever they want most of the time. With the Strait of Malacca the problem is that there are a lot of poor (or not so poor but very ambitious) people in the area with access to boats and experience using them in the ocean. Speeding along next to a huge tanker or container ship at night in the Strait of Malacca and using a grappling hook or very tall ladder to get aboard is not for the faint of heart or anyone with no experience on the water. But as more of these attacks succeed more people are tempted to try and more are doing that.

Nigeria's Airforce Showcases Plane to Fight Sea Piracy
The New Nigeria
August 20, 2014

Nigeria's military on Tuesday took the wraps off a new aircraft to tackle high-seas pirates off the country's coast, as well as maritime hijackers and oil thieves.

The high-tech plane is one of seven to be operated by the state-run Nigerian Maritime Administration and Safety Agency (NIMASA) and the Nigerian Air Force.

It includes sensors, radar and Electro-Optic Surveillance and Tracking (EOST) equipment, which houses three cameras to monitor ships in Nigerian waters, said Sergeant Sunday Olalekan Omotosho.

"When fully operational, no vessel can escape our coverage," he told reporters before a demonstration flight from Lagos to Escravos in the Niger Delta and over offshore platforms in the oil-producing southeast.

The 20-seat plane can fly as low as 200 feet (60 metres) above the sea and passes on information about maritime traffic to the navy, who can intervene with fast-attack craft if necessary, he added.

An air force officer takes control "Our aim is to fight all manner of
Guyana Seeks Tracking System to Help Fight Piracy
The New Zealand Herald
August 20, 2014

**GEORGETOWN, Guyana (AP)** The South American country of Guyana says it will deny operating licenses to boat owners if they don't install tracking systems to help repel pirate attacks.

Fisheries Minister Leslie Ramsammy said Tuesday that the systems would allow officials to monitor boats and suspicious activities. At least six fishermen have been killed in pirate attacks this year and several others remain missing in waters between Guyana and neighboring Suriname.

Ramsammy said a new licensing system will be imposed next year and that authorities will conduct inspections at sea to ensure boat owners are complying.

Gender-Based Violence

Botswana: UN Teams Up Against Gender-Based Violence in Botswana
AllAfrica
August 6, 2014

**Nine United Nations agencies have launched an ambitious new programme to eliminate gender-based violence (GBV) in Botswana, which affects nearly two-thirds of all women across the country, and large numbers of children.**

"[In Botswana], men still dominate the political landscape, and the issue of violence against women and girls is of great concern. Socially and culturally-constructed norms and roles have shaped gender relations, leading to unequal power relations," said the Minister of Labor, Edwin Jenamiso Batshu.

"Gender-based violence is in many cases effectively keeping women away from participating fully in society and in the labor market, from expressing themselves and from realizing their full potential," said Anders Pedersen, the UN Resident Coordinator at the launch of the programme.
The scheme will work at all levels to end the practice. It will mobilize political, traditional leaders and establish a youth committee to raise nationwide awareness of the issue. In doing so, the initiative will involve increased numbers of young men as advocates.

In addition, the programme will focus on strengthening law enforcement, access to justice and assistance to victims, and create new mechanisms to monitor how well these services are being provided.

Because gender-based violence and HIV/AIDS are so closely linked with one another, the programme will also learn from Botswana's reporting methods on the disease and adapt them to measure the evolution of GBV.

Gender-based violence has been identified as a significant driver of HIV/AIDS infections in women in Botswana and Africa, and international organizations are increasingly focusing on the elimination of the practice as key in the battle against the spread of the epidemic.

**Perugia Couple Arrested For Female Mutilation**

The Local

August 7, 2014

A couple in Perugia have been arrested for allegedly circumcising their daughters, a practice known as female genital mutilation which has affected tens of thousands of women in Italy.

The couple were arrested in the province of Perugia on Wednesday, La Nazione reported today. Police stepped in after being told by local health authorities that the two girls had undergone female genital mutilation (FGM), a potentially fatal procedure in which a girl's genitals are cut or otherwise damaged.

Their parents are from Nigeria and may have taken them abroad for the procedure, which is outlawed in much of Europe, La Nazione said. The couple can, however, be prosecuted under Italian law, as their children were born in Italy and are residents of the country.

FGM was criminalized in Italy in 2006, carrying a prison sentence of up to 12 years. People who profit from practicing FGM on children can see their punishment upped by a third, while healthcare professionals can be struck off for up to ten years for being involved.

Although the nature of the crime makes it difficult to determine its prevalence, a 2009 study said there were 35,000 women in Italy living with FGM. The first such case was brought before the Italian courts in 1997, but as of 2009 there had only been two cases in the country, according to the report by the European Institute for Gender Equality (EIGE).

**In Iraq, Captured Yazidi Women Fear the Islamic State Will Force Them to Wed**

The Washington Post

By Liz Sly

August 16, 2014

Hundreds of Yazidi women who were captured by Islamic
extremists during their sweep through the town of Sinjar are being incarcerated at scattered locations across northern Iraq in what increasingly looks like a deliberate attempt to co-opt them into service as the wives of fighters.

As the militants with the al-Qaeda-inspired Islamic State surged into the area from surrounding Arab villages two weeks ago, snaring those who had not managed to flee, they showed a marked interest in detaining women, notably the youngest and prettiest, according to witnesses, relatives and in some instances the women themselves.

Women were separated from men, then younger women were separated from older ones and most were shunted off in buses or trucks. Once in custody, the women are presented with a bleak choice.

Those who convert to Islam can be promised a good life, with a house of their own and - implicitly - a Muslim husband, because the extreme interpretation of Islam promoted by the Islamic State does not permit women to live alone.

Otherwise, they have been told, they can expect a life of indefinite imprisonment - or, they fear, death.

The accounts of the women's capture and detention have been assembled from multiple interviews with Yazidi refugees, witnesses, activists and women who have been able to reach out to the outside world using cellphones they were carrying when they were detained. The identities of the women, and some of the specifics of their accounts and communications, are being withheld to protect them from being discovered by their captors. The accounts point to a chillingly deliberate effort to harness the women into the service of the Islamic State's project to create a caliphate across the Muslim world, by persuading them to convert and then marrying them to the men of the group. The women "are considered apostate, and it is haram [forbidden] for Muslims to marry a non-Muslim," said Hoshyar Zebari, a senior Kurdish leader who until recently served as Iraq's foreign minister. He puts the number of women detained at more than 1,000.

"Many fighters came from foreign places without wives, so they want the women to convert so that they can become brides of the jihadis," he said. Exactly how many women have been caught up in the dragnet is unclear. The Iraqi government claims that 1,500 women have been detained and 500 men executed in the brutal blitz by the extremists through the Sinjar area, where a majority of the residents are Yazidis but some are Christian, Shiite or Sunni Arab. Women from other sects also have been detained, but the majority of the captives appear to be Yazidis, whose beliefs are considered heretical by the Islamist extremists. The Sinjar Crisis Group, formed by Yazidi activists in Washington, has compiled a list of 1,074 names of female captives reported by their relatives to be in the custody of the Islamic State.

On Saturday, 100 or so women joined the list, turning up crammed into two buses at a school in the town of Tal Afar, where hundreds of the women are already being held, according to an eyewitness. The new arrivals had been detained the previous day in the small village of Kocho, where Kurdish officials and Yazidis say that more than 80 men were lined up and shot before the younger women were separated from the older ones and taken away. The oldest of the women in Kocho
were not detained but are being held there by Islamic State fighters who also spared the oldest men, said Ziad Sinjari, a Kurdish pesh merga commander in Sinjar, citing the account of one of six survivors of the massacre who escaped injured to a nearby village. Once at the school, the eyewitness said, the youngest women again were parted from older ones and driven away, along with a dozen or so boys between ages 10 and 12 who had apparently been detained with their mothers.

The reports from the massacre at Kocho and its aftermath illustrate a disturbing pattern that has emerged in the two weeks since the majority-Yazidi town of Sinjar was overrun, prompting tens of thousands of panicked adherents of the minority sect to run for their lives to the mountains. U.S. airstrikes and an airlift of humanitarian supplies helped most of those who fled reach safety in northern Iraq last week, aided also by Kurdish Syrian fighters who battled the extremists to open a corridor for the fleeing Yazidis.

Some did not get away in time. Among them was an aunt of Haji Kirani, 45, who managed to escape to Dahuk, the city in Iraq's Kurdistan region where many of the refugees have found sanctuary. His aunt lived in the town of Sinjar and was snatched along with her daughter as the militants surged in - unopposed, the Yazidis say, because the Kurdish pesh merga forces responsible for defending the town fled. As Kirani ascended the mountain, escaping with the other Yazidis, he received a phone call from his aunt, telling him she was being transported in a truck with scores of other women. Over the next few days, she called several more times, relaying her location as she was moved around - first in a prison, then a hotel in Mosul, and then some kind of "hall" in a location she did not know. "I can see a lot of trees," she told him, Kirani recalled. Then, late last week, the phone calls stopped. The more lurid rumors of mass rapes and sexual enslavement of the women who were caught appear to be exaggerated. The women who have managed to place phone calls say they have been well, if frugally, treated. Lunch in one of the locations consists of a fistful of boiled rice and dinner of a piece of bread and an egg. But the Islamic State fighters guarding the women appear to have mostly demonstrated prurient adherence to the tenets of Islam that forbid contact with non-Muslim women. When a local Iraqi guard attempted to fondle a woman in one location where hundreds are being held, a senior guard from Morocco or Algeria - the woman who conveyed the story to a relative was unsure - ordered the molester's finger to be cut off. For the most part, the Islamic State men entreat rather than threaten the women to convert, the women say. "They beg us," one of the women said. "They promise us everything. They say they will give us houses and we will lead happy lives." The accounts, however, point to a hardly less disturbing scenario, of attempts to coerce and intimidate the prisoners into converting or lose their freedom forever. The captives describe incidents replete with sexual innuendo and implicit threats that keep them constantly on edge. An 11-year-old girl was taken into the yard of the school last week and men gathered to look at her, the witness said. They did not touch her, but women watching from the windows of the classroom were unnerved. Men show up at and circulate among the women crammed into classrooms, eyeing them and making demeaning comments, she said. "If you were a Muslim I would choose you," one said, pointing at a woman, the same witness recalled. In the wake of the initial
After Kurdish pesh merga and local Yazidi fighters ran out of ammunition and began to flee, around 10 Islamic State fighters burst into the house. The men ordered the family outside, lined them up and then divided them into groups according to age and gender, Ali said in an interview in the northern town of Dahuk, where she has now taken refuge. Most of the fighters were Iraqis, but one appeared to be Pakistani, she said. One was a Kurd, and he spoke to the frightened family members in Kurdish. "He told us they didn't want to harm us, that we should not be afraid," she recalled. Ali, her six children and the other mothers were taken indoors and put into a room. One of the children began to cry that he was thirsty. Their guard dispatched another fighter to fetch a bucket of water. When the fighter returned with the water, he glimpsed at Ali's 15-year-old daughter and beckoned her to leave the room. Then, the women heard gunshots, followed by silence. They stepped outside. The bodies of eight men, including Ali's husband, lay sprawled around the house. The young women, including her daughter, had gone. She has not heard word of her since.

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United Nations Reports

The International Criminal Court Can Investigate Potential Crimes in Gaza
The Guardian
By Kirsty Brimelow
August 8, 2014

A Palestinian man stands in the remains of his living room shortly after his home was hit by an Israeli airstrike in the Zaitun neighbourhood of Gaza City. In his opinion piece dated 7 August 2014, Joshua Rozenberg criticised the Bar Human Rights Committee's letter to the ICC prosecutor, which urged her to investigate evidence of serious crimes within the
jurisdiction of the Court committed in Gaza, as "naive" and "misleading". He accuses BHRC of failing to present opposing views to its own position that a 2009 declaration submitted by the Government of Palestine, accepting the jurisdiction of the court, provides the prosecutor with the jurisdictional basis to initiate an investigation. In particular, BHRC is criticised for not highlighting that "one international lawyer disagreed" with our position, arguing that a 2012 decision of the prosecutor "formally rejected" the 2009 declaration.

Neither Rozenberg’s opinion piece nor academic he relies upon, Kevin Heller, cite the text of the 2012 decision in support of their positions. This is hardly surprising given that the decision does not in fact "formally reject" the 2009 declaration. Instead, the 2012 decision asserts that the prosecutor does not have the authority to determine whether Palestine is a "state" for the purposes of submitting a declaration to the ICC, it being "for the relevant bodies at the United Nations or the [ICC] assembly of states parties to make that legal determination."

The 2012 decision underscores that the Prosecutor "could in the future consider allegations of crimes committed in Palestine, should competence organs of the United Nations or eventually the assembly of states parties resolve the legal issue relevant to an assessment of article 12". As BHRC highlights in our letter, insofar as any doubts may have previously existed regarding Palestine’s status, those have since been resolved by the United Nations general assembly when it granted Palestine observer-state status. Contrary to Rozenberg’s representation of the UN General Assembly decision, the UN did not determine that Palestine was not a State prior to that date. And indeed, as Kevin Heller has himself made clear, "the ICC did not have to wait for the UNGA to upgrade Palestine’s status; it could - and should - have recognized Palestine long before now."

In those circumstances, as BHRC and numerous other lawyers have argued, the 2009 declaration provides a jurisdictional basis for the prosecutor to "consider allegations of crimes committed in Palestine", in the absence of Palestinian ratification of the Rome Statute: there is no legal requirement for a further declaration in order for an investigation to be initiated.

Given the text of the 2012 decision, the prosecutor's short announcement on 5 August 2014 imposing yet another procedural obstacle to the investigation of such serious crimes is deeply disappointing. BHRC and the legal community look forward to reading a reasoned legal explanation of her position.

In the meantime, BHRC continues strongly to encourage Palestine’s ratification of the Rome Statute as the most straightforward basis for ICC jurisdiction over crimes committed on its territory. The news on this front is cautiously encouraging. However, the political pressure being placed on Palestine - including by the British and American governments - and the threats of serious political consequences if it does ratify or submit another declaration undermine Rozenberg’s assertion that this action is "an easy answer". Naivety would be to place faith in the politics and not to advance a distinct urgent legal solution for victims of Gaza.
According to U.S. Congressman Steve Israel (D-NY), the Israeli government hopes that he and his colleagues in Washington, DC will do everything in their power to prevent the International Criminal Court from pushing forward with possible war crimes charges against his nation over its recent attack on the Gaza Strip which resulted in the killing over nearly 1,900 Palestinians, including a large proportion of civilians and hundreds of children.

Speaking to the New York Post from Israel, where he was travelling at the invitation of the American Israel Public Affairs Committee (or AIPAC), Rep. Israel described the meeting between U.S. lawmakers in the delegation, AIPAC officials, and Prime Minister Benjamin Netanyahu. "The prime minister asked us to work together to ensure that this strategy of going to the ICC does not succeed," the congressman told the Post. "[Netanyahu] wants the US to use all the tools that we have at our disposal to, number one, make sure the world knows that war crimes were not committed by Israel, they were committed by Hamas. And that Israel should not be held to a double standard."

During a meeting at The Hague on Tuesday of this week, Palestinian Foreign Minister Riad al-Malki told prosecutors at the International Criminal Court that "clear evidence" of war crimes by Israel against the people of Gaza exists.

"Everything that has happened in the last 28 days is clear evidence of war crimes committed by Israel, amounting to crimes against humanity," Malki said. "There is no difficulty for us to show or build the case. Evidence is there for people to see and collect. Israel is in clear violation of international law."

Prior to his trip, Rep. Israel released a statement announcing, "I have always been one of Israel's strongest supporters in the U.S. Congress, and I will always stand up for its needs." Recently, during the height of the conflict the congressman was among lawmakers who signed a letter to the United Nations calling on it to "condemn Hamas' use of civilians as human shields, which is a direct violation of international law." That the Hamas government "uses human shields" in Gaza is a familiar Israeli government talking point, but no independent evidence exists to support the accusation and the claim is widely dismissed as straight propaganda by agencies and experts on the ground in Gaza. Despite Congressman Israel's characterization of the conflict in Gaza and the consistent defense by Netanyahu and other Israeli officials that its military's behavior in the Strip was and is justified—global indignation and condemnation has resulted from the fact that while three civilians and just over 60 soldiers were killed on the Israeli side during the fighting, official estimates on the Palestinian side put the death toll at 1,865 people killed, including 429 children under the age of 18; 79 people over the age of 60; and 243 women.

The Israeli government continues to repeat that it killed "900+
terrorists" during what it called Operation Protective Edge, but it offers no convincing argument on how it distinguishes an adult Palestinian male sleeping in his bed, seeking shelter, or fleeing hostilities from someone acting in a military or offensive capacity.

Meanwhile, Amnesty International on Thursday announced that is has seen mounting and "alarming" evidence that the IDF launched what it called "apparently deliberate attacks" against hospitals and health professionals in Gaza during Israel's incursion. "Such attacks are absolutely prohibited by international law and would amount to war crimes," aid Philip Luther, Middle East and North Africa Director at Amnesty International. "They only add to the already compelling argument that the situation should be referred to the International Criminal Court."

Earlier this week, Human Rights Watch said it has now documented cases in which Israel fired on civilians who were fleeing the violence and stated that "deliberate attacks on civilians who are not participating in the fighting are war crimes." "The horrors of war are bad enough for civilians even when all sides abide by the law," said Sarah Leah Whitson, HRW's regional director for the Middle East and North Africa. "But it's abhorrent that Israeli forces are making matters even worse by so blatantly violating the laws of war designed to spare civilians."

On Wednesday evening, as he addressed an informal meeting of the United Nation's General Assembly, the head of the UN Ban Ki-Moon said the utter destruction of Gaza and the humanitarian crisis that continues there has both "shocked and shamed" the global community. Speaking from Gaza, Pierre Krhenbhl, the head of the UN Relief and Works Agency (UNRWA) office there, said that 90 of the agency's premises were hit during the conflict. He said that UNRWA has asked for investigations to be carried out regarding the attacks on agency-run schools that had been sheltering displaced Gazans.

"Perhaps nothing symbolized more the horror that was unleashed on the people of Gaza," said Ban, "than the repeated shelling of United Nations facilities harbouring civilians who had been explicitly told to seek a safe haven there. These attacks were outrageous, unacceptable and unjustifiable."

U.N. Names Panel to Probe War Crimes in Gaza; Israel Slams it
Reuters
By Stephanie Nebehay
August 12, 2014

The United Nations on Monday named experts to an international commission of inquiry into possible human rights violations and war crimes committed by both sides during Israel's military offensive in the Gaza Strip.

Israel, however, dismissed the inquiry as a U.N. Human Rights Council "kangaroo court". William Schabas, a Canadian professor of international law, will head the panel whose other members are Doudou Diene, a Senegalese veteran U.N. human rights expert. A U.N. statement said Amal Alamuddin, a British-Lebanese lawyer engaged to be married to Hollywood actor George Clooney would take part though Alamuddin later denied she would participate in the inquiry. "I am
honored to have received the offer, but given existing commitments - including eight ongoing cases - unfortunately could not accept this role," she said in a statement.

It was not clear who would replace Alamuddin on the panel. The U.N. statement said the independent team will investigate "all violations of international humanitarian law and international human rights law...in the context of the military operations conducted since 13 June 2014."

A month of war, marked by Israeli air strikes on Gaza and rockets fired by Hamas militants into Israel, has killed 1,938 Palestinians and 67 Israelis while devastating wide tracts of densely populated Gaza.

The panel is to report by March 2015 to the U.N. Human Rights Council. Israel has long accused the 47-member state forum of bias against it. Navi Pillay, the top U.N. human rights official, said on July 31 she believed Israel was deliberately defying international law in its military offensive in Gaza and that world powers should hold it accountable for possible war crimes. Israel has attacked homes, schools, hospitals, Gaza's only power plant and U.N. premises in apparent violation of the Geneva Conventions, said Pillay, a former U.N. war crimes judge.

Hamas militants in Gaza have violated international humanitarian law by firing rockets indiscriminately into Israel, Pillay said. Israeli and Palestinian negotiators resumed indirect talks mediated by Egypt on Monday on ending the war, Egypt's state news agency said, after a new 72-hour truce appeared to be holding.

In a statement, Israeli Foreign Ministry spokesman Yigal Palmor issued a statement dismissing the inquiry. He cited Israel's view that "the Human Rights Council had long ago turned into the 'terrorist rights council' and a kangaroo court, whose 'investigations' are pre-determined."

Hamas Spokesman Sami Abu Zuhri in Gaza said "Hamas welcomes the decision to form an investigation committee into the war crimes committed by the occupation (Israel) against Gaza and it urges that it begin work as soon as possible." Israel is still angry about a U.N. inquiry on the December 2008-January 2009 Israeli war against Gaza, headed by South African jurist Richard Goldstone. That report said both Israel and Hamas appeared to have committed war crimes, though it was tougher on Israel. Israel and Washington said that report was distorted and biased against Israel.

Israeli Prime Minister Benjamin Netanyahu indicated he will not cooperate with a United Nations commission investigating Israel's conduct during its war in Gaza.

Most ministers in the government also oppose any dealings with the U.N. team, the Times of Israel reported.

In a video posted on his official Facebook page, Netanyahu criticized the U.N. Human Rights Council for failing to investigate Hamas' attacks against Israeli civilians and its use of the people of Gaza as "human shields."
"shields," as well as the "massacre" of Syrian civilians and atrocities committed by Islamic State fighters in Iraq.

"This commission's report has already been written, the one leading it [Canadian law professor William Schabas] has already decided that Hamas is not a terrorist organization, and that's why there is nothing for them to do here," he said. "First, let them visit Damascus, Baghdad, Tripoli. Let them see the Islamic State, the Syrian army, let them see Hamas - that's where they'll find war crimes, not here." On Wednesday afternoon, Netanyahu met with New York Gov. Andrew Cuomo and thanked him for standing with Israel and rejecting the "false moral symmetry" between Israel and Hamas.

"Hamas continues to do these horrible things that ISIS does: They persecute Christians, they persecute gays, they persecute women, they basically reject modernity and there are a terrorist tyranny that is imposed on their people. And where their people reject being used as human shields, you know what they do, Governor? They execute them," Netanyahu told Cuomo during the Jerusalem meeting. "This is the kind of moral divide that is evident today in the world, and on one side you have Israel and the United States representing democracies committing to human rights, committing to a real future for our people; and on the other side, you have the likes of ISIS and Hamas, Islamist tyrannies that have no inhibition and pursue their grisly creeds and their grisly deeds."

**Sri Lanka: Three UN Prosecutors Join Presidential Commission**

Khabar South Asia  
By Munza Mushtaq  
August 15, 2014

**Human rights advocates in Sri Lanka are voicing scepticism about the government's latest move to investigate war crime allegations.**

Activist Mano Ganesan is among them.

The appointment in July of three advisors to a presidential commission investigating mass disappearances toward the end of Sri Lanka's ethnic conflict was "yet another ruse" to ward off growing pressure from abroad on the issue, he said. The Sri Lankan military is under international scrutiny for allegedly committing war crimes while on course to defeat the Liberation Tamils of Tiger Eelam (LTTE) in May 2009. The United Nations estimates that both sides killed more than 40,000 civilians during the war's final stages. The government has consistently denied its armed forces were partly responsible.

"Over the last five years, we have seen more than 12 so-called committees and commissions being appointed by the government to inquire into disappearances, war crimes and other human rights violations," Ganesan, convener of grassroots human rights group Civil Monitoring Commission, told Khabar South Asia.

"But we never saw reports from these commissions seeing the light of day," he said. "Or even when a report was released, steps were never taken to implement the recommendations." Keheliya Rambukwella, government spokesman and minister of Mass Media and Information told Khabar that Sri Lanka would not co-operate with a UN probe into
such allegations. "We have taken fresh efforts by appointing three very
credible international experts to advise the commission appointed by
the president," he said. Advisory roles only Last month, President
Mahinda Rajapaksa announced he was appointing three UN war crimes
prosecutors- British lawyers Desmond de Silva and Geoffrey Nice, and
American lawyer David Crane - to a Commission of Inquiry probing
cases of people who went missing at the war's end. De Silva is the
UN's former chief war crimes prosecutor in Sierra Leone. Nice was
deputy prosecutor in Slobodan Milosevic's trial at the Criminal Tribunal
for the Former Yugoslavia. And Crane is former chief prosecutor of the
Special Court for Sierra Leone. Compared with previous presidential
appointments, the three lawyers bring credibility to probing war crime
allegations, said Jehan Perera, executive director of the National Peace
Council of Sri Lanka.

"If reconciliation is the goal, then a national investigation is the way
forward, but it needs to have credibility and have the confidence of the
Tamil minority also," he told Khabar. "This calls for a national
mechanism that is jointly decided upon by the political leaderships of
the different ethnic communities."

However, Tamil National Alliance MP Suresh Premachandran questioned
whether the additions of Crane, De Silva and Nice would make much
difference. The parliamentarian favours an independent international
inquiry into alleged war crimes. "They are appointed merely as
'advisors' and the government has already announced that it is up to
them to accept or reject their advice," Premachandran said. "So I don't
think there will be much credibility in this investigation as well."

DR Congo War Crime Trial: DR Congo Trials Warlord Home for the First Time, UN
Urges for Justice
National Turk
By Issaka Adams
August 15, 2014

The Democratic Republic of the Congo has said that it has
started a historic trial of one of the most notorious war lords in
the country who is alleged to have committed atrocities after
the end of the civil war.

Prosecutors alleged that Lt Col Bedi Mobuli Egangela has committed
crimes including murder, rape and torture. It is believe he committed
these crimes between 2005 and 2006 in eastern DR Congo with his
rebel faction who was fighting to overthrow the government. The trial
is expected to take three weeks.

About 1000 victims are said to have suffered from his brutalities and
prosecutors say majority of them will testify against him in the
subsequent days to come in the trial.

The DR Congo has been in turmoil after the end of the country's civil
war in 2002 as numerous armed groups compete for control of the rich
mineral resources in the eastern part of the country.

But the United Mission in the country has combined effectively with the
Congolese forces to disarm rebels in the then restive eastern part of
the country. Some of these rebels are facing trial at the International
Criminal Court (ICC0 in The Hague. It is unclear why the Congolese
government decided to trial Mr. Egangela home as the crimes leveled against him are of international concern. Col Egangela was said to be a militia leader who was enlisted into the Congolese army as part of a peace deal by the government to unite the various rebel groups in the eastern part of the country but he deserted from the army in 2007 and went back to lead a rebel group he formed called the Resistance Patriots of Mai Mai.

He is also allegedly to have recruited child soldiers and ordered attacks on several villages in the South Kivu province in the eastern part of the country. The United Nations Mission in the country has said that the UN is following the trial with keen interest and only expects that justice should prevail. "The UN Security Council and different special representatives of the [UN] secretary general have been very focused on this case as a bit of a test case to see if military justice can deliver justice for very serious crimes - and committed by a senior officer within the Congolese army", a senior official of the UN's mission was quoted as saying by reporters.

With a population of 75.5 million, the Democratic Republic of Congo covers 2,344,858 square km of land in the centre of Africa, making it the 12th largest country in the world.

The Country has abundant mineral wealth. It has more than 70% of the world's coltan which is used to make vital components of mobile phones, 30% of the planet's diamond reserves and vast deposits of cobalt, copper and bauxite. But the country has been in turmoil since nationalist leader; Patrice Lumumba led the country to gain independence from the Belgium in 1960. Patrice Lumumba was subsequently assassinated with the help of Belgian and the United States of America intelligence officers for control of the natural resources in the country.

Sri Lanka Slams UN Rights Chief Over 'Prejudice'
Arab News
August 15, 2014

**Sri Lanka Thursday delivered a withering send-off to UN human rights chief Navi Pillay, accusing her of prejudice and trying to influence an ongoing war crimes investigation against Colombo.**

The Foreign Ministry said Pillay was trying to make a UN-mandated international probe follow a "preconceived trajectory" and that her "prejudice and lack of objectivity" was unfortunate.

Pillay, who is to stand down at the end of this month from her post as UN Human Rights Commissioner, was recently quoted as saying there was a "wealth of information" about alleged abuses committed by Sri Lankan security forces at the end of the country's ethnic war in 2009. She has also said international investigators who have been mandated by the UN Human Rights Council to look into claims of mass killings could conclude their work without actually visiting the island.

Her reported remarks about "an investigation which has commenced only recently is a clear indication of personal bias" by the former South African judge, the ministry said.
Sri Lanka has refused to cooperate with the UN probe and says it will not allow investigators access to the former war zone in the north where rights group say up to 40,000 ethnic Tamil civilians were killed in the final months of a war that ended in May 2009.

Colombo insists that its troops did not commit war crimes while crushing the Tamil Tiger rebel movement at the end of a conflict which stretched for more than three decades and claimed more than 100,000 lives.

"She has sought to endorse exaggerated claims of former UN sources of spurious credentials by including such uncorroborated statistics in UN documentation," the ministry said on the eve of her leaving office.

Pillay who visited Sri Lanka last year, has previously accused President Mahinda Rajapakse's government of becoming authoritarian and warned that rights defenders and journalists were at risk in the country.

Sri Lanka Refuses Entry to UN War Crimes Investigators
Yahoo News
By Amal Jayasinghe
August 18, 2014

**Sri Lanka will not grant visas to UN investigators probing war crimes allegedly committed during the island's decades-long separatist conflict, President Mahinda Rajapakse said Tuesday.**

But it is the first time that Rajapakse has said UN investigators will not be allowed into the country, effectively barring them from face-to-face access to Sri Lankans wanting to testify.

"We will not allow them into the country," said Rajapakse, who is under international pressure to cooperate with the UN-mandated investigation.

Rajapakse said however that his government was cooperating with all other UN agencies.

"We are saying that we do not accept it (the probe). We are against it," he told Colombo-based foreign correspondents at his official residence.

"But when it comes to other UN agencies, we are always ready to fully cooperate and fully engage with them." UN Secretary General Ban Ki-moon and other leaders have urged Colombo to cooperate with the UN Human Rights Council after ending a prolonged separatist war that pitted ethnic minority Tamil rebels against the largely Sinhalese army.

Outgoing UN rights chief Navi Pillay earlier this month suggested that her staff investigating allegations of mass killings may not have to travel to Sri Lanka at all.

She said there was a "wealth of information" outside the country.

The remarks prompted allegations from Sri Lanka's foreign ministry that her investigation was on a "preconceived trajectory" and that her "prejudice and lack of objectivity" were unfortunate.

Foreign Minister Gamini Lakshman Peiris said Colombo-based Western
diplomats may have been trying to gather evidence surreptitiously. He said relatives of missing people had gone to the capital earlier this month for a meeting with diplomats. "I have mentioned it to ambassadors that this is not correct," Peiris told reporters on Tuesday. Colombo maintains that its troops did not commit war crimes while crushing the Tamil Tiger rebel movement at the end of a conflict which lasted more than three decades and claimed more than 100,000 lives.

Pillay, who visited Sri Lanka last year, has previously accused Rajapakse's government of becoming authoritarian, and warned that rights defenders and journalists were at risk in the country even after the end of the war. The government gave some ground last month when it asked a commission already looking into missing persons to expand its work and investigate the actions of both troops and Tamil rebels.

Rajapakse said Tuesday that he was naming two more foreign experts -- an Indian and a Pakistani -- to join three international legal experts already on a panel of advisers helping the presidential Commission of Inquiry. Indian rights activist Avdhash Kaushal and Pakistani lawyer Ahmer Bilal Soofi join British lawyers Desmond de Silva and Geoffrey Nice and US law professor David Crane. The Britons and the American are former UN war crimes prosecutors. Rajapakse said he was willing to give "even two more years" to the commission to complete its work. The commission said it was probing 19,471 cases of missing persons as of Tuesday and completed hearings only in respect of 939 cases. The president denied that naming foreigners to the list merely as advisers amounted to a whitewash, saying the government was serious about investigating rights abuses.

"We appointed these foreign experts because the commission itself asked for it. They (the commission) thought it would be helpful if we had these experts to advise them," Rajapakse said.

In a government decree published last month, Rajapakse said the commission would investigate the military's "adherence to or neglect...of laws of armed conflict and international humanitarian law".

The commission is the latest investigation initiated by Colombo. Experts and activists have said earlier attempts amounted to a whitewash.

**NGO Reports**

**Mali: All Parties to the Conflict Must Put an End to Ongoing Human Rights Violations**

*Amnesty International*

*August 20, 2014*

**Two and a half years following the start of the crisis in Mali, in January 2012, which led to the intervention of the French army one year later, the security and human rights situation remains unstable.**

The country remains in a situation of non-international armed conflict with some northern areas still held by armed opposition groups including Tuareg. In addition, attacks by armed groups have led to a
Asylum

Rwandan Wanted for War Crimes Illegally Crosses U.S. Border
Breitbart
By Caroline May
August 8, 2014

A Rwandan national wanted in Canada for violating human rights was detained illegally walking across the U.S.-Canada border this week.

Jean Leonard Teganya was apprehended by U.S. Border Patrol after a local citizen in northern Maine notified officials of a "suspicious person" along the border, according to a Reuters report.

Teganya has been accused of violating international law and Canadian Crimes Against Humanity and War Crimes Act in Canada.

According to Reuters, in 1994, during the genocide in Rwanda, Teganya and his families left the African nation and Teganya eventually arrived in Quebec seeking asylum.

Canada did not, however, provide the Rwandan with asylum status after he admitted to being involved in a slaughter of 200 Tutsis. Teganya claimed that if he returned to Rwanda, where his father is currently being held for war crimes, he could be punished and tortured.

Teganya has been ordered for removal from Canada and is now in removal proceedings from the U.S.

A Border Patrol spokeswoman told Reuters that a judge would decide whether Teganya would be sent back to Canada or Rwanda.

Scott Morrison's Syrian Returns 'Partner' Distances Itself from Repatriation Efforts
The Guardian
By Lenore Taylor and Oliver Laughland
August 20, 2014

The International Organisation for Migration has said it is not assisting in the return of asylum seekers to Syria, after the immigration minister, Scott Morrison, claimed it as a partner in Australian repatriation efforts.

Guardian Australia reported on Tuesday that department of immigration emails, obtained under freedom of information, showed ongoing discussions about repatriation of Syrian asylum seekers to Syria.
Human Rights Watch said Australia was doing the "unthinkable" by endeavouring to return Syrians.

Speaking on Sky television late on Tuesday, Morrison said the suggestion that people was being "coerced" to return were "ridiculous" because "these are voluntary returns, there are around half a dozen Syrians on Manus Island and none of them have gone back to Syria". He added: "It is a voluntary return program that is done in partnership with the International Organisation for Migration."

Asked about the minister’s remark that it was partnering with the government to discuss the voluntary return of Syrians, a spokesman for the IOM told Guardian Australia: "IOM is not assisting in the return of Syrians, nor are we in a position to provide post-arrival assistance; as Syria is one of the countries where IOM has suspended [assisted voluntary return and reintegration] activity.

"We advise Syrians accordingly, and, in turn, they are seeking return assistance through [the] Department of Immigration and Border Protection. These are voluntary returns facilitated by DIBP."

The emails published by Guardian Australia reveal the lengths to which Morrison’s department has gone to facilitate the repatriation of traumatised Syrian asylum seekers.

The correspondence supports reports from Guardian Australia in March that Syrians detained offshore told Australian immigration department officials they would be killed if they returned to Syria, but the department facilitated plans for their repatriation nonetheless.

The departmental efforts included sharing asylum seeker identity documents with the Syrian consulate in Australia, booking flights via Jordan, and endeavouring to issue an "ultimatum" to force asylum seekers into a decision on repatriation, despite a number of them being severely mentally ill.

Elaine Pearson, the Australia director of Human Rights Watch, said: "While Syrian authorities are committing crimes against humanity including systematic killings and torture, Australia is doing the unthinkable – trying to send Syrians back home.

"Even worse – authorities are actively sharing information with Syrian authorities in order to obtain travel documents which is likely to further endanger their lives."

On Wednesday Amnesty International urged the Australian government to guarantee asylum seekers would not be returned to Syria.

"Sending an asylum seeker back to a country like Syria, where they are very likely to be killed or seriously injured, is not protecting anyone, it’s punishing the very people we should be doing our best to protect," said Amnesty’s refugee co-ordinator Dr Graham Thom.
TRUTH AND RECONCILIATION COMMISSIONS

Nepal

Appointments at NHRC Sought
The Himalayan
August 8, 2014

The Recommendation Committee headed by former chief justice Om Bhakta Shrestha, which was formed to select commissioners for the to be formed Truth and Reconciliation Commission and Commission on Inquiry of Disappeared Persons, has urged the government to appoint chairman and members of National Human Rights Commission as a precondition to move ahead with its task.

"We have asked Peace and Reconstruction Minister Narahari Acharya to appoint commissioners at NHRC so that we can start our work," Shrestha told The Himalayan Times today.

According to him, some few days back, the panel members including him had drawn the attention of Acharya, who also looks Law, Justice, Constituent Assembly and Parliamentary Affairs portfolio, to this effect and the minister had assured that officials at the NHRC would be appointed soon. But his assurance is yet to materialise, he said. "We will not be responsible if our committee cannot proceed with its work. The government will have to take the responsibility," he added.

As per the TRC Act, a five-member committee is required for selecting commissioners for the both transitional justice mechanisms. But the government could give only two names – NHRC chairman or member appointed by him and a woman member replacing Sapana Pradhan Malla – to give full shape to the recommending body.

"We cannot move forward without the legitimate quorum," the former chief justice clarified.

On July 16, the government had formed the four-member panel
comprising Shrestha, Malla, Pradip Pokhrel and Ghanashyam Lal Das, but in absence of the NHRC representation, it has failed to start its work. As per Section 3 of the Formation of Truth and Reconciliation Commission and Commission on Disappeared Persons Act, which is known as TRC Act, 2014, NHRC representation is a must in the selection of TRC and CID commissioners.

The government has failed to appoint the successors of former chairman Kedar Nath Upadhayay’s team since September 16 last year.

"The government can replace Malla by appointing any female lawyer but it cannot name anyone to represent the NHRC unless it fills the vacancies in the NHRC," Shrestha said, adding, "If the government could not appoint in the NHRC, the efforts in regard to the formation of the transitional justice mechanism will go down the drain."

The transitional justice mechanism, which was envisioned in the comprehensive peace agreement and mentioned in the Interim Constitution, is yet to materialise despite repeated calls from rights activists and international community for various reasons including long-drawn political wrangling.

**Sri Lanka**

UN War Crimes Investigators Will Not Be Allowed to Enter Sri Lanka: Rajapaksa

By Avaneesh Pandey
August 19, 2014

**United Nations investigators probing alleged war crimes committed by the Sri Lankan army during the final stages of a 26-year-long conflict with Tamil separatists will not be allowed to enter the country, President Mahinda Rajapaksa said, according to an Agence France-Presse, or AFP, report published Tuesday.**

"We will not allow them into the country," Rajapaksa reportedly said. "We are saying that we do not accept it (the probe). We are against it."

Rajapaksa’s comments come just a few days after Navi Pillay, the outgoing United Nations High Commissioner for Human Rights, said that even though the Sri Lankan government had refused to cooperate with U.N. officials, investigations would still go ahead. While the Sri Lankan government had previously criticized her "prejudice and lack of objectivity," this is the first time Rajapaksa has barred U.N. investigators from the country.

"When it comes to other U.N. agencies, we are always ready to fully cooperate and fully engage with them," Rajapaksa said.

Sri Lankan government forces stand accused of committing widespread human rights violations during the final months of the
civil war, which ended in 2009. The Lessons Learnt and Reconciliation Commission, or LLRC, appointed by Rajapaksa in 2010, held the Liberation Tigers of Tamil Eelam, or LTTE -- a Tamil militant organization -- responsible for the deaths of civilians in the country's north, which was a LTTE holdout until the last days of the war.

In March, however, the U.N. Human Rights Commission rejected the LLRC's findings and voted to initiate investigations into the deaths of over 100,000 civilians, alleging that Rajapaksa had failed to oversee a proper inquiry.

The 12-member U.N. commission is expected to collect information, verify allegations of war crimes and present its findings to the UNHRC in March next year.

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COMMENTARY AND PERSPECTIVES

Verdict in Cambodia: Too Little Too Late, but Still Important
Just Security
By Beth Van Schaack
August 9, 2014

Amidst all the developments in the Middle East, we could not allow the verdict rendered by the Extraordinary Chambers in the Courts of Cambodia (ECCC) in Case 002 to go unacknowledged. Case 002 involves two surviving Khmer Rouge defendants: Khieu Samphan and Nuon Chea. As the evidence against these two was overwhelming, it comes as no surprise that the defendants were convicted of crimes against humanity and sentenced to life imprisonment—a penalty with limited meaning when it comes to octogenarian defendants. (For a fuller background on the Khmer Rouge, the ECCC, the cases, and the United States’ central role in establishing the ECCC, scroll below the fold).

In the whole scheme of things, this outcome is admittedly a small victory: for justice and for the victims of the Khmer Rouge. The judgment comes too late, says too little, and makes too small an impact on the defendants who enjoyed positions of dominance followed by years of impunity. But this disruption to their golden years and codicil on their legacies is something. Norms were affirmed and developed. No one can ever again credibly dispute that the Khmer Rouge regime was brutal and senseless. And generations of Cambodians will have a definitive account of a terrible segment of their own country’s history—no small feat given that until several years ago, Cambodian textbooks simply elided over this period of their nation’s history and 70% of the populace was born after the Khmer Rouge era. Cambodia’s youth are in a better position to ensure that such crimes are not repeated—in
Victim Participation & Reparations

In the end, however, this judgment, and any other that may be rendered, is not the most important outcome of this process of international justice. Over 4000 victims participated directly in the proceedings and over 200,000 more have visited the ECCC for hearings, having been bussed to Phnom Penh from villages and towns all over the country. Even more people participated in local discussion fora as part of outreach programs developed by the non-governmental community. A number of U.S. citizens were a part of the proceedings, represented by the Center for Justice & Accountability. This broad-based involvement of the Cambodian people and diaspora—unprecedented when it comes to international, no less domestic, judicial proceedings—may actually be the most enduring legacy of the ECCC.

Declaring the acts of the KR leadership to be criminal under international law is an important first step. Focusing on the needs of the victims should come next. In its verdict, the ECCC endorsed 11 reparations projects, including memorials and exhibitions, additional educational reforms, the publication and dissemination of adjudicated facts, and formal recognition of the civil parties. The Cambodian government, and other members of the international community, must follow through and ensure that these projects come to fruition to the benefit of victims and their communities.

The international community should also continue to support educational initiatives in Cambodia around the imperative of justice—not only with respect to the crimes of the past but also regarding human rights abuses that continue today. In this regard, DC-Cam is in the process of developing the Sleuk Rith Institute, which will be a permanent educational institution dedicated to the study of genocide with the goal of contributing to the atrocities prevention movement. Zaha Hadid, the first woman to be awarded the prestigious Pritzker Prize (2004), will design the new building.

Next Steps

This verdict does not mark the end of the ECCC’s work. In 2011, Case 002 was severed, with the first phase addressing only the forced evacuation of Phnom Penh and the northwest zone, forced displacements, and crimes committed at Tuol Po Chrey, where soldiers of the former Lon Nol regime were executed en masse. There are other crucial aspects of Case 002 that remain to be addressed, including more broad-based crimes against humanity, a web of torture centers, the widespread use of forced labor at work sites, sexual violence including forced marriages, and other forms of religious and ethnic persecution. In addition, genocide charges involving Cambodian minorities (including the Cham Muslims) will finally take center stage. The trial on these additional charges is slated to start in September or October 2014. Completing Case 002 will ensure that all victims have their day in court and the full horror of the Khmer Rouge can become part of the judicial record. Because the current verdict includes many foundational findings as to the history, structure, and operations of the Khmer Rouge, subsequent phases can proceed more rapidly. In addition, the Co-
Investigating judges are continuing their work on Cases 003/4 with an eye toward issuing additional Closing Orders (the equivalent of an indictment).

Background

By way of background, the Khmer Rouge, otherwise known as the Party of Democratic Kampuchea, seized power in Cambodia from the American-backed Lon Nol government on April 17, 1975. The Khmer Rouge encountered a nation destabilized by a still fresh civil war, frequent invasions by neighbors, periodic coups d'état, and a full-scale American incursion that had dropped over 250,000 tons of bombs in an effort to disrupt the Ho Chi Minh trail during the Vietnam War. Under the leadership of Pol Pot, the Khmer Rouge immediately dismantled Cambodian society and installed a brutally repressive state. This marked "year zero" in what turned out to be a four-year campaign to create a "New Cambodia"—a radical project of social reorganization drawing upon communist and Maoist thought to construct an idealized vision of a rural proletariat.

The draconian measures instituted by the Khmer Rouge regime in the quest to remake Cambodian society included the liquidation of the Lon Nol army and members of the former regime; the extermination of the elite and educated; a complete evacuation of the urban centers; the incineration of books, libraries, banks, places of worship, and university facilities; the criminalization of the usage of foreign languages; the abolition of money, private property, markets, and salaries; the dissolution of families and the separation of children from their parents; the execution of ethnic minorities; forced marriages; the prohibition of religious practice and education; and the systematic hunt for real and imagined political opponents.

The first stage of the revolution witnessed the brutal and systematic execution of former military officers and their families in places such as Tuol Po Chrey. In all, state agents reportedly killed 100,000 to 200,000 people during this initial purge. Khmer Rouge cadre identified their victims at check points or summoned them to their death with announcements instructing people with administrative or military experience to identify themselves. After supplying elaborate "biographies" attesting to any number of treasonous and seditious activities, these individuals and their families were executed. The regime also eliminated others who were affiliated with the previous regime, were Western-educated, or were landowners.

A fundamental tenet of Khmer Rouge ideology was that all citizens had to be proper Khmers, as defined by the revolution. This purification required the extermination or forced assimilation of all non-Khmer ethnic groups, including ethnic Vietnamese, Chinese, Cham (Khmer Muslims), Thai, and rural indigenous communities. It also required the elimination of other individuals whose perceived social, economic, and political affiliations or histories rendered them inherently impure and subject to violent exclusion from the revolutionary program of nation-building. This included individuals resident in the Eastern zones hiding "Vietnamese minds in Khmer bodies."
Khmer Rouge leaders realized that this nationalistic and idealized vision of the "pure Khmer" as the source and beneficiary of the revolution could not be based on Khmer ethnicity alone. First, the Khmer Rouge considered many elements of the Khmer tradition to be retrograde, such as the attachment to Buddhism. These counter-revolutionary vestiges had to be excised from society. Second, many of the key members of the Standing Committee (such as Pol Pot, Nuon Chea, Sao Phim and Khieu Samphan) were of Chinese descent. To accommodate different "objective" ethnicities within the new Cambodian polity, the Khmer Rouge revived the term "Kampuchea," even officially calling their party the Party of Democratic Kampuchea. The term dates from the 9th century and a romanticized period of the Angkor dynasty, which flourished in South East Asia for 600 years with its capital at the world-famous Angkor Wat. In the radical egalitarianism of the Khmer Rouge, all those who were proper Kampucheans were equal; all those who were not were subject to elimination. In this way, the Khmer Rouge invented an ideal type—with national, ethnic, political, and religious dimensions—against which all citizens were to be measured. Individuals who did not adhere to these multidimensional criteria were exempt from inclusion, dehumanized, and subject to execution.

Eventually, the Khmer Rouge exhausted "the other" and turned upon itself. An alleged coup attempt in 1976 prompted full-scale purges aimed at all party leaders, local officials, military officers, and citizens supposedly associated with the political "opposition." Khmer Rouge cadres recruited a vast network of spies throughout society to identify dissidents and enemies of the state. Friends and family of the accused were instantly guilty by association, and children were encouraged to denounce their parents. The regime justified the intensified repression that followed on the ground that the revolution was at all times in jeopardy of sabotage by counterrevolutionary forces. It confined Khmer Rouge cadres accused of sedition, treachery, and collusion with Vietnam in detention centers where they were tortured to extract putative "confessions" that led to more purges. Case 001 before the ECCC involved crimes committed at Tuol Sleng Prison (a.k.a. S–21)—the apex of the torture and extermination system—where upwards of 14,000 people were "smashed to bits."

The Khmer Rouge regime was finally halted when Vietnam—with assistance from former Khmer Rouge functionaries—invaded Cambodia on January 7, 1979, and installed the People’s Republic of Kampuchea. By the time the Vietnamese invasion opened the killing fields for the world to see, approximately two million people had perished, some from outright execution, others from being worked to death, others from malnutrition and disease borne of starvation and want. Although the ouster of the Khmer Rouge was welcomed by many, western anti-communism tinged with lingering United States animosity toward Vietnam led the United Nations—in a lamentable expression of realpolitik—to allow the Khmer Rouge government to retain its seat in the U.N. General Assembly as a "government-in-exile."

The Establishment of the ECCC
The United States eventually acknowledged the venality of the Khmer Rouge. Almost two decades later, Congress passed the Genocide Justice Act (1994), which authorized the creation of a documentation center in Cambodia, later named the Documentation Center of Cambodia (DC-Cam), to develop the United States proposal for the establishment of an international criminal tribunal for the prosecution of those accused of genocide in Cambodia and to gather, and begin to analyze, the necessary evidence. (Disclosure: I interned with DC-Cam in 1995 and 1996 and have been a legal adviser to DC-Cam ever since). Experts hired by the State Department produced a report establishing prima facie evidence of the commission of crimes against humanity and war crimes.

In 1997, the co-Prime Ministers of Cambodia wrote to the U.N. Secretary-General requesting assistance with the establishment of an international tribunal to prosecute surviving members of the Khmer Rouge regime. Soon thereafter, however, the first Prime Minister, Hun Sen, staged a palace coup to vault himself into position as the sole Prime Minister; a few years later, Pol Pot, the symbolic head of the Khmer Rouge, died under mysterious circumstances; and several high ranking Khmer Rouge leaders defected from their jungle hideouts in northwestern Cambodia accompanied by great fanfare. Under these circumstances, Hun Sen eventually soured on the idea of creating an institution he could not control. Nonetheless, by then, the process had taken on a life of its own.

In the meantime, the U.N. General Assembly requested the establishment of a Commission of Experts to examine the evidence and recommend a course of conduct to end impunity in Cambodia. In a 1999 report, the Commission—composed of Rajsoomer Lallah (Mauritius), Sir Ninian Stephen (Australia), and Professor Steven Ratner (United States)—recommended the establishment of another ad hoc tribunal, under either Chapter VI or VII of the U.N. Charter, that would be based in Thailand or elsewhere outside of Cambodia. The Commission rejected a true mixed tribunal, which had been proposed by the Cambodian government, because the Commission was concerned about the prevalence of corruption, the risk of political influence on the judiciary, the quality of the local bar, and the ability of the local courts to meet international due process standards.

The Security Council did not act on these recommendations due in part to tribunal fatigue, however, so the Secretary-General began negotiations with the government of Cambodia to establish the quasi-international tribunal that was favored by the government. Several contentious institutional design issues emerged immediately (such as whether there would be a majority of international or domestic personnel, who would appoint key personnel, and how disputes between international and Cambodian staff would be resolved). The Secretary-General’s primary concern in these debates was that the government was attempting to create a judicial process that could be politically controlled rather than an independent and impartial tribunal meeting international standards. As these debates were underway, the Cambodian Parliament passed legislation in 2001, the Law on the
Establishment of Extraordinary Chambers in the Courts of Cambodia for the Prosecution of Crimes Committed During the Period of Democratic Kampuchea, which resolved these outstanding issues—largely in favor of the government’s position.

In the face of this fait accompli and continued intransigence on the part of the government, the Secretary–General withdrew from the negotiations in February 2002. For this, he drew significant ire from influential members of the General Assembly committed to seeing a tribunal in Cambodia, the U.N.’s own Special Representative for Human Rights in Cambodia, and the U.N. High Commissioner for Human Rights. Members of the NGO community split on this issue: some took the hard line against the risk of a flawed process, whereas others argued that the perfect should not be the enemy of the good. The impasse ended when the U.N. General Assembly by resolution (U.N. Doc. A/RES/57/228) requested that the Secretary–General continue the negotiations on the basis of the 2001 law. On the same day it passed this resolution, and apparently oblivious to this irony, the General Assembly passed another resolution (U.N. Doc. A/RES/57/225) expressing concern about "interference by the executive in the independence of the judiciary" in Cambodia. The General Assembly eventually approved the agreement between the United Nations and the Royal Government of Cambodia in 2003. The agreement entered into force on April 29, 2005.

The ECCC Proceedings

In early 2006, the ECCC was formally established on the premises of the High Command Headquarters of the Royal Cambodian Armed Forces on the outskirts of Phnom Penh. By November 2009, the trial of one accused, Kaing Guek Eav (also known by his nom de guerre, "Duch"), had been completed (Case 001). Duch was in charge of the notorious torture center known as S–21, or Tuol Sleng. After being meticulously photographed, interrogated, and killed, victims were then taken to Choeung Ek (also known as "the killing fields") and summarily executed. (Tuol Sleng, a former girl’s school, and Choeung Ek are now museums dedicated to memorializing the victims of the Khmer Rouge regime.) Duch was charged with crimes against humanity and war crimes under international law and with torture and murder under Cambodian law.

In open court, Duch, represented by both a Cambodian and international defense counsel, admitted with some equivocation his responsibility for many of the crimes alleged, and apologized for them (though many doubt the sincerity of his apology). His 72-day trial resulted in a conviction with a sentence of 35 years, shortened to reflect the fact that Duch had been detained for nine years before his trial, seven under the auspices of the Cambodian Military Court and two under the jurisdiction of the ECCC. In a ruling that could be used to challenge the prevalent use of pre-trial detention within the domestic Cambodian system, the ECCC found that Duch’s detention prior to his trial violated his rights (because it exceeded the three-year limit under Cambodian law and the international right to a trial "within a reasonable period of time"), and ordered that he receive credit for time served against any sentence that may be imposed as well as additional credit to
compensate him for the violation of his rights.

The other four suspects in custody (Nuon Chea, Khieu Samphan, Ieng Sary, and Ieng Thirith) were more senior members of the Khmer Rouge. Ieng Sary, former Foreign Minister/Deputy Prime Minister and Minister of Social Affairs, has since died. His wife Ieng Thirith was one of a handful of female defendants to be prosecuted internationally, but has been declared unfit to stand trial. Nuon Chea, also known as Brother Number Two (Pol Pot was Brother Number One), was the chief political ideologist, and Khieu Samphan was Chief of State. Case 002 is proceeding in stages. This week’s judgment (Case 002/01) concerned forced deportation and the execution of Khmer Rouge cadre.

Since its establishment, the ECCC has been plagued with allegations of corruption and political interference. At first, the corruption allegations were bureaucratic in nature, focusing on nepotism in hiring and allegations that Cambodian staff gave kickbacks to government officials. Most of the defense counsel filed a request asking the judges to investigate the allegations of corruption, arguing that such corruption endangered their clients’ right to a fair trial. The Co-Investigating Judges dismissed the request less than two weeks after it was filed, reasoning inter alia that accepting the request would amount to an abuse of power as the facts alleged do not fall within the jurisdictional mandate of the ECCC.

Eventually, the corruption allegations began to touch upon the work of the tribunal itself when a dispute arose between the Cambodian and foreign Co–Prosecutors over whether to undertake additional investigations beyond the five individuals already in custody. Under the agreement establishing the ECCC, such disputes between the two Co–Prosecutors are to be resolved by the Pre–Trial Chamber and a request by one of the Co–Prosecutors to investigate a suspect may proceed in the face of objection by the other Co–Prosecutor unless the Pre–Trial Chamber rules otherwise. Canadian jurist Robert Petit argued in his submissions that the only requirement to open an investigation was the determination that there were reasonable grounds for believing that additional crimes within the jurisdiction of the ECCC had been committed. By contrast, his Cambodian counterpart, Ms. Chea Leang, argued that extra-legal factors—such as the limited nature of the ECCC’s mandate, the threat of instability, and resource constraints—counseled against any expansion of charges. The Cambodian Prime Minister, Hun Sen, publicly stated that he did not want the Court to investigate or charge additional persons, leading to the charges of political interference in the judicial process.

In August 2009, the Pre–Trial Chamber deadlocked over the request submitted by Petit, and thus investigations are proceeding against five additional suspects whose names are currently under seal (Cases 003 and 004). The Pre–Trial Chamber split along national lines, the two international judges voting in favor of the investigations and the three Cambodian judges voting against. Because decisions of the Court require a supermajority (i.e. at least one international judge must be in the majority), the investigation was allowed to proceed. Subsequent to this decision, the Prime
Minister stated that if additional charges were brought it would result in social unrest that could kill from 200,000 to 300,000 people. Soon after the decision was announced, Petit abruptly resigned, citing personal reasons. British Solicitor Andrew Cayley then assumed the foreign Co–Prosecutor position, although he too has resigned and is now head of the United Kingdom’s Service Prosecuting Authority, which prosecutes members of the armed forces. American Nicholas Koumjian now occupies the Co–Prosecutor position. American Mark Harmon, formerly of the ICTY, is the fourth international Co-Investigating Judge (three others have resigned amidst allegations of political interference). He serves alongside his Cambodian counterpart, You Bunleng.

Final Thoughts on the Bar Human Rights Committee’s Letter
Juris Opinio
By Kevin Jon Heller
August 9, 2014

Kirsty Brimelow QC, the chair of the Bar Human Rights Committee (BHRC) — and a colleague of mine at Doughty Street Chambers — has responded to my position on the 2009 Declaration, as recounted by Joshua Rozenberg in this Guardian article. Here is the relevant paragraph:

Neither Rozenberg's opinion piece nor academic he relies upon, Kevin Heller, cite the text of the 2012 decision in support of their positions. This is hardly surprising given that the decision does not in fact "formally reject" the 2009 declaration.

Although I stand behind my claim that the OTP "formally rejected" the 2009 Declaration in its 2012 decision, Kirsty correctly points out that I did not cite the text of the decision. So I think it's useful to summarise the text and quote it where appropriate:

[1] The 2009 Declaration purported to accept the Court’s jurisdiction over the situation in Palestine on an ad hoc basis, retroactive to 1 July 2002 (para. 1).

[2] Per Art. 15 of the Rome Statute, the OTP initiated a preliminary examination "in order to determine whether there was a reasonable basis to proceed with an investigation" (para. 2).

[3] The OTP stated that the first step in that inquiry was to determine whether it had jurisdiction over the events in Palestine. In that regard, it noted that "only when such criteria are established will the Office proceed to analyse information on alleged crimes as well as other conditions for the exercise of jurisdiction" (para. 3).

[4] The OTP pointed out that only a "State" can accept the Court’s jurisdiction on an ad hoc basis under Art. 12(1) of the Rome Statute (para. 4), which meant that the key issue with regard to the Declaration was whether Palestine qualified as a State (para. 5).

[5] The OTP concluded that it did not have the authority to decide whether, as a matter of law, Palestine was a State; that responsibility was "for the relevant bodies at the United Nations or the Assembly of States Parties" (para. 6).
The OTP acknowledged that numerous states had acknowledged Palestine’s statehood and that Palestine had applied for membership as a State in the UN, but insisted that although the UN application was relevant, "this process has no direct link with the declaration lodged by Palestine" (para. 7).

The OTP said it "could in the future consider allegations of crimes committed in Palestine" if the statehood issue was "eventually" resolved by the UN or ASP (para. 8).

Although the decision is not the picture of clarity, I still think it qualifies as a "formal rejection" of the 2009 Declaration. The Declaration formally requested the OTP accept jurisdiction and investigate the situation in Palestine. The OTP opened a preliminary examination, as required by the Rome Statute, but then ended that examination at the first step, concluding that it did not have jurisdiction over the events in question because Palestine could not establish that it was a State. That’s a rejection, even if the OTP — to use a common-law phrase — dismissed the Declaration without prejudice.

My guess is that paragraph 8 is the crux of the disagreement between the BHRC experts and me. They are reading it as a statement that the OTP would essentially hold onto the Declaration until the UN or ASP clarified Palestine’s status as a state, at which point it could then advance the preliminary examination. It’s possible — but I think the OTP would have said as much if that’s what paragraph 8 meant. I read the paragraph as making clear the OTP was rejecting the Declaration without prejudice to a later ad hoc declaration — a reading, not incidentally, that seems to square with Fatou Bensouda’s recent statement that the OTP won’t act without a new Declaration or Palestine’s ratification of the Rome Statute.

I also want to make clear that I disagree with Rozenberg’s statement that the BHRC "is at best naive, and at worst misleading, for suggesting [the] legal situation is beyond doubt." I don’t think there is anything naive or misleading about the letter, even though I disagree with it. These are very difficult issues, over which reasonable people can disagree. And there is, of course, nothing wrong with advocates advocating.

Finally, I want to sincerely apologise to the BHRC for revealing that I had been asked to sign the letter. Although I waited for the letter to appear publicly before commenting on it, I should not have mentioned that I had been approached.

MH17 Should Be Framed as Murder, Not as a War Crime
Juris Opinio
By Kevin Jon Heller
August 11, 2014

It has become quite common to describe the downing of MH17 as a war crime. In late July, for example, Navi Pillay, the UN High Commissioner for Human Rights, said that "[t]his violation of international law, given the prevailing circumstances, may amount to a war crime," More recently, William Burke-White has said that, for framing purposes, "
The time has come for governments and international organizations to call the attack on MH17 a probable war crime. If whoever launched the missile did so with the intent of killing the civilian passengers aboard MH17, the act was unmistakably a war crime.

Even if the objective was to strike a Ukrainian transport aircraft, the act likely constitutes a war crime. Fundamental to the law of war, including the law applicable in non-international armed conflicts, is the principle of distinction – the requirement that fighting parties distinguish between civilian and military targets. In the words of the International Committee of the Red Cross, that duty of care includes doing "everything feasible to verify that targets are military objectives."

In this case, many steps could easily have been taken to differentiate MH17 from a military-transport plane, including visual identification (perhaps with binoculars), radar-signature analysis, and a check of the civilian aircraft transponder-code broadcast. If, as seems likely, these basic steps were not taken, even an accidental strike on MH17 would constitute a war crime.

If the Ukrainian separatists did indeed intend to kill civilians, Bill and Navi Pillay are absolutely right to describe the attack as a war crime — in this case, murder and/or intentionally directing attacks at civilians or civilian objects (to use the Rome Statute’s terminology). But everything we know to date about the attack indicates that the separatists honestly believed MH17 was a Ukrainian military transport, not a civilian airplane. If so, that changes the legal assessment of the attack considerably. The attack would still qualify as murder under domestic law — but it would not qualify as a war crime, under either the Rome Statute or the jurisprudence of the ICTY. (The latter likely representing the customary definition of the war crimes of murder and attacking civilians or civilian objects, which most states would apply in a prosecution based on universal jurisdiction.)

Let’s go in order. The problem with describing the attack on MH17 as a war crime under the Rome Statute is Article 32(1), which provides that "[a] mistake of fact shall be a ground for excluding criminal responsibility only if it negates the mental element required by the crime." The actus rei of the war crime of murder and the war crime of intentionally directing attacks at civilians or civilian objects each include a circumstance element: the individuals attacked must qualify as civilians (or as otherwise protected persons). The relevant mens rea for circumstance elements is knowledge, pursuant to Art. 30(3) of the Rome Statute: "For the purposes of this article, ‘knowledge’ means awareness that a circumstance exists." Black-letter criminal law provides that an honest mistake of fact negatives any mens rea that requires subjective awareness. So if the separatists honestly believed they were attacking a Ukrainian military transport, they were not aware that they were attacking civilians. In which case they could not be convicted of either the war crime of murder or the war crime of intentionally directing attacks at civilians or civilian objects.

The result is no different under the ICTY’s jurisprudence, even
though the ICTY applies a lower mens rea to the war crimes of murder and attacking civilians. A complete discussion of the issue is beyond the scope of this post; suffice it to say here that an accused will be responsible for either war crime only if he was reckless toward the possibility that the objects of his attack qualified as civilian. (Dolus eventualis in civil-law terminology.) Recklessness is a subjective mental state in the ICTY’s jurisprudence; as the Trial Chamber noted in Brdjanin, specifically in the context of murder, "the threshold of dolus eventualis... entails the concept of recklessness, but not that of negligence or gross negligence." Like the ICC, the ICTY recognizes mistakes of fact. As a result, the separatists could not be convicted of either the war crime or murder or the war crime of attacking civilians under ICTY jurisprudence if they honestly believed they were attacking a Ukrainian military transport: although that belief might have been negligent, even grossly negligent, its honesty meant that they were not subjectively aware they were attacking civilians.

The bottom line is that the accidental downing of civilian airplane based on an honest belief that the airplane was a military objective is not a war crime. Failing to take adequate precautions may violate IHL, but it is not criminal. The downing of MH17, therefore, should be framed not as a war crime but as murder.

Emerging Voices: Freedom or Restraint? On the Comparison Between the European and Inter-American Human Rights Courts
Juris Opinio
By Lucas Barreiros
August 11, 2014

While much attention has been paid to the differences and similarities between the European Court of Human Rights (ECHR) and the Inter-American Court of Human Rights (IACHR) as well as to the dialogue between them [see here, here, here and here for examples], none of that attention has been devoted to comparing the one aspect of their work that best and most synthetically captures all that sets them apart – that is, the doctrines of "margin of appreciation" and "control of conventionality". It is proposed here that more attention should be paid to the explanatory power of these two doctrines in understanding the different identities and diverging trajectories of the ECHR and the IACHR.

As known, the "margin of appreciation" doctrine was developed by the ECHR starting in its Handyside v. United Kingdom judgment. It has been understood to refer, as pointed out by Steven Greer, to "the room for manoeuvre that the Strasbourg institutions are prepared to accord to national authorities in fulfilling their obligations under the European Convention on Human Rights". The rationale for allowing this margin of appreciation, as pointed out by the ECHR in Handyside when referring to the conditions set out in the Convention to lawfully restrict the freedom of expression, is that national authorities, "by reason of their direct and continuous contact with the vital forces of their countries (...) are in a better position than the international judge to give an opinion on the exact content of these requirements".

For its part, the "control of conventionality" was first mentioned by
The IACHR in its judgment in the Case of Almonacid Arellano et al v. Chile. The IACHR held that:

"(...) domestic judges and courts are bound to respect the rule of law, and therefore, they are bound to apply the provisions in force within the legal system. But when a State has ratified an international treaty such as the American Convention, its judges, as part of the State, are also bound by such Convention. This forces them to see that all the effects of the provisions embodied in the Convention are not adversely affected by the enforcement of laws which are contrary to its purpose and that have not had any legal effects since their inception. In other words, the Judiciary must exercise a sort of "conventionality control" between the domestic legal provisions which are applied to specific cases and the American Convention on Human Rights. To perform this task, the Judiciary has to take into account not only the treaty, but also the interpretation thereof made by the Inter-American Court, which is the ultimate interpreter of the American Convention."

It should be noted that there are two components to the doctrine – one deals with the responsibility of national authorities to ensure that the application of national legislation does not adversely affect the rights under the American Convention of Human Rights; the other, however, is the direct opposite of the "margin of appreciation" as it leaves no room for national authorities to conduct their own assessment and requires them to apply the interpretation of the IACHR.

At first glance, these doctrines appear to be concerned with the standard of review that each of these two tribunals applies when scrutinizing States’ compliance with human rights treaties and their deference to the decisions of national courts. However, they also capture, reveal or explain many other differences between the two regional human rights systems, including their philosophical and historical understanding of the human rights notion and the two relevant regional human rights treaties, how they conceive the role of international courts in the protection of human rights as well as their relationship with national courts, their perceptions about their own accountability and that of national governments, the power and legitimacy of each institution and, finally, how different procedural and budgetary questions influence the way in which both tribunals perform their role and strive for effectiveness. I will attempt to briefly illustrate the explanatory power of these doctrines by reference to a few of these differences.

The two doctrines can both be explained by, and shed light upon, the prevailing political conditions in each region as well as the political attitudes of national governments towards the two courts. In particular, the "control of conventionality" doctrine may be understood as the response of the IACHR to a number of political challenges that include weak democracies and a tradition of authoritarian governments in Latin America, limited accountability of national governments, a weak record of compliance with its judgments and a general lack of support and, more recently, challenges to the authority of the Inter-American system of human rights spearheaded by some States in the region. In this scenario, the IACHR does not appear to trust national governments and is
unwilling to afford them any flexibility in the interpretation and application of their human rights obligations. The fact that the IACHR sees itself as capable of occupying this position of authority – with vague normative foundations in the American Convention of Human Rights – also points to its limited accountability. Whether the weakness of the IACHR is best addressed by an attempt to strengthen its grip over those that defy it is a difficult question. For its part, the ECHR reliance on the "margin of appreciation" doctrine suggests mutual trust between the Court and national governments and only appears to be possible in the more robustly democratic political environment of the European Union.

There are, however, more material and formal explanations for the two doctrines. Both budgetary and procedural reasons account for the significantly smaller docket of the IACHR when compared to that of the ECHR. The 2014 budget of the IACHR was $ 2,661,100.- and that of the ECHR was € 67,650,400.00.- and, whereas Protocol 11 to the European Convention of Human Rights allows direct access by individuals to the ECHR (resulting, for example, in a total of 128,100 pending cases at the end of 2012), only the Inter-American Commission of Human Rights may decide to present a case before the IACHR (in 2012, the IACHR received 12 new cases and issued 21 judgments). In this context, it is easy to understand why the ECHR is willing to afford national authorities some margin of appreciation – as it is much more likely that it will later be able to review such decision. Whereas the doctrine was developed before the entry into force of Protocol 11, the European Commission had always referred, perhaps for political or budgetary reasons, a much larger number of cases to the Court than its American counterpart ever did – at a rate of over 1,100 a year from 1959 until 1998. For these purposes, Protocol 11 formalized and intensified a trend which was already apparent in the comparison between the two systems. In contrast, the "control of conventionality" doctrine of the IACHR may be understood as an effort on the part of the Court to extend the effect of the few judgments that it adopts by attempting to force national authorities to conform to them, a necessity considering how unlikely it is for a case to reach the IACHR.

Adopting this perspective offers distinct focal points to think about the differences between the IACHR and the ECHR as well as new insights about the rationale underlying each of these two doctrines. Most importantly, however, contrasting both doctrines helps direct attention to the divergent trajectories that the two courts are currently following and to think about their implications for the future.

The ICRC’s Position on Human Shields (and Gaza)—A Reply to Professor Adil Haque
Just Security
By Ryan Goodman
August 11, 2014

I agree with Professor Adil Haque’s description of the ICRC’s bifurcated position on voluntary human shields. I have accordingly added a note in my original post which now refers to his Letter to the Editor and this reply.
It might also be valuable for readers to have a more elaborate account of the ICRC’s bifurcation. According to the ICRC’s Interpretive Guidance on Direct Participation in Hostilities (DPH), there are two types of voluntary human shields:

Category 1: Voluntary shields who are DPH (i.e., lawful targets):

This class includes civilians who (voluntarily and deliberately) physically block or impede an attack on a military target and may also include civilians who shield a military target in such a way as to undermine the physical capacity of the attacker to "identify" or "destroy" the object. In its explanation of category 1, the ICRC Guidance states: "This scenario may become particularly relevant in ground operations, such as in urban environments, where civilians may attempt to give physical cover to fighting personnel."

Category 2: Voluntary shields who are not DPH (i.e., not lawful targets):

This class includes civilians who (deliberately and voluntarily) position themselves in or near a military target to protect it from attack (through use of their legal immunity from attack), but who do not physically hinder the attacker’s capacity to identify or destroy the target. In other words, their actions would make it more legally difficult (but not more physically difficult) for the attacker to destroy the military target due to the increase loss of civilian life. In its explanation of category 2, the ICRC Guidance states: "[I]n operations involving more powerful weaponry, such as artillery or air attacks, the presence of voluntary human shields often has no adverse impact on the capacity of the attacker to identify and destroy the shielded military objective."

For an important debate on the validity of the ICRC’s bifurcated view—see an article by Prof. Michael Schmitt (pp. 732-35) criticizing the Interpretive Guidance and an article by Nils Melzer defending the Guidance in response to Prof. Schmitt (pp. 869-72).

Here are the relevant passages from the Interpretive Guidance:

Voluntary human shields: The same logic applies to civilians attempting to shield a military objective by their presence as persons entitled to protection against direct attack (voluntary human shields). Where civilians voluntarily and deliberately position themselves to create a physical obstacle to military operations of a party to the conflict, they could directly cause the threshold of harm required for a qualification as direct participation in hostilities.[138] This scenario may become particularly relevant in ground operations, such as in urban environments, where civilians may attempt to give physical cover to fighting personnel supported by them or to inhibit the movement of opposing infantry troops.[139]

Conversely, in operations involving more powerful weaponry, such as artillery or air attacks, the presence of voluntary human shields often has no adverse impact on the capacity of the attacker to identify and destroy the shielded military objective. Instead, the presence of civilians around the targeted objective may shift the parameters of the proportionality assessment to the detriment of
the attacker, thus increasing the probability that the expected incidental harm would have to be regarded as excessive in relation to the anticipated military advantage.\[140\] The very fact that voluntary human shields are in practice considered to pose a legal – rather than a physical – obstacle to military operations demonstrates that they are recognized as protected against direct attack or, in other words, that their conduct does not amount to direct participation in hostilities. Indeed, although the presence of voluntary human shields may eventually lead to the cancellation or suspension of an operation by the attacker, the causal relation between their conduct and the resulting harm remains indirect. \[141\]

Depending on the circumstances, it may also be questionable whether voluntary human shielding reaches the required threshold of harm. The fact that some civilians voluntarily and deliberately abuse their legal entitlement to protection against direct attack in order to shield military objectives does not, without more, entail the loss of their protection and their liability to direct attack independently of the shielded objective.\[142\] Nevertheless, through their voluntary presence near legitimate military objectives, voluntary human shields are particularly exposed to the dangers of military operations and, therefore, incur an increased risk of suffering incidental death or injury during attacks against those objectives.\[143\]

\[138\] This view was generally shared during the expert meetings (Report DPH 2006, pp. 44 ff.; Report DPH 2008, pp. 70 ff.).

\[139\] During the expert meetings, this scenario was illustrated by the concrete example of a woman who shielded two fighters with her billowing robe, allowing them to shoot at their adversary from behind her (Report DPH 2004, pp. 6 f.).


\[141\] While there was general agreement during the expert meetings that involuntary human shields could not be regarded as directly participating in hostilities, the experts were unable to agree on the circumstances in which acting as a voluntary human shield would, or would not, amount to direct participation in hostilities. For an overview of the various positions, see Report DPH 2004, p. 6; Report DPH 2006, pp. 44 ff.; Report DPH 2008, pp. 70 ff.

\[142\] See also Art. 51 \[7\] and \[8\] AP, according to which any violation of the prohibition on using civilians as human shields does not release the attacker from his obligations with respect to the civilian population and individual civilians, including the obligation to take the required precautionary measures.

More than 1900 Palestinians have been killed in Gaza, hundreds of thousands are displaced and the material destructions are formidable. There have been several claims that Israel has violated international law. But the focus is only on violations of international humanitarian law (jus in bello), not on breaches of restrictions following from the right of self-defence (jus ad bellum).

This was similar after the previous Israeli invasion of Gaza, "Cast Lead" in 2008-2009. The Goldstone Commission’s mandate, established by the Human Rights Council, was to examine possible breaches of international humanitarian law and human rights law. The International Red Cross (ICRC) supervises compliance with international humanitarian law. Human Rights Watch in its Q&A: 2014 Hostilities between Israel and Hamas seems at least to be aware of the problem, by saying that it does not address "the legitimacy of resorting to armed force, such as under the United Nations Charter."

But the use of military force is restricted both by international humanitarian law and jus ad bellum. This was recognized by the International Court of Justice in the Wall case (para. 42). Israel has under article 51 of the UN Charter a right of self-defence against the rocket attacks from Hamas. This right was claimed by Israel as a legal basis for the Cast Lead operations (Cast Lead: The Operation in Gaza. Factual and Legal Aspects, July 2009, para. 68. See also the Goldstone report, para. 187.). But it is generally accepted that this right is subject to restrictions of necessity and proportionality.

The requirements of proportionality are different in international humanitarian law and as a restriction on the right to self-defence. David Kretzmer explains the difference (The Inherent Right to Self-Defence and Proportionality in Jus Ad Bellum. 24 EJIL (2013), 235-282, at 278):

While the question in jus in bello relates to attacks on specific targets, in jus ad bellum the question relates to the whole picture. Use of force could conceivably be disproportionate under jus ad bellum even if all specific attacks met the demands of proportionality in jus in bello. The jus in bello test refers to collateral damage to civilians or civilian objects which are not in themselves legitimate targets, whereas the jus ad bellum test includes (but is certainly not confined to) damage to combatants and military objects.

The restrictions on self-defence for Israel’s military operations should receive more attention. What are the limits for these operations? Has Israel gone too far?

Emerging Voices: Protecting the World’s Children: R2P and Measures Less-Than-Force
Juris Opinio
By Stacey Henderson
August 13, 2014 http://opiniojuris.org/2014/08/13/emerging-voices-protecting-
Children are among the most vulnerable during armed conflict. The existence of special protections for children in the 1949 Geneva Conventions, and the existence of the Convention on the Rights of the Child and the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, all attest to the special vulnerability of children. The security of children during armed conflict has even been recognised by the Security Council as being a matter of international peace and security (see for example: SCR 1261, SCR 1314, SCR 1379). Given the importance of protecting children and other vulnerable groups during armed conflict, does the concept of the Responsibility to Protect ('R2P') clarify the principles governing international responses to atrocity crimes?

At its heart, R2P is about duty – the primary duty of states to protect their populations from atrocity crimes and the secondary duty of the international community to 'use appropriate diplomatic, humanitarian and other peaceful means' to help protect against atrocity crimes and to take action through the Security Council when the state 'manifestly fails' to protect its population. Even if it is R2P-lite (.pdf), this formulation of R2P and the duty of the international community which flows from it, in practice appears to allow considerable scope for the international community to take significant steps to intercede in armed conflicts where atrocity crimes are being committed, provided those measures do not cross the threshold of use of force in the absence of a Security Council resolution. In order to distinguish these less-than-force measures from the baggage that comes with the term "intervention," in my view they are better described as "intercession." Although in its early stages, my research indicates that these less-than-force measures (intercession) include unilateral sanctions, trade restrictions, diplomacy, withdrawal of aid funding and even non-lethal support to rebel groups (.pdf). These are measures taken by states, without Security Council authorisation, which are less than the use of force, but which appear to be the site of the most significant opportunities for change that protects the most vulnerable, including children.

The increasing use of intercession by the international community in response to modern armed conflicts reveals an emerging norm in international law which recognises that there are international obligations to protect human rights, particularly the human rights of the most vulnerable such as children, and humanitarian ideals that are more important than, and overtake, sovereignty when atrocity crimes are being committed. This emerging norm is revealing itself through state practice, for example, the prevalent use of sanctions in many African conflicts. The European Union ('EU') sanctions (.pdf) in force against Sudan includes travel bans on individuals who 'commit violations of international humanitarian law or human rights law or other atrocities.' Among the EU sanctions (.pdf) in force against the Democratic Republic of Congo ('DRC') are travel bans and freezing of funds and economic resources of 'individuals and entities recruiting or using children in armed conflict' or who are 'involved in the targeting of children or women in situations of armed conflict.' Further, in relation to Syria,
the EU has adopted an array of less-than-force measures designed to put pressure on the Assad regime. These measures include ‘a ban on the import of arms and related material from Syria, export restrictions on equipment that could be used for repression, an import ban on crude oil and petroleum products from Syria, the freezing of the Syrian central bank’s assets, asset freezes on a number of entities and persons, and travel restrictions for a specific list of individuals associated with repression.’ At the same time as utilising these less than force measures (intercession), through its EU Children of Peace initiative, the EU has provided humanitarian assistance for the education of children in conflict zones, including among others the DRC and Syria in 2013. This is entirely consistent with the duty of the international community flowing from R2P to ‘use appropriate diplomatic, humanitarian and other peaceful means’ to help protect against atrocity crimes. It evidences an emerging norm in international law which recognises that there are international obligations to protect human rights, particularly the human rights of the most vulnerable such as children.

This emerging norm is also finding expression in treaty texts. For example, the preamble to the Arms Trade Treaty (‘ATT’) (not yet in force) (.pdf) expressly refers to respect, and ensuring respect, for international humanitarian law and international human rights law as being key principles. If it enters into force (at the time of writing it requires 9 more ratifications before it does so), the ATT will place a duty on states parties to take into account the risk of conventional arms being used ‘to commit or facilitate serious acts of gender-based violence or serious acts of violence against women and children’ prior to exporting those arms (Art 7(4)). Further, states parties will have a duty to consider the ‘overriding risk’ of serious violations of international humanitarian law or international human rights law being facilitated or committed before they authorise any export of conventional arms (Art 7(1)). This is entirely consistent with the duty on the international community under R2P. It will require states parties to consider the impact or likely impact of an export of conventional arms in light of its duty to the international community and the most vulnerable, including children. Whether it ultimately leads to a reduction in the commission of atrocity crimes or not, the fact that an international treaty regulating the trade in conventional arms exists at all indicates significant normative change. It is consistent with an emerging international legal consciousness which requires states to take into account considerations of international human rights law, international humanitarian law and the duty flowing from R2P in decision making. It is indicative of the idea, flowing from R2P, that there are international obligations to protect the human rights of the most vulnerable, especially children, which become more important and trump sovereignty when atrocity crimes are being committed.

The increasing use of intercession by the international community suggests that R2P is more than clever marketing. R2P-lite is not too weak to matter. It is the site of dynamic and important modern practice which presents the most significant opportunities for change that protects the most vulnerable, including children. It has led to states reimagining what their duties are. It has resulted in states developing new understandings of what is permissible
Atrocities and the International Community

Conduct in response to atrocity crimes with an increasing array of less than force measures (intercession) being available and utilised. It is no longer a simple binary choice between doing nothing, and the use of force. The international community can intercede in armed conflicts to protect the most vulnerable. Whether it chooses to do so is another question entirely.

Attacks on Schools—What about International Law?

By Kristín Hausler And Robert Mccorquodale
August 13, 2014

On 30 July, a school operated by a UN agency in the Jabalia refugee camp, north of Gaza City, was shelled by the Israeli army, killing at least 16 people and injuring more than 100. On 3 August, the Israeli army bombed another Gaza school run by the UN, this time in Rafah, where over 2,000 displaced Palestinians were sheltering. This attack reportedly killed at least 10 individuals. There have also been reports that Hamas has been storing weapons in schools. Can attacks on schools, teachers and students ever be legitimate under international law?

International humanitarian law applies, in its entirety, to international armed conflicts, while some of its key principles apply also to non-international (internal) armed conflicts. All the parties to the current armed conflict in Gaza and other armed conflicts, no matter if they qualify as state or non-state actors, are, at the very least, legally bound by the rules of customary international humanitarian law. The key rules are the distinction between civilians and those taking a direct part in hostilities, and between civilian and military objects. Deliberate attacks on civilians are prohibited. Therefore, students, teachers and all other civilians who may be located in a school are protected as long as they do not take an active part in the hostilities. In addition to deliberate attacks, indiscriminate attacks, which do not distinguish between civilian and military targets, such as those consisting of area bombardments over densely populated areas or those conducted with imprecise weapons that are not able to target military objectives with sufficient precision, are prohibited. Disproportionate attacks which cause excessive harm to civilians are also prohibited.

In the same way as individuals are protected if they do not take part in hostilities, schools are protected from attacks because they do not serve a military function. While some buildings, such as hospitals, benefit from special protection under international law, this is not the case for schools. The protection of schools from attacks ceases if they become military objectives, which occurs when they are used for military purposes and effectively support military action, such as to store weapons or to station troops. Such use should be discouraged.

Deliberately placing civilians in or around military objects amounts to using civilians as ‘human shields’, which is prohibited under customary international law. If schools are used solely as shelters for civilians, they remain civilian objects. In case of doubt about the military nature of an object, the building in question must be presumed to be civilian. At all times, any party to a conflict must...
minimize the risks of civilian casualties and injuries, as well as minimize the risks of damage or destruction of civilian objects by taking all possible precautionary measures in the conduct of military actions.

In addition, parties to a conflict also have a duty to respect human rights within their borders, as human rights continue to apply during armed conflicts. States exercising effective control over territories beyond their borders are also bound by their human rights obligations on those territories. Both Israel and Palestine are parties to human rights treaties that protect the right to education and protect children’s rights. Therefore, the use of schools for military purposes, which is likely to threaten the provision of education, may also amount to a human rights violation on the part of the state responsible to provide education.

Through the application of international criminal law and after appropriate investigation, the perpetrators of international crimes may be held individually responsible. In relation to both international and non-international armed conflicts, the Statute of the International Criminal Court (ICC) establishes that intentionally directing attacks against the civilian population, as well as intentionally directing attacks against buildings dedicated to education, are war crimes. However, the ICC can only prosecute crimes if the alleged perpetrator is a national of one of its State Parties, if the crime was committed on the territory of a State Party, or if the matter is referred by the UN Security Council. While Israel has signed the ICC Statute, it has never ratified it, and Palestine’s declaration accepting the ICC jurisdiction was not accepted when it was made.

It is also important that those, including the injured and the relatives of the victims, who have suffered harm as a result of those attacks are provided with adequate reparations. States responsible for violations of international humanitarian law and international human rights law are under an obligation to provide adequate reparation, even if their actions were committed extra-territorially. For example, the schools that have been destroyed must be repaired so that the right to education continues to be provided.

Elsewhere, schools, pupils and teachers have been the objects of acts of violence in recent times, including, for example, in Nigeria, where Boko Haram conducted targeted shootings at schools and abducted female students, and in Pakistan, where the Taliban attempted to kill student and activist Malala Yousafzai. All of these attacks highlight the need to uphold the international legal provisions protecting education, as has been shown by BIICL’s research on Protecting Education in Insecurity and Armed Conflict. If a state and a people are to have long-term sustainable peace and development after an armed conflict, then there is a great need for education now and in the immediate future. Furthermore, the right to education is an enabling right, empowering access to other human rights and to meaningful participation in society. It is a right deserving of all our protection, at all times.

The Weapons Piece of the Proportionality Analysis in Gaza
Just Security
Significant commentary (here and here) continues to be generated about proportionality and the legality of the use of force, including addressing the jus ad bellum (justification or reasons for war) underpinning Operation Protective Edge. Critical questions are now making their way into the mainstream media asking about the relationship between weapons deployment in Gaza and applying proportionality tests to the actions of all the military actors involved. In particular, the choice of weapons utilized during the course of hostilities raises specific questions that implicate command responsibility for any breaches of the law of armed conflict. Weapons choice is a logical a priori element of any proportionality analysis, if one examines command responsibility. Thus command responsibility assessment includes the choice to deploy particular kinds of weapons and is different from a narrow focus on the actions of the individual combatant who uses the weapon in question (though the individual combatant is not exempt from charges of breach of the law of armed conflict for her actions and choices). As one commentator has noted:

Proportionality, however, is a legal term with a specific legal meaning. It is one of a set of fundamental legal obligations that helps to minimize suffering during wartime. The principle of proportionality forbids attacks in which the expected civilian casualties from the attack will be excessive in relation to the anticipated military advantage gained.

Weapons choice is an intrinsic element of measuring whether excessive force has been used and whether meaningful efforts have been made to minimize incidental harms to civilian in the course of military operations. A logical precursor to the evaluation of proportionality and its breach is the an assessment of weapons use and the expected civilian casualties that might follow in relation to the anticipated military advantage gained. The analysis would clearly be framed by parallel assessment of what choices of weaponry were available to commanders at the relevant time, and whether for example precision weapons could be deployed particularly when force is exercised in densely populated areas. Thus, picking up on Blank (below), the logical corollary of the notion of reasonable judgment is that the steps taken to avoid harm to civilians be subject close and rigorous assessment;

The law also does not require perfect accuracy in targeting. But it does require extensive steps to protect civilians and reasonable judgments about the potential harm to civilians and the actions needed to minimize that harm.

There is general agreement that the deployment of rockets towards populated areas in Israel by Hamas that could not be aimed with discrimination or precision is a prima facie breach of the law of armed conflict. But, a parallel conversation is emergent on weapons choices by Israeli forces during the course of Operation Protective Edge. It appears that the White House, the State
Department, the United Nations, NGOs and former Israeli soldiers have raised specific concerns about decisions to deploy artillery in densely populated civilian areas in Gaza during the course of the conflict instead of precision weapons where control of targets, specificity, and scatter damage might have been reduced. Weapons are not the only element of precision, but they remain a fundamental building block in assessing discrimination in the methods and means of warfare. As one astute commentator on precision warfare has outlined:

Precision strikes ... require more than accurate weapon systems. Robust command, control, communications, computers, intelligence, surveillance, and reconnaissance (C4ISR), for instance, can be as determinative of success as the weapon employed.

There are specific prohibitions on the use of certain weapons set down by the law of armed conflict. The express prohibition on indiscriminate attacks is found in Article 51.4 of Additional Protocol I:

Indiscriminate attacks are prohibited. Indiscriminate attacks are: (a) those which are not directed at a specific military objective; (b) those which employ a method or means of combat which cannot be directed at a specific military objective; or (c) those which employ a method or means of combat the effects of which cannot be limited as required by this Protocol; and consequently, in each such case, are of a nature to strike military objectives and civilians or civilian objects without distinction.

Thus, by subparagraph (a), international humanitarian law forbids the indiscriminate use of a weapon, whereas subparagraphs (b) and (c) prohibit indiscriminate weapons. Without doubt, customary international humanitarian law includes similar prohibitions. Artillery is not a prohibited weapon se per under existing norms. However, the choice to deploy a certain kind of weapon which is quantitatively less discerning and which may contribute to a functional inability to make appropriate distinctions between civilians and combatants, corresponding raises direct issues around proportionality and breach of the material rules of the law of armed conflict. As the International Commission of Inquiry takes up its mandate, it appears likely that this particular issue will be one of the key command and control assessments to be scrutinized.

International Justice and ISIS – An ICC Intervention in Iraq?

Justice in Conflict
By Mark Kersten
August 18, 2014

Despite ongoing violence and the alleged massacre of eighty Yazidi men in northern Iraq by Islamic State militants, there is remarkably little debate about whether or not the deteriorating situation in northern Iraq should be referred to the International Criminal Court (ICC). But if violence continues, it should be expected that the murmur of voices calling on events in Iraq to be investigated by the ICC will grow. In some respects, the unfolding crisis and conflict in northern Iraq is tailor-made for an ICC intervention. But
what would such an intervention look like?

It is important to keep in mind that Iraq is not a member-state of the ICC. As a result, the Court cannot investigate current events in northern Iraq without a United Nations Security Council referral. However, despite it not being a member-state of the ICC, it is also important to remember that the Court is already investigating events in Iraq. Specifically, investigators are examining a trove of evidence suggesting that officials from the UK (which is an ICC member-state) are responsible for the commission of mass human rights violations in Iraq between 2003 and 2008. But, again, because Iraq itself is not a member-state of the ICC, the Court does not have jurisdiction to investigate, let alone prosecute, other crimes committed on Iraqi territory.

One might be tempted to argue that, because of the UK and US’s 2003 invasion of Iraq and the incessant allegations that individuals from both states committed international crimes during that time, these permanent, veto-wielding UN Security Council member-states would be loath to refer Iraq to the ICC. Indeed, this might even explain some of the radio silence regarding a referral of Iraq to the Court.

There is no doubt that Western citizens allegedly responsible for crimes committed in Iraq should be held accountable – and it is a welcome sign that these crimes are currently being investigated the ICC. But those allegations can be held separately from the alleged atrocities currently being committed in the north. As they have in the past, UN Security Council states could tailor a referral to ensure that any ICC investigation be strictly focused on recent events in northern Iraq. Of course, whether or not they should is another matter.

The 2011 referral of Libya to the ICC restricted the Court to investigating crimes committed since 15 February 2011. This had the effect of shielding Western states from scrutiny or investigation for their role in rehabilitating the regime of Muammar Gaddafi and entering into nefarious political, economic and intelligence relationships with him.

The UN Security Council’s referral of the situation in Darfur to the ICC in 2005 provides a precedent for restricting an ICC investigation to a specific region – rather than an entire state. So too does the 2003 referral of northern Uganda to the Court (albeit after the Government of Uganda first sought to refer the Lord’s Resistance Army to the ICC).

There should be no doubt that any Security Council referral of Iraq to the ICC would seek to constrain both the temporal and spacial jurisdiction of the Court. This is how the political relationship between the Council and the Court works. Certain states (i.e. Russia and, to a lesser extent, China) won’t want an ICC investigation leaking into neighbouring states (i.e. Syria). Other states (i.e. the UK and the US) won’t want an ICC investigation delving into events in the rest of Iraq and into the past.

Crucially, there exists a broad consensus that ISIS is beyond the pale. The militant group and its allies do not need to be additionally
demonized for a consensus about their savagery to emerge. The Security Council has already passed a resolution which levied targeted sanctions against six individuals associated with ISIS and Al-Nusra Front. The Council took the unusual step of immediately naming its targets and noted, of ISIS and the Al-Nusra Front, "the negative impact of their violent extremist ideology and actions on the stability of the region, the devastating humanitarian impact on the civilian populations and the role of these groups in fomenting sectarian tensions."

ISIS is seen by large swathes of the ‘international community’ as unambiguously ‘evil’. At the same time, there is little-to-no evidence that the Kurdish forces or other Iraqi fighters have committed atrocities that would warrant ICC scrutiny. This asymmetric attribution of responsibility for violence is important. Evidence suggests that the ICC typically intervenes in situations where an entrenched and widely accepted narrative of ‘good’ versus ‘evil’ pre-exists its intervention. The current situation in northern Iraq certainly fits that bill.

It remains to be seen whether the Security Council is – or will be – interested in referring the situation in northern Iraq to the ICC any time soon. Despite a potential case for a referral, there are clear obstacles as well. One potential hiccup for a Security Council resolution is the likely inclusion of a restriction barring the ICC from investigating or prosecuting citizens of states that are not members of the ICC. At the behest of the United States, this controversial provision was included in the Darfur and Libya referrals as well as the failed Syria referral. This could pose a serious quandary in the case of ISIS and its allies because many of their members are not Iraqi citizens.

None of this is to say that the Security should or should not refer the situation in northern Iraq to the ICC. And there should be no doubt: a referral of the situation in northern Iraq to the ICC would not be without shortcomings and serious problems. In particular, heavily politicizing referrals by restricting what the Court can and can’t do based on the interests of a handful of states is costly to the legitimacy and impartiality of international justice. The question is whether an ICC intervention in northern Iraq is worth that cost.

Attacks on Journalists a War Crime
Just Security
By Beth Van Schaack
August 20, 2014

According to a trophy video initially posted on YouTube but since removed, U.S. Journalist Jim Foley was beheaded by ISIS yesterday, further attesting to the group’s depravity. The FBI has concluded that the video seems to be authentic. Foley had disappeared in Syria in November 2012 while covering the war. He had not been heard from since. As we reported earlier today, Foley was apparently killed in retaliation for U.S. airstrikes in Iraq. Also shown on the video is another U.S. journalist, Steven Sotloff, who was kidnapped on the Turkish border with Syria in mid-2013. According to his captors, Sotloff’s life apparently hinges on what the United States does next in the conflict.
Unprecedented violence directed against journalists has been one of many grim features of the war in Syria. Indeed, Syria has been declared "the most dangerous place in the world for journalists". Other U.S. journalists are among the victims of this conflict. Maria Colvin was killed in 2012, and Matthew Schrier was captured and tortured by the Islamist Al-Nusra Front; he miraculously escaped in July 2013. Austen Tice disappeared in 2012 and remains missing. The Committee to Protect Journalists (CPJ) has compiled records on over 60 journalists killed in Syria since 1992 in direct reprisal for their work, while caught in cross-fire, or while on a dangerous assignment. A number of journalists remain missing in Syria in addition to Tice and Sotloff. The kidnapping of journalists is often not widely reported in an effort to enable negotiations for their release.

To commemorate the great risks assumed by journalists, and on the day Maria Colvin was killed, the CPJ and Reporters without Borders (RSF) launched on February 22, 2013, "A Day Without News". This campaign helped to raise awareness of the great risks assumed by journalists and prompt unprecedented action in United Nations. For example, under the presidency of the United States, the Security Council held an open debate on July 17, 2013, on the protection of journalists that built on Security Council Resolution 1738 of December 2006, which was devoted to this topic. That resolution recalled that

"the deliberate targeting of civilians and other protected persons, and the commission of systematic, flagrant and widespread violations of international humanitarian and human rights law in situations of armed conflict may constitute a threat to international peace and security, and reaffirms in this regard its readiness to consider such situations and, where necessary, to adopt appropriate steps;"

Following the kidnapping and murder of two French journalists in Mali in November 2013, the U.N. General Assembly adopted its first resolution dedicated to promoting the safety of journalists and calling for greater accountability for attacks on members of the media (Resolution 68/163 of December 18, 2013). Specifically, this resolution:

"Condemns unequivocally all attacks and violence against journalists and media workers, such as torture, extrajudicial killings, enforced disappearances and arbitrary detention, as well as intimidation and harassment in both conflict and non-conflict situations; ... [and] Urges Member States to do their utmost to prevent violence against journalists and media workers, to ensure accountability through the conduct of impartial, speedy and effective investigations into all alleged violence against journalists and media workers falling within their jurisdiction, and to bring the perpetrators of such crimes to justice and to ensure that victims have access to appropriate remedies."

In December 2013, the Council hosted an Arria-formula meeting with members of civil society and NGOs, including Fatou Bensouda, the Chief Prosecutor of the ICC. The involvement of the ICC in these discussions was apt. It goes without saying that the
deliberate killing or mistreatment of a war correspondent constitutes a war crime under international law. The killing or mistreatment of U.S. journalists is also a war crime under U.S. law, triggering the application of our domestic war crimes statute. As we have discussed, the U.S. can exercise jurisdiction over war crimes only when they are committed by, or against, a U.S. national (or member of the Armed Forces of the United States) per 18 U.S.C. §2441. So, all of the harm to U.S. journalists described above can serve as the basis for U.S. prosecutions. Punishable acts of relevance to these attacks include: torture, cruel or inhuman treatment, murder, mutilation or maiming, and taking hostages. The latter crime is defined as:

"The act of a person who, having knowingly seized or detained one or more persons, threatens to kill, injure, or continue to detain such person or persons with the intent of compelling any nation, person other than the hostage, or group of persons to act or refrain from acting as an explicit or implicit condition for the safety or release of such person or persons."

Obviously, securing the custody of defendants poses the real challenge. In this regard, the apparent involvement of the FBI is welcome.

Emerging Voices: Controversy on the Definition of the Cambodian Genocide at the ECCC

Juris Opinio
By Melanie Vianney-Liaud
August 20, 2014

Many international Human Rights authorities, including the United Nations General Assembly talked about the "Cambodian genocide" to designate the atrocities of the Khmer Rouge. Yet, while the term "genocide" undoubtedly has considerable appeal, it turns out to be legally inappropriate to describe the massacre of 1.7 million of Cambodians from 1975 to 1979. At the Extraordinary Chambers in the Courts of Cambodia (ECCC) – the court in charge of trying the Khmer Rouge – the indictment of the last surviving Khmer Rouge senior leaders, known as "Case 002", includes very limited genocide charges, only with respect to crimes committed on two minority groups: the Cham and the Vietnamese. Predictably, this decision disappointed many victims.

The trial began in June 2011. However, in September 2011, the Trial Chamber decided to sever Case 002 into smaller trials and limited the scope of the first trial to the evacuation of Phnom Penh on 17 April 1975 and movements of population in other regions of Cambodia. The genocide charges were excluded from the scope of this first trial. On August 7, 2014, the Chamber found the Accused guilty to have committed the crimes against humanity of murder, political persecution and other inhumane acts through their participation in policies to forcibly displace people. It sentenced them life imprisonment.

The Accused are currently trying within a second trial whose scope includes the genocide charges. Since this trial has started on July
30, 2014, it seems appropriate to clarify some of the complexities of the crime of genocide, generated by the specificities of the Cambodian context and the legal framework of the ECCC.

Genocide has been defined in the 1948 Convention on the Prevention and Repression of the Crime of Genocide as requiring the intentional destruction of "a national, ethnical, racial or religious group as such". The enumeration of specific protected groups implies that the perpetrators’ conception of the victim group bears some relation to one of these protected groups. The Khmer Rouge regime is known for its system of terror and arbitrariness. Conditions of living were so extreme that a substantial part of the population died without that seemed to be directly imputable to group-based persecutions. However, indications of the targeting of particular groups undeniably exist in the case of the Khmer Rouge. This is the case for example, and among others, of the group of educated people and city dwellers referred to as "new people" by the Khmer Rouge. Contrary to "base people," "new people" did not join the Khmer Rouge revolution prior to April 17, 1975 when Phnom Penh fell into Khmer Rouge’s hands. Forcibly transferred from cities to countryside, "new people" members were often targeted based on this identity (Indictment, § 227). This group however, does not fall under the listed classification defined in the Genocide Convention as the distinction made by the Khmer Rouge was based on an individual’s socioeconomic background.

Thus, although the Khmer Rouge had policies of group discrimination, both in regard to ethnic minorities as well as with respect to groups identified within the ethnic Khmer-majority, the characterization of genocide within the definition of the Convention only applies to crimes committed on minority groups. Many victims have therefore seen the crimes for which they have suffered be excluded from the characterization of the "crime of crimes," even though they are victims of crimes of the same gravity as those committed against the minorities.

The definition introduced by the Genocide Convention is too narrow to mirror the historical analysis of the Khmer Rouge criminal phenomenon. The fact that the Khmer Rouge targeted groups within the Khmer-majority population shows that the strict enumeration of protected groups is inappropriate. The question that arises then is whether it would be conceivable to have this definition evolved to correspond with the social reality of the "Cambodian genocide".

Cambodia ratified the Genocide Convention in 1949. Consequently, since its entry into force in 1951, Cambodia has been submitted to the conventional obligation to "enact (...) the necessary legislation to give effect to the provisions of the Convention" (Convention, Article V). However, under the Khmer Rouge, the Convention had not been received into national law yet. This reception only occurred in 2001, with the creation of the ECCC. The 2003 international agreement between the United Nations and Cambodia and the 2004 amended domestic law which establish the court, provide both for its jurisdiction over the crime of genocide "as defined in the 1948 Convention." However, and despite these provisions, the domestic law then gives a definition of the crime of
A state is not prohibited by the 1948 Convention from adopting a broader definition of genocide. The Convention only adopted by a convention a principle which already existed in international customary law. Thus, the reception of the Convention into national legal orders has often resulted in a broadening of the definition of the crime. France, for instance, has gone further adding the "group determined by any (...) arbitrary criterion" to the groups protected by the Convention (French Penal Code, Article 211-1).

In the particular case of the ECCC however, the differences between the Convention and the Law have important implications for its subject-matter jurisdiction. In the English version of the ECCC Law, with regard to the list of underlying crimes, the Law indeed replaces the expression "any of the following acts" with "any acts" and the phrase 'as such' referring to "group" in the Genocide Convention with 'such as' but referring to "acts".

Genocide Convention, Article II

"Genocide means any of the following acts committed with the intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such (…)."

ECCC Law, Article 4

The acts of genocide (…) mean any acts committed with the intent to destroy, in whole or in part, a national, ethnical, racial or religious group, such as (…)."

One major implication relates to the required genocidal intent. In the Convention, "as such" refers to "group" in a way that creates an additional burden of proof to show that the intent of the perpetrator was to destroy the group as a distinct entity, and not (only) to target members of the group based on their membership. As argued by ECCC defense team, the change of the phrase "such as" lowers the intent required as a perpetrator would still be held liable for genocide, even if the acts he committed with the intent to destroy the group was perpetrated without intending to destroy the group "as such."

If such a definition of genocide does probably not allow including other protected groups, it undoubtedly makes the perpetrator’s intent easier to prove. Contrary to the Vietnamese group, no Khmer Rouge document clearly attests a direct call to kill the entire Cham group (Indictment, § 1339 and 1346). Thus, proving the Khmer Rouge’s intent to destroy the Cham group ‘as such’ will undoubtedly be difficult at trial, unless the ‘as such’ requirement is dismissed. However, if the ECCC chooses to apply this broader definition, it will be faced with two difficulties. The first is that without the "as such" requirement, genocide would lose its specific character and amount to a crime against humanity of persecution. The second is that the accused could be convicted of genocide in a form which is unknown to current international criminal law. This raises the issue vis-à-vis the nullum crimen sine lege principle. According to this principle indeed, a person cannot be convicted of
a crime that did not exist at the time of the commission of the acts in question. In the indictment, "in order to avoid a breach of [this] principle, the Co-Investigating Judges (...) appl[ied] the international definition of genocide" (Indictment, § 1311).

By applying this definition, the Co-Investigating Judges decided to remain confined to the most restricted meaning of genocide, implying only minority groups but excluding many other victims. The Co-Investigating Judges also excluded genocide charges of crimes committed against the Khmer Krom minority. The fact that the law in respect to genocide is so contentious has made them very cautious. As T. Forster highlighted, a potential failure of genocide charges leading to an acquittal of the accused in this respect is seen as great risk, particularly because of the important symbolic value of genocide. This explains why genocide was charged only with regard to crimes committed against the Cham and the Vietnamese minorities as those presented, at first glance, with the least difficulties.

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WORTH READING

Implementing International Law: The Worldwide Criminalization of Atrocities in Domestic Legal Systems, 1945-2010

By Mark S. Berlin
August 11, 2014

Large bodies of research examine why states construct and ratify international legal agreements. Yet relatively little research assesses under what conditions states are likely to go further and "implement," international law, that is, incorporate international legal rules into domestic laws – a step that is often crucial for making international legal agreements work as they are designed to.

This study contributes to our understanding of why and when states make international law part of their domestic law by examining the patterns by which states worldwide have implemented one set of international legal norms, that is, criminal prohibitions against genocide, war crimes, and crimes against humanity.

Since 1945, about three quarters of the world’s states have adopted a national criminal statute against at least one of these three categories of international crimes. In contrast to explanations for the spread of human rights norms that emphasize the role of bottom-up civil society advocacy, I argue that the implementation of such "anti-atrocity" laws around the world over the past sixty years has largely been the result of choices made by technocratic legal experts who were appointed by governments to lead national
criminal code reform projects.

Though the desire to implement anti-atrocity norms has not motivated governments to initiate such reforms, these experts nonetheless used their delegated authority to codify norms – like anti-atrocity laws – that they believed embodied how a "modern" criminal code should look. Using event history and an original dataset covering the existence of national criminal laws against genocide, war crimes, and crimes against humanity in every country in the world that has adopted them since 1945, I find strong support for my argument that states that undertake wholesale redesigns of their criminal codes are highly likely to implement anti-atrocity laws, even while controlling for a variety of alternative explanations.

The Decline of International Humanitarian Law Opinio Juris and the Law of Cyber Warfare
By Michael N. Schmitt and Sean Watts
August 18, 2014

This article sets forth thoughts regarding the performance of States, particularly the United States, in this informal process of the formation and evolution of international humanitarian, with particular attention paid to the IHL governing cyber operations.

The discussion is decidedly non-cyber in nature. It is intentionally so, as the objective is to identify recent tendencies in the process that might foreshadow how IHL governing cyber operations is likely to develop absent a reversal of current trends.

Our examination suggests that non-State actors are outpacing and, in some cases displacing, State action in both quantitative and qualitative terms.

States seem reticent to offer expressions of opinio juris, often for good reasons. We argue that such reticence comes at a cost? diminished influence on the content and application of the IHL. In our view, States have underestimated this cost and must act to resume their intended role in the process.

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