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

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Nigeria-Boko Haram: Prosecutor urges ICC inquiry into war crimes (BBC)

December 11, 2020

The prosecutor of the International Criminal Court has called for a formal inquiry to begin into war crimes and crimes against humanity in Nigeria.

It follows a decade-long investigation into violence in the north-east involving Boko Haram militants.

Prosecutor Fatou Bensouda said the vast majority of crimes were by "non-state actors", but that the Nigerian Security Forces also needed investigating.

The conflict has killed over 30,000 and displaced more than two million people.

The ICC's preliminary examination, which itself began in 2010, has now concluded that the "criteria for opening an investigation into the situation in Nigeria have been met".

Who are Boko Haram? Amnesty International welcomed the "milestone decision" that would bring its "call for justice for victims one step closer".

What did the prosecutor say? Ms Bensouda listed a long list of acts allegedly carried out by Boko Haram that constituted crimes against humanity and war crimes.

Specifically they include murder, rape, sexual slavery, torture, persecution, hostage taking and enlisting children under the age of 15 into armed groups.

'Bomb on donkey' used to ambush Nigeria governor Nigerian soldiers and police killed in IS ambush She said that while "the vast majority of criminality within the situation is attributable to non-state actors", there was "reasonable basis to believe that members of the Nigerian Security Forces (NSF)" had committed crimes.

They include murder, rape, torture, forcible transfer of population and enlisting children under 15 into armed forces.

Ms Bensouda said that it was her conviction that these crimes should be prosecuted under the Nigerian justice system but, while some efforts had been made, they had not pursued the suspects the ICC believed should stand trial.

She called for financial support for her office from the Nigerian and ICC-funding parties.

Amnesty International's director of research and advocacy said the prosecutor's move was "the first meaningful step towards justice that we have seen for victims of atrocious crimes committed by all parties to the conflict in north-east Nigeria".

Who are the Boko Haram militants? The militants have been fighting for more than a decade to overthrow the Nigerian government and create an Islamic state.

The group initially gained ground in northern Nigeria but by 2015 a regional coalition also involving Chad, Niger and Cameroon had taken back most of the areas under its control.

The Nigerian government has repeatedly claimed Islamist militant groups have been technically defeated but Boko Haram has stepped up attacks in recent months.

What does the ICC do? The International Criminal Court in The Hague has been part of the global justice system since 2002. It was established under the Rome Statute, which has been ratified by 123 countries, although the US is a notable absentee.

What is the ICC? It tries to bring to justice those responsible for the worst crimes - genocide, crimes against humanity, and war crimes - and has global jurisdiction.

The prosecutor begins an investigation if a case is referred by the UN Security Council or by a ratifying state. ICC judges must then decide on a full inquiry.

Close to 50 individuals have been indicted, but the court has faced accusations of anti-African bias. Among those indicted have been Sudan's ex-president Omar al-Bashir, Libyan leader Muammar Gaddafi and Ivorian president Laurent Gbagbo.

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Liberia

Liberia: Foya Wants Death Sentence for Alieu Kosiah in War Crimes Trial (Front Page Africa) By

James Harding Giahvue

December 8, 2020

In June 1993, rebels of the United Liberation Movement of Liberia for Democracy (ULIMO) overran this Kissi countryside and drove out their rivals, the National Patriotic Front of Liberia (NPFL). People fled for their lives into the forest. ULIMO fetched them out from their hideouts up to October of that year.

Tawa Tamba and her relatives were some of the first people the group captured, just after they spent three days in the bush.

ULIMO, under the command of a young rebel general named Alieu Kosiah in the district, ordered all civilians to gather at a roundabout in the middle of Foya City. From there, they lined them up along Broad Street. Then, the warring faction picked people they suspected of collaborating with the NPFL and killed them. Finda, Tamba's elder sister, was pointed out as having a relationship with an NPFL soldier.

"When they pointed out someone, the ULIMO fighters would go to Kosiah, and he would tell them to kill the person," Tamba says in an interview with FrontPage Africa at the exact place on the dirt street where she watched her sister targeted. "Kosiah gave the last order for them to kill my sister."

Tamba's sister, who had a baby strapped to her back, was stabbed and fell to the ground. Tamba wanted to run to help her sister and comfort the crying infant son, but all she could do was watch silently in horror.

"Kosiah gave the order for soldiers to check the nearby houses," Tamba recalls. "Anyone you hear crying, kill the person."

Kosiah and his men stayed in Foya until 1995. Two years later, He fled Liberia to Switzerland following the election of Charles Taylor—who led the NPFL—as president. Kosiah lived in that European country quietly with his permanent-resident status until November 2014. At that time, seven unidentified Liberian witnesses—some of whom come from Foya—filed a complaint against him.

Kosiah's charges include the killing of 18 people, murder of a schoolteacher and eating his heart, sexual enslavement of a woman, recruitment of a 12-year-old boy to fight, and looting, among others.

Kosiah is the first accused Liberian war criminal to face trial for war crimes committed in the Liberian civil war. His war crimes trial, the first to be heard by a civilian court in Switzerland, finally started last week after being postponed four times due to the coronavirus pandemic—rescheduled from April to June, to August, to November, and then December 3.

On Friday, in the Federal Criminal Court in Bellinzona, Kosiah, 45, testified that he was a founding member of ULIMO. But he denied the charges, saying he was not in Lofa County at the time of the crimes.

Tamba wishes that Kosiah would get a death sentence. "I want him to be killed because he killed my sister," Tamba says fighting back tears and rage. "The same thing that Kosiah did to my sister, let them do it to him."

Tamba's view is the same as most of the people in Foya interviewed by FrontPage Africa.

ULIMO, founded in May 1991 in Guinea by exiled Mandingoes and runaway soldiers of the Armed Forces of Liberia (AFL), fought the NPFL for control of the northern, central and western parts of the country. It committed 11,564 human rights violations throughout its existence (1991-1996), the fifth-most crimes recorded by the Truth and Reconciliation Commission

(TRC). The commission barred Kosiah and 49 others from holding public office for 30 years.

Those three years it controlled Foya, ULIMO committed some of the worst atrocities in Liberia's 14-year civil conflict. Some 150 victims are buried in a mass grave at the spot of a palaver-hut monument next to the Foya City Hall.

For survivors, Kosiah's trial has evoked painful memories of the horror—tears and fury alike.

"If General Kosiah should be killed, [the killing] should start from his toes to his head," says Hawa Nathaniel in the Kissi language. She watched her husband, Nathaniel Sumon, killed by ULIMO soldiers that she says were given the order by Kosiah. Like Tamba's sister, Sumon had been summoned with other civilians for a town meeting that routinely became an execution. Young rebel commander Kosiah sat on the porch of a house owned by the legendary Chief Tamba Taylor and allegedly presided over the killings.

"[The rebels] poured a bucket of boiled water on his head," Nathaniel recalls. "His skin began to peel gradually. When my daughter saw that, she ran to her father but was hit by a rebel with a gun every time she ran to him. The rebels continued to pour the boiled water on my husband's head until his skin peeled."

Sumon was killed not far from where Finda, Tawa's sister, was stabbed to death. It is just a stone's throw from Foya's old police station, the setting of Foya's bloodiest day under ULIMO. On Monday, June 28, 1993, fifteen men were called to the town roundabout and slaughtered after Kosiah and his men experienced huge casualties in a fierce gun battle with the NPFL for Gbarnga, Bong County, witnesses say. They call it "Black Monday." Three of the victims were Thomas Borbor, Nyumah Salia and Saah Sondo.

Shortly after Black Monday, ULIMO killed nine othermen, butchered their bodies, placed the pieces of their remains into a wheelbarrow with the tag "Meat for Sale," and forced passersby to buy and eat them, several witnesses say.

That was the same fashion in which the rebels murdered Hallie Bowah, who was 26 at the time, and Saah Ndimin, a teacher with the Free Pentecostal Global Mission School.

"They grabbed him, knocked him down and cut his throat," says Yarwah Bowah, Hallie's sister, through an interpreter. She claims Kosiah gave the order. "When they cut throat, he ordered them to get axe and butcher him. When they got through butchering him, they cut him into pieces. After that, [Kosiah] ordered civilians to put pieces of the dead man's remains in pans. They told the people to put the piece in the pan into a big drum and boiled it. When it was cooked, they gave it to people to eat."

The rebels gave her some of the cooked parts of her brother to eat. She pretended to have eaten the horrific meal and threw it away as soon as they took their eyes off her. "I want them to kill [Kosiah] just how he killed my brother," says Yarwah.

Ndimin, on the other hand, was killed for telling a United Nations delegation that ULIMO fighters looted Foya Borma Hospital, the major health facility in the district.

"They tied him with wire. They cut here and put it in the pan. They cut here and put it in the pan," says Mary Ndimin, the victim's widow, squeezing her arms and legs. Talata Sheriff, who went by the aliases "Ugly Boy" and "Saah Cway" (meaning "firstborn son with an axe" in the Kissi language), extracted her husband's heart, cooked and ate it, she says.

Ndimin's husband was later buried along with other discarded bodies and body parts where the palaver-hut monument sits.

No Death Penalty for Kosiah

Kosiah does not face a death penalty because the Swiss Constitution forbids capital punishment. However, he faces a maximum 20-year sentence, which means he would be 65 after serving a full prison term.

The trial is being held under a 2011 Swiss law that ratified universal jurisdiction—a UN-backed legal doctrine that allows countries to try residents for crimes committed on foreign soil. Switzerland's only other war crimes case was held in 2001 when a military court found Fulgence Niyonteze, a former Rwandan mayor, guilty for his role in the 1994 genocide in that country and sentence him to 14 years in prison.

Kosiah is the second ex-ULIMO general to be prosecuted in connection with the Liberian Civil war, which killed an estimated 250,000 people and displaced more than a million. The first was Mohammed Jabbateh, known as "Jungle Jabbah," who is serving a 30-year sentence in Philadelphia, United States of America, for immigration fraud and perjury.

Many witnesses in the trials of Kosiah, Jabbateh and Kunti Kamara—another ex-ULIMO fighter arrested in France for alleged war crimes—come from Foya, which was ULIMO's stronghold in Lofa County.

Hassan Bility heads the Global Justice and Research Project (GJRP), which works with Switzerland-based Civitas Maxima to gather evidence for the trials of Liberia's accused war criminals. He is representing four of the seven plaintiffs in the Kosiah case and praises the bravery of the people of Foya.

"They've braved the storm. They've challenged everything. They've refused to be subjected to fears by suspected war criminals," Bility says in an interview at GJRP headquarters in Montserrat. "And they've stood up. Now, most of the cases are coming out of Foya. And we want to also encourage Liberians where most of these crimes are being committed—other Liberians who reside in [other towns] or who were victims of many of these crimes—to stand up like Foya."

Liberia: ULIMO War Crimes Suspect Answers Rape & Child Recruitment Charges (Front Page Africa) By Rodney Sieh

December 10, 2020

Mr. Alieu Kosiah, former commander with the United Liberation Movement for Democracy in Liberia (ULIMO), faced questions Wednesday in his war crimes trial about allegations linking him to rape and the recruitment of a child soldier during his time with the rebel group.

Mr. Kosiah, 45, is accused of murder, rape, recruiting child soldiers and a host of other crimes. Testifying to the three-judge panel, Mr. Kosiah denied recruiting any child soldiers for Ulimo. Lawyers for the seven victims who have brought the war crimes case against Mr. Kosiah allege he recruited a then-12-year-old known in the case as "Papa" to protect his identity.

Mr. Kosiah, the first Liberian to face war crimes charges for his role in the Liberian civil war, said Ulimo leadership should be held accountable for recruitment of child soldiers, not him.

Under questioning from victims' lawyers Mr. Kosiah denied meeting Papa in 1992, as the victim alleges.

"Nobody in this gathering can tell me they love Papa more than me. I did not recruit Papa in ULIMO. The leadership decides who joins and who cannot join. I'm not responsible for that. I'm not the chief of staff, commander, deputy, I'm not the commanding general, I'm the front commander, I'm responsible for, what am I responsible for. If ULIMO recruited boys, its up to the leadership not on me."

Mr. Kosiah said after he left his command of Todee, he took no civilians with him when he set off for Clay.

Papa, the teenage boy he's accused of recruiting went with him there to Clay. Thus, he says he does not understand why Papa followed him. "I think maybe because he liked my style."

Mr. Kosiah claimed that the child soldier was with Omaru Kanneh, Kosiah's immediate superior in Ulimo.

Mr. Kosiah insists that Papa was not with Ulimo at the time.

He explained that he met Papa at the Todee junction but never encouraged or seduced the child to join the rebels. "We spent about five months in Clay before going to Lofa. "Sometimes we were in Clay, another time Monrovia and then Bomi."

Mr. Kosiah insisted that when he left Todee, he had no rank and was simply a floating officer. Mr. Kosiah recalled that he met General "Pepper and Salt" on Clay Street, who asked him to join him to Lofa since he never had any rank then. Following that discussion, Mr. Kosiah recalled that after a long discussion, he agreed to join Ulimo within a week.

During this period, Mr. Kosiah claimed that Papa went with him sometimes to Bomi and Monrovia but he dismissed suggestions that he played a role in the boy's recruitment to Ulimo. He challenged Papa to prove he was recruited by ULIMO. "It was impossible for Papa to be recruited by ULIMO."

Mr. Kosiah acknowledged that Papa had lived with him but only for his protection. "I couldn't afford for him to die from hunger and I repeat I had no part to play in the witness's decision to join ULIMO."

"I don't care if the Swiss government wants to put me in 100 years, I am not afraid of anyone. I am only afraid of the law," Mr. Kosiah told the court.

Mr. Kosiah also answered victims' allegations that he raped a woman, known in the trial as Madam F to protect her from potential retribution. He also denied the allegation. "I am a human being, I am not an animal. When I am angry, I know what I am doing it for. Please understand that I am a human being," Mr. Kosiah pleaded.

Madam F. accuses Mr. Kosiah of raping her for an entire day during the war. But the accused claimed that it was not possible because if he had raped her, Madam F. would have mentioned that he has a scar on his right thigh received when he fell on an

iron as a boy before the war.

Mr. Kosiah denied Madam F.'s claim that the house where the rape was alleged to have taken place was painted black. He claimed to have never seen a house painted all black before.

NPFL Targeted Mandingoes

Earlier in the day Mr. Kosiah told the court that the rebel movement Ulimo had played a critical role in ending the civil war by waging its war against Charles Taylor's troops. "We opened the gateway to Monrovia which was closed by Mr. Taylor," Mr. Kosiah said.

He said Ulimo, a rebel group made up primarily of soldiers from late President Samuel Doe's army the Armed Forces of Liberia (AFL), controlled at least two western counties and was based in part on ethnic affiliations: the AFL is composed mainly of Krahn, the ethnic group of former President Samuel Doe; ULIMO was supported largely by Mandingos and Krahns; and the NPFL was initially formed by Gios and Manos.

Mr. Kosiah said many of the issues with the Mandingoes stemmed from jealousy and that the success of the Mandingoes made the group the envy of others. He said that was why only Mandingoes were targeted to be killed by the NPFL. "I was born into the tribal problems. In the 80's my father had a big compound. They broke into my father's house."

This is why he said a lot of Mandingoes decided to join the AFL. "When Mandingo people were killed in Nimba, some of us decided to join the AFL to protect our people. The blunder of the AFL [is that they] killed many Mandingo. In Bahn, people were killed because of the blunder of AFL."

According to Mr. Kosiah, the more Mandingoes there were in the NPFL gave stability to the ethnic group. "In the whole Nimba there were only two or three Mandingoes. We were never part of the army until the war came."

"Some people say Mandingoes were killed because they gave information to Doe when NPFL was coming to Liberia. That's not true. One person give information to Doe, why would you want to kill an entire tribe? Even if that was the case, why would you want to kill all Mandingo people?"

Mr. Kosiah credited Prince Johnson, head of the erstwhile Independent National Patriotic Front of Liberia (INPFL) for protecting Mandingoes against the onslaught from Taylor's rebels. "I must admit. Prince Johnson is the one that save more Mandingoes. If it wasn't for him, more Mandingoes would have died. The ones that survived were saved by Prince Johnson."

Asked by his lawyer what was the behavior of the NPFL in Nimba, Mr. Kosiah said: "They were killing Mandingo people. Just in my own town, the reason the Mandingo people survive, it was a group of our neighbors, took the bypass to avoid NPFL ambush to survive NPFL onslaught."

Asked whether the objective of Mr. Taylor's war was to loot, Mr. Kosiah said it was not. "I wouldn't say that. The objective of Mr. Taylor was to get rid of Doe. But when in war there's consequences, what happen was when."

The trial in Switzerland, which began last Thursday, is the first under a 2011 law that allows prosecution for war crimes committed anywhere in the world. It also marks the first time war crimes charges have been heard by a Swiss civilian court.

Switzerland recognizes the principle of universal justice, meaning people suspected of committing high-profile international crimes elsewhere can be tried in its courts.

With the end of Mr. Kosiah's testimony the trial has been postponed because of Coronavirus pandemic restrictions. The judges have scheduled the witnesses and victims to testify in February when it is hoped it will be safer for them to travel to Switzerland.

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Bosnia: Former Serb soldiers sentenced over 'war crimes' (Anadolu Agency) By Talha Ozturk and Lejla Biogradlija
December 4, 2020

Bosnia and Herzegovina on Thursday sentenced two former Serb soldiers to eight years in prison over "war crimes" committed in 1992 in the eastern city of Foca.

A Bosnia and Herzegovina court ruled that Radovan Paprica and Slavko Ognjenovic, who served in the Serbian army during the Bosnian War in 1992-1995, committed "crimes against humanity" against Bosniak civilians.

The statement by the court said Paprica and Ognjenovic participated in systematic attacks on civilian Bosniaks and committed sexual abuse crimes.

Nearly 3,000 Bosniak civilians, subjected to intense attacks by Serb soldiers, police, and paramilitary groups during the war, were killed in Foca and its vicinity. Also, the victims' homes were set on fire. Bosnian men were taken to prison camps and women were raped.

In addition, many Islamic works in the region, including the historic Alaca Mosque, known as the "Pearl of Bosnia", were destroyed.

Wartime Killer of Bosnian Family Skips Prison Sentence (Balkan Transnational Justice) By Haris Rovcanin
December 7, 2020

Sretko Pavic, who was convicted in July this year of war crimes against civilians, did not report to prison to serve his 11-year sentence, the Bosnian state court has confirmed.

Pavic was obliged to start serving his prison term by November 30, but filed a motion requesting a postponement.

However, the state court said that his request was "definitively dismissed" and that "the procedure provided by law for sending him to prison to serve his term is underway again".

Pavic, a former member of the Volarska Company of the Bosnian Serb Army's Sixth Ljubija Battalion, was convicted of participating in the murders of five civilians, all members of the Causevic family, in the village of Rizvanovici near Prijedor in July 1992.

The court found that that the members of the Causevic family were detained in a building next to a checkpoint in Rizvanovici when Pavic and another Bosnian Serb soldier called Pero Stevandic took them out and killed them. Stevandic has since died.

Over the past year, two other people who were convicted of wartime crimes in Prijedor also failed to report to prison to serve their sentences, and warrants were issued for their arrest. Darko Mrdja, who was sentenced to 20 years in prison for crimes against humanity, was arrested in April 2020 and sent to jail.

Mico Jurisic, who was sentenced to 11 years in prison for crimes against humanity, is still at large and is believed to be

outside the country.

SIPA Police arrests Several Persons suspected of War Crimes (Sarajevo Times) By Y.Z December 8, 2020
<http://www.sarajevotimes.com/sipa-police-arrests-several-persons-suspected-of-war-crimes/>

Acting on the order of the prosecutor from the Special Department for War Crimes, SIPA police officers in the Banja Luka area located, identified and imprisoned several persons suspected of crimes against humanity.

The suspects are under investigation and are charged with committing the criminal offense of Crimes against Humanity under Article 172 of the BiH Criminal Code in the spring and summer of 1992 in the Donji Vakuf area as members of the police and the Vojska Republike Srpske (Army of Republika Srpska).

They are charged with participating in the illegal detention of about 150 victims, Bosniak and Croat civilians, over whom they committed torture, ill-treatment, beatings, inhumane treatment, infliction of bodily and mental injuries, resulting in the death of several people, and permanent and severe physical and mental injuries to a large number of detainees.

The suspects will be handed over to the acting prosecutor within the legal deadline, in compliance with the security measures due to the Covid 19 pandemic, who will examine them and then make a decision on further activities in the case.

Bosnia Charges Serb Chetniks with Inciting Ethnic Hatred (Balkan Transnational Justice) By Albina Sorguc December 10, 2020 <https://balkaninsight.com/2020/12/10/bosnia-charges-serb-chetniks-with-inciting-ethnic-hatred/>

The Bosnian state prosecution said on Thursday that it has filed an indictment charging Dusan Sladojevic, alias Krvice or Cica, Slavko Aleksic, alias Vojvoda, and Risto Lecic with inciting hatred between Bosnia and Herzegovina's main ethnic groups at a rally in Visegrad.

Members of the Ravna Gora Movement – widely known as the Chetniks – rallied in Visegrad on March 10, 2019 wearing black uniforms and reportedly singing ethnically provocative songs.

The indictment alleges that the three suspects participated in incidents that “caused distress and fear among the population in Bosnia and Herzegovina, particularly [post-war] returnees and residents of Visegrad and the surrounding places, by playing and singing a song expressing threats or violence”.

AFP news agency reported at the time that the Chetniks were filmed singing that “the River Drina will be bloody again”. Visegrad, which is located by the River Drina, was the scene of war crimes by Serbs against Bosniaks in 1992.

The indictment alleges that Sladojevic, Aleksic and Lecic with “caused ethnic, racial and religious hatred, discord and intolerance between the constitutive peoples [Bosniaks, Croats and Serbs] and others”.

The Chetnik rally is held annually to commemorate the day on which Dragoljub ‘Draza’ Mihailovic, the leader of the World War II Chetnik movement, was caught by the Yugoslav Communist authorities in 1946.

During WWII, Mihailovic's forces committed war crimes and other atrocities, including crimes against Bosniaks in the Visegrad region.

He was executed in Belgrade in 1946 but was controversially rehabilitated by a Serbian court in 2015 on the grounds that his trial under the Communist regime was politically motivated.

The indictment of the three men has been filed to the Bosnian state court for confirmation.

Another case focusing on the Ravna Gora Movement's activities on Orthodox Christmas Eve in January 2020 is also being investigated.

After marking the religious holiday, Chetnik supporters formed a car convoy and drove around honking horns and blasting out traditional Serb songs. The convoy passed close to the Srebrenica Memorial Centre in Potocari, and through the towns of Bratunac and Visegrad.

Prosecutors are investigating a possible case of incitement of ethnic and religious hatred and intimidation of Bosniaks who returned to live in the area again after fleeing during the war.

UN Court Refuses to Review Paramilitary Leader's Life Sentence (Balkan Transnational Justice) Semir Mujkic December 16, 2020 <https://balkaninsight.com/2020/12/16/un-court-refuses-to-review-paramilitary-leaders-life-sentence/>

The International Residual Mechanism for Criminal Tribunals in The Hague on Tuesday dismissed a request from Milan

Lukic, wartime commander of the White Eagles paramilitary unit, for a review of his conviction leading to a possible sentence reduction.

The Hague Tribunal sentenced Lukic to life imprisonment in 2012 for murder and cruel treatment as violations of the laws or customs of war, and persecution, murder, inhumane acts and extermination as crimes against humanity.

The crimes committed in the Bosnian town of Visegrad in 1992 included two massacres of Bosniaks, in a house on Pionirska Street and in the Bikavac neighbourhood, where captives were burned alive by Bosnian Serb paramilitaries.

Lukic filed a request for a review based on alleged new facts about the number of people killed in the Pionirska Street massacre.

The UN court's appeals chamber determined in Lukic's verdict that the total number of victims was 53.

But Lukic pointed out that in October 2019, the Bosnian state court found Radomir Susnar, his co-perpetrator, guilty of killing 26 people in the Pionirska Street massacre.

He said that the lower number of victims meant that there was less justification for convicting him of extermination, a crime which is legally defined as involving the killing of a large number of people.

He asked the court to assign him legal counsel to help him find out whether "the remaining alleged victims are still alive".

But the International Residual Mechanism for Criminal Tribunals' ruling said that in the Bosnian state court's observations on the Susnar verdict, it said that "the number of civilians killed [in the Pionirska Street massacre] was 'significantly higher'", but the prosecution only listed 26 of them by name.

It said that because of this, the Susnar verdict "does not constitute new information of an evidentiary nature for the purposes of review proceedings".

The ruling pointed out Lukic was convicted of other graves crimes and more than 70 murders in addition to the Pionirska Street killings.

It said that even if a review was authorised and Lukic was able to demonstrate a further reduction in the number of victims of the Pionirska Street massacre, "the only practical result would be a correction of the factual record of this case".

"It would not, in view of the gravity of his other crimes, result in a reduction to his sentence," it added.

Lukic has been serving his life sentence in Estonia since February 2014.

In December last year, the Bosnian state prosecution filed a new indictment charging Lukic with crimes against passengers kidnapped from a train at Strpci railway station in February 1993 and subsequently killed.

Serbia Tries Female Ex-Soldier for Killing Bosniak Prisoners (Balkan Transitional Justice) By
Milica Stojanovic
December 7, 2020

The trial of Visnja Acimovic, who is accused of involvement in the shooting of 37 Bosniak men at Mracni Dol near the Susica detention camp in the Bosnian municipality of Vlasenica in June 1992, opened at Belgrade Higher Court on Monday.

Acimovic told the court that she was not guilty. She said that from the end of May 1992 until the beginning of July that year, she and her family were staying in Backa Topola in Serbia.

"On May 22, 1992, my eldest brother died [in the war]. A day or two after the funeral, me and my parents went to my sister's, in Backa Topola, and we spent some 40 days there before going back to Vlasenica," she said.

According to the indictment, Acimovic participated in murdering the men together with several Bosnian Serb Army soldiers after the Bosniak captives had been brought by bus from a prison behind the court building in Vlasenica.

"The defendant is charged with having shot the victims with firearms while they were standing just a few metres away from the bus," the Bosnian prosecutor's office said when the charges were originally announced in Sarajevo in 2017.

The victims' bodies were only discovered at the Mracni Dol site in 2000.

The indictment says that Acimovic was a Bosnian Serb Army soldier, but she denied this in court on Monday.

She said that she had four brothers, all of whom were in the Bosnian Serb Army. One of her brothers is the head of the Vlasenica municipality, Miroslav Kraljevic.

The case against her was transferred from Bosnia and Herzegovina on the basis of a protocol on cooperation in war crimes prosecutions agreed between the two neighbour states.

The trial will continue in January.

Seven Bosnian Serbs Arrested For Alleged War Crimes (RadioFreeEurope RadioLiberty) December 8, 2020

Seven former Bosnian Serb police officers and army fighters were arrested on December 8 on suspicion of committing atrocities against non-Serbs during the 1992-95 Bosnian War.

The prosecutor's office of Bosnia-Herzegovina said in a statement that the group is suspected of crimes against humanity over the imprisonment and torture of some 150 Bosnian Muslim and Croat civilians around the central town of Donji Vakuf in the spring and summer of 1992.

The statement said that many prisoners died as a result of inhuman treatment, beatings, and harassment, or suffered permanent trauma.

Bosnian police said the arrests were made in the northern Bosnian Serb city of Banja Luka.

"The suspects will be handed over to the case prosecutor within the legal deadline, in compliance with the security measures due to the COVID-19 pandemic, who will interview them and then make a decision on further activities in the case," the statement said.

More than 100,000 people were killed before in the conflict that ended in a U.S.-brokered peace agreement in 1995 that divided Bosnia into two entities -- the Muslim-Croat Federation and Republika Srpska -- held together by joint central institutions

Bosnian Army Ex-Commander Asks for War Crimes Acquittal (Balkan Transitional Justice) By Albina Sorguc
December 9, 2020

In closing statements at the Bosnian state court in Sarajevo on Wednesday, Sakib Mahmuljin said that as the wartime commander of the Bosnian Army Third Corps, he was not responsible for the crimes allegedly committed by foreign fighters.

"In the zone of responsibility of the Third Corps there were 36,000 soldiers. I had communication with 41 subordinate officers. The designated prosecutor tried to present me as a 'super commander', as if there were not seven levels between a commander and soldier," Mahmuljin told the court.

He insisted that during his 555-day term as commander, not a single crime was committed against civilians by soldiers carrying out his orders and acting under his command, and that he had never given an order to violate humanitarian law, but advocated its respect.

"I believe in justice and truth. I expect the chamber to hand down a fair verdict," he said.

Mahmuljin is on trial for allegedly failing to stop Islamic volunteer fighters from the El Mujahideen unit, which operated within the Bosnian Army Third Corps, from committing war crimes against Serb prisoners of war and civilians in the Vozuca and Zavidovici areas in 1995, or to punish them afterwards.

According to the charges, the Islamic fighters, who came from Middle Eastern countries, killed at least 55 captured Bosnian Serb Army soldiers in the period from July to September 1995 and cut some of their heads off.

Defence lawyer Nermin Mulalic argued on the first day of closing arguments in the trial on December 2 that Mahmuljin did not have effective control over the alleged perpetrators of the crimes against Serbs and that there was no proof that he was told about "the abuse and murder of captives".

"There is no evidence confirming that the criminal perpetrators were getting ready to commit the crime and that

[Mahmuljin] knew that they had committed it and failed to punish them,” Mulalic said.

The prosecution, which presented its closing arguments on October 14, has argued that the Islamic fighters were part of the Third Corps’ management and command system.

It said this was confirmed by the fact that the El Mujahideen unit’s members had military service books and received salaries.

“They considered themselves members of the [Bosnian] Army. No one outside the Army structures commanded this detachment,” argued prosecutor Sedin Idrizovic.

The verdict is due to be handed down on January 22.

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Turkey

Turkish-Backed Rebels Intensify Attacks on Syrian Town (Voice of America) By Sirwan Kajjo
December 6, 2020

A town in northern Syria has increasingly been under attack from rebel groups backed by Turkey amid fears of a new Turkish offensive into the region.

On Sunday, Syrian rebel fighters supported by the Turkish military carried out artillery attacks on the town of Ain Issa and several nearby villages, local news media reported.

Ain Issa is currently controlled by the Kurdish-led Syrian Democratic Forces (SDF), a major U.S. partner in the fight against the Islamic State (IS) terror group. The town is located on the strategic M4 Highway that connects northeast Syria to the western part of the war-torn country.

“In the past two weeks, these attacks on Ain Issa have increased significantly,” said Hosheng Hesen, a reporter with the Syria-based North Press Agency.

“In addition to the town, a camp for internally displaced people has also been targeted several times by the armed groups,” he told VOA.

According to North Press Agency, the ongoing shelling has left at least nine civilians wounded, including two children.

Turkey views the SDF as an extension of the Turkey-based Kurdistan Workers’ Party (PKK), an outlawed group designated as a terrorist organization by Ankara and Washington.

In October 2019, Turkey launched a major offensive against SDF fighters in Syria, dislodging them from Tel Abyad and Ras al-Ayn, two towns located north and east of Ain Issa respectively.

With a continued Turkish military buildup near the Syrian border, observers say Turkish forces could begin a new large-scale operation to capture Ain Issa and its surrounding areas from Kurdish forces.

“At this point, everything is possible,” Rami Abdulrahman, head of the Syrian Observatory for Human Rights, said.

The Syrian Observatory reported that the area has been witnessing “almost daily bombardment” in recent weeks.

In October, Turkish President Recep Tayyip Erdogan on several occasions talked about the possibility of a new Turkish offensive into northeast Syria.

Turkey to withdraw military from positions in Syria due to 'potential risk' (Middle East Monitor)
December 11, 2020

Turkey is planning to withdraw from more military positions in Syria's north-west province of Idlib, citing the need to avoid "potential risks".

According to sources who informed the news outlet Middle East Eye, Turkish forces will soon be evacuated from two military positions in the areas of Sienna and Khan Tuman as well an observation post.

The areas are currently under the control of the regime of President Bashar Al-Assad, meaning that the withdrawal is primarily for the purpose of eliminating potential risks and strategic vulnerabilities that Turkish forces could face in the event of a renewed offensive by the regime.

One of the sources close to the decision, however, stated that the pull-out was not due to weakness or apprehensiveness, but only "preventive moves. If a new clash emerges in the coming days, these military positions couldn't be used as leverage by the Syrian regime."

"There is a large presence in the area of Syrian regime militias, especially the Iranian ones, who aren't under control," the sources explained.

The source assured that "We will continue to defend Idlib. We are taking these steps to better protect Idlib," adding that ceasefire deal with Russia struck back in 2017 for the province to become a de-escalation zone was only a reality on paper.

This withdrawal will be the latest of such moves made by the Turkish military in north-west Syria, in October it pulled out from some key observation posts and bases in Idlib and the province of Aleppo.

Such decisions come as a surprise to many due to the fact that these long-held positions had served as a Turkish negotiation tool and as bases for its military in the region. The reasoning, though, is that they would have difficulty in being defended in a new conflict and have become largely redundant over the past year after the regime made advances.

Since the latest ceasefire deal was struck in March, following the Turkish military's punishment of Syrian regime forces, a new offensive has been viewed as imminent and inevitable due to the regime's persistent aim to retake the province from the Turkish-backed opposition.

As Russian air strikes continued and the fighting ensued on the Jabal Al-Zawiya front in contravention of the ceasefire, Turkey has been sending military reinforcements and equipment over its border and into the province for months in anticipation for the renewal of the offensive.

Syrian Kurds squeezed between Turkish threat, Russian pressure in Ain Issa (Al-Monitor) By

Fehim Tastekin

December 15, 2020

The Kurdish-controlled town of Ain Issa has become the focal point of fresh tensions in northeast Syria as Turkey appears to be exploring a new military operation to undo Kurdish gains before US President-elect Joe Biden assumes office.

The Russian response to the Turkish threat evokes the scenario that led to Turkey's seizure of the mainly Kurdish region of Afrin in 2018. In a bid to preclude a Turkish move, the Russians had pressed the Kurdish People's Protection Units (YPG) to cede control of the area to the Syrian government. The YPG refused, leading Russia to tacitly greenlight the Turkish incursion. According to local sources, the Russians are now pressing the Kurds to hand Ain Issa over to the Syrian government, warning them that the Turkish military and allied militias are determined to seize the town. A formula similar to the arrangement in Qamishli is reportedly on the table as well. When the Kurds took control of the Kurdish-majority city in 2012, they agreed to leave the control of the airport and an area housing public buildings to Damascus.

Ain Issa — situated to the east of the Euphrates River at the junction of routes connecting Qamishli to the east, Raqqa to the south, Kobani to the northwest and Manbij to the west — has seen growing attacks by the Turkish military and the allied Syrian National Army (SNA) since November. Last week, the relentless shelling forced the Kurdish-led Syrian Democratic Forces (SDF) into a trilateral deal with Russia and the Syrian army to set up three joint observation posts in the area, with the stated aim of monitoring a cease-fire agreed as part of the 2019 Sochi deal between Russia and Turkey. Under the deal, the Kurdish forces pulled back 32 kilometers (20 miles) from the Turkish border. Ain Issa has remained under Turkish pressure even though it lies beyond that boundary at 37 kilometers (23 miles) from the border.

Syrian Kurdish sources told Al-Monitor that SDF representatives and Russian military officials had discussed the danger of a Turkish invasion in meetings at the Russian base in Ain Issa. The Russians warned that the threat had seriously heightened and asked the SDF to withdraw from the town and cede military and civil control to Damascus. The SDF refused, saying they would fight to defend the strategic town, according to the sources. The Russians then proposed the Qamishli formula. "They seem to have agreed on the Qamishli model, but that is not being officially confirmed," one source said.

The confirmed part of the deal involves the establishment of three military observation posts along the M4 highway to the

north, east and west of Ain Issa. Amid the talks, Russian reinforcements arrived in the area from Raqqa.

According to Kurdish journalist Nazim Dastan, who is currently in the region, no deal has been reached on the Qamishli model. “So far, the agreement is only about three observation posts. Two outposts have already been established along M4, with the Syrian military setting in,” he told Al-Monitor.

The Kurds had long complained of Russian indifference to Turkey’s cease-fire violations. As a guarantor of the Sochi deal, Russia has been conducting joint patrols with Turkey in the area. Ain Issa is home to a Russian coordination center, set up in the base that US forces evacuated last year. Locals in Ain Issa demonstrated in November against Russia’s inaction in the face of attacks by Turkey and its allies. According to the Syrian Observatory for Human Rights, the escalation has forced some 4,500 people, or 40% of the population, to flee Ain Issa and displaced 2,500 from surrounding villages.

After the arrival of US forces in Ain Issa in 2016, the town became the heart of the autonomous administration that the Kurds have built in northeast Syria during the country’s civil war. Since many administrative and security bodies, including the Asayish police force, are now centered in Ain Issa, Turkey’s seizure of the town would amount to smashing the capital of the autonomous administration.

The SDG and the autonomous administration believe the change of guard in Washington will make things harder for Turkey, but reckon that Ain Issa will remain in serious danger during the transition period, another Kurdish source told Al-Monitor. “Turkey wants to seize Ain Issa, but the problem is not limited to this town. After capturing Ain Issa, it might turn to Raqqa and then seek a position to influence the oil fields in Deir ez-Zor. By capturing Ain Issa, Turkey will also cut the connection between Kobani and Jazira,” the source said. It would also turn up pressure on the besieged city of Manbij to the west of the Euphrates.

As for Russia’s calculus, the source said, “The Russians are trying to use the Turkish threat to secure gains for the regime, just as they did in Afrin. ... It is hard to predict how flexible they could be. Still, they are not in a position to [tell the Kurds], ‘You reject our proposals, we are out. Do whatever the hell you want to do.’ The Syrian government is averse to giving further space to Turkey. And a Turkish offensive on Ain Issa would mean Turkey’s trampling of a deal to which Russia is a guarantor.”

The trilateral partnership in Ain Issa might fail to fully block Turkish intervention attempts to the east of the Euphrates without additional curbs akin to the ones that put the brakes on Turkey’s Operation Peace Spring in October 2019.

The first brake was the Turkish-US deal of Oct. 17, 2019, followed by the Turkish-Russian accord in Sochi several days later. The Sochi deal restricted Turkish and SNA control to a border strip between Tell Abyad and Ras al-Ain extending 32 kilometers south to the M4 highway. The YPG agreed to retreat beyond that boundary, with Russian military police and Syrian border guards deploying in their stead. The deal also stipulated Turkish-Russian patrols along the eastern and western boundaries of the Turkish-controlled zone and the YPG’s removal from Manbij and Tell Rifaat, both to the west of the Euphrates.

Irrked by the YPG’s continued presence in Manbij and Tell Rifaat, Ankara has been pressing for the handover of the two cities as well.

According to local reports, Turkish officials and SNA commanders met in the border town of Azaz Dec. 8 to discuss preparations for assaults on Manbij, Ain Issa and Tell Tamer, a town to the south of Ras al-Ain. Following the meeting, a large Turkish military convoy — formed by vehicles coming from the Turkish-controlled towns of al-Bab, al-Rai and Jarablus — headed to the Manbij area.

Should the trilateral collaboration in Ain Issa hold and advance, it could eventually thwart Turkey’s plans to expand its control along the M4 to maintain an “anti-Kurdish corridor” along the border. Turkey’s ambitions, however, are serving Russian plans to pave the way for the Syrian army’s gradual return east of the Euphrates.

Turkey may be unable to advance its own plans, but its pressure on the Kurds has led the SDF to acquiesce to sharing control with Damascus in yet another area. Ultimately, Ankara might consider Kurdish handovers of territorial control to Damascus a success. Yet, the objectives of its military presence also involve preventing the SDF’s integration into the Syrian army and constitutional status for the Kurds in a future Syria.

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Lawyer asks ex-President Thaci's release from detention pending trial (Gazette Express)

December 9, 2020

Defence lawyer David Hooper has filed an application with the Kosovo Specialist Chambers at the Hague asking the former president of Kosovo Hashim Thaci to be released pending trial, saying Thaci had cooperated with the tribunal up to now, and been instrumental in its formation.

Hooper in a 28-pages application to the pre-trial judge of the KSC has ranked the arguments why his client should be granted an interim release pending trial.

Hooper in his application, has answered to all counts of the indictment filed by the Specialist Prosecutor accusing Thaci of war crimes for his role as Kosovo Liberation Army (KLA) commander in 1998-1999 war against Serbia.

Among other things the lawyer has answered the prosecutor's allegations on intimidation of people who think differently about the KLA's war, mentioning the case of Shkelzen Gashi, former advisor to Albin Kurti at the time he served as Kosovo's prime minister. Hooper said that the Specialist Prosecutor's Office (SPO) material number 36, has nothing to do with Thaci in Shkelzen Gashi's case and the situation caused after his public statements.

"The SPO submissions repeatedly fail to reflect the reality of political dynamics in Kosovo. In addition to ignoring Mr Thaci's support for the KSC, the SPO takes the Gashi incident as an example that 'reflects a climate of impunity and intimidation which the Suspects have actively facilitated and encouraged.'³⁶ The supporting material makes no mention of Mr Thaci. In fact, Gashi's statements provoked the radical elements within the Vetëvendosje party which compelled the head of that party to fire Gashi, his adviser. It should be noted that party had taken a strong stance against the KSC, and for that matter EULEX and UNMIK,³⁷ in marked contrast to that of Mr Thaci. In no way can this incident be characterized as an attempt by Mr Thaci to intimidate or act with impunity towards the KSC. Rather, it demonstrates the nature of the opposition within Kosovo to his support for the KSC," defence lawyer Hooper said in his referral to the KSC pre-trial judge. To back his referral Hooper has quoted the transcript of the session of the Assembly of Kosovo, dated 26 June 2015. "During this session, Mr. Thaci's support for the establishment of the KSC and SPO was characterized as "servility towards the international community," by the head of the then opposition, Albin Kurti, the leader of the Vetëvendosje Movement," Hooper wrote in his application.

Hooper said that Thaci's support for the KSC was in part driven by his determination to have the Dick Marty Report's infamous allegations of organ theft disproven. "Indeed, these allegations no longer form any part of the charges in this case despite being a principal incentive for the establishment of the KSC," he wrote in his application.

Special Court denies ex-KLA member request for release on bail (Gazeta Express) December 10, 2020

The Kosovo Specialist Chambers (KSC) on Wednesday denied Hysni Gucati's request to be released on bail pending his trial suspect for offences against the administration of justice, namely intimidation of witnesses, retaliation, and violation of secrecy of proceedings.

The KSC in a media statement said the Panel of the Court of Appeals Chamber of the Kosovo Specialist Chambers delivered its first interlocutory appeal decision regarding an appeal filed by Hysni Gucati against the Single Judge's decisions in relation to the legality of his arrest and application for bail. In this first decision, the Court of Appeals Panel determined the standard of review to be applied to interlocutory appeals and the formal requirements to be respected on appeal.

"Applying this standard of review, the Court of Appeals Panel rejected Gucati's appeal in its entirety. Although the Panel found that the arrest warrant was incorrectly based on Article 39(3) of the Law that pertains to the powers of the Pre-Trial Judge acting upon the filing of an indictment, for the reasons developed in the decision, it considered nevertheless that the Specialist Chambers' legal framework confirms that the Single Judge had the power to issue an arrest warrant before the filing of an indictment," according to the statement.

The Court of Appeals Panel further found that provisional release decisions are discretionary and that the Single Judge did not abuse his discretion in addressing the conditions proposed by Gucati in support of his application for bail. The Panel was of the view that Gucati failed to demonstrate that the Single Judge committed a discernible error in his assessment as to whether Gucati's detention is necessary under Article 41(6) of the Law.

The Court of Appeals Panel underscored the importance of the principle of proportionality in the context of pre-trial

detention but found that Gucati's detention is still proportional at this early stage of the proceedings.

Following his arrest by the Specialist Prosecutor's Office on 25 September 2020, Hysni Gucati, head of the Association of Kosovo Liberation Army (KLA) Veterans was transferred to the Detention Facilities of the Kosovo Specialist Chambers in The Hague. An arrest warrant was issued for him suspected of obstructing administration of justice, namely intimidation of witnesses, retaliation, and violation of secrecy of proceedings. Gucati in his appeal claimed that he was illegally arrested for alleged obstruction of justice after he received leaked documents from war crimes cases which he said were leaked documents of the Specialist Prosecutor's Office (SPO) at the Hague tasked to investigate and prosecute alleged crimes of the KLA during and after the war in Kosovo in 1998-2000.

Kosovo War Veterans' Leaders Indicted for Obstructing Justice (Balkan Insight) By Xhorxhina Bami
December 14, 2020

The Kosovo Specialist Chambers confirmed the indictment of the leaders of the Kosovo Liberation Army War Veterans' Organisation, Hysni Gucati and Nasim Haradinaj, for obstructing justice and intimidating witnesses.

A pre-trial judge on Monday confirmed the indictment of Hysni Gucati and Nasim Haradinaj for "offences against the administration of justice, namely obstruction of official persons in performing official duties, intimidation of witnesses, retaliation and violation of secrecy of proceedings", the Kosovo Specialist Chambers said in a statement.

Gucati and Haradinaj were arrested in September after a raid on the Kosovo Liberation Army War Veterans' Organisation's offices and sent to The Hague.

They were held after batches of confidential case files from the Specialist Chambers were lead to the KLA veterans' group and Gucati and Haradinaj urged media to publish the material.

The indictment alleges that between September 7 and 25, 2020, "on the occasion of three press conferences and other broadcasted events, as well as through... social media statements, Mr. Gucati and Mr. Haradinaj revealed, without authorisation" lawfully protected information. It also claims that they identified "details of certain (potential) witnesses".

"Mr. Gucati and Mr. Haradinaj also made disparaging accusations and remarks against (potential) witnesses and repeatedly expressed their intention to undermine the Specialist Chambers," the Hague court's statement added.

Haradinaj and Gucati are expected to have their initial pre-trial hearings on December 15 and December 18 respectively. They challenged the legality of the Specialist Chambers in their first appearances before the court.

The Specialist Chambers was set up to try former KLA guerrillas for crimes allegedly committed during and just after the Kosovo war from 1998 to 2000. They are part of Kosovo's judicial system but located in the Netherlands and staffed by internationals.

The so-called 'special court', widely resented by Kosovo Albanians who see it as an insult to the KLA's war for liberation from Serbian rule, was set up under pressure from Kosovo's Western allies.

Those awaiting trial for wartime crimes include Kosovo's recently-resigned President Hashim Thaci and former Democratic Party of Kosovo leader Kadri Veseli alongside two other guerrillas turned politicians, Jakup Krasniqi and Rexhep Selimi. They have all pleaded not guilty.

A status conference in the case against Salih Mustafa, who was a KLA commander in north-east Kosovo during wartime, was also held at the Specialist Chambers on Monday.

The prosecution said it would be ready for the start of the trial by March 2021, while the defence said it estimated that the trial could only start six weeks after that.

Mustafa is charged with the arbitrary detention, cruel treatment, torture and murder of civilian prisoners. He has pleaded not guilty.

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Azerbaijan

Armenia/Azerbaijan: Decapitation and war crimes in gruesome videos must be urgently investigated (Amnesty International) December 10, 2020

Both Azerbaijani and Armenian forces committed war crimes during recent fighting in Nagorno-Karabakh, Amnesty International said, after verifying videos showing the decapitation of captives and the desecration of the corpses of opposing forces.

Amnesty International analysed 22 videos that depict extrajudicial executions, the mistreatment of prisoners of war and other captives, and desecration of the dead bodies of enemy soldiers.

Two videos show extrajudicial executions by decapitation by Azerbaijani military members, while another video shows the cutting of an Azerbaijani border guard's throat that led to his death.

The videos were shared on private Telegram accounts and groups within the last three weeks. Amnesty International's Crisis Evidence Lab used digital verification techniques to confirm the authenticity of the videos.

"During the recent Nagorno-Karabakh fighting, members of the military on both sides have behaved horrendously, displaying a complete disregard for the rules of war," said Denis Krivosheev, Amnesty International's Research Director for Eastern Europe and Central Asia

"The depravity and lack of humanity captured in these videos shows the deliberate intention to cause ultimate harm and humiliation to victims, in clear violation of international humanitarian law.

"Both Azerbaijani and Armenian authorities must immediately conduct independent, impartial investigations and identify all those responsible. The perpetrators - as well as any commanding officers who ordered, allowed or condoned these crimes - must be brought to justice."

Amnesty International's investigation has authenticated the footage as genuine, and technical tests conducted on the videos indicate that the files have not been manipulated. The details of the injuries were also independently verified by an external forensic pathologist.

Decapitation and mutilation by Azerbaijani military

One video from the first incident shows a group of men in Azerbaijani military uniforms holding down a struggling man, while another soldier decapitates him with a knife. The executioner is identifiable as an Azerbaijani soldier based upon the type of camouflage of his uniform, the Azerbaijani flag on his shoulder and a patch with his blood type listed on his sleeve, as is standard among Azerbaijani soldiers. The victim is shirtless, and is wearing only his underwear and trousers. After the decapitation, the crowd claps and cheers loudly.

In the second video of the first incident, the victim's head has been placed on the nearby carcass of a pig. The men speak in Azerbaijani, and the camera's microphone captures them addressing the victim with comments such as, "You have no honour, this is how we take revenge for the blood of our martyrs" and, "This is how we get revenge - by cutting heads". Sources have confirmed to Amnesty International that the victim was an Armenian civilian.

A video from the second incident shows two men wearing uniforms consistent with the Azerbaijani military, including a clear Azerbaijani flag on one man's right shoulder and a 'cutaway' helmet that is normally reserved for special operations forces. The victim is an older man in civilian clothes, who is pinned to the ground. He is filmed begging for mercy, repeatedly saying: "For the sake of Allah, I beg you."

While the man speaks in Azerbaijani, he does not have an Azerbaijani accent. Amnesty International believes he was most likely an Armenian resident of Nagorno-Karabakh. One of the men is heard to say, "Take this one" and hands a knife over to the other man, who begins to brutally cut the older man's throat before the video abruptly ends.

Wilful killing of Azerbaijani border guard

In the third incident, the video shows a man wearing an Azerbaijani border patrol uniform lying on the ground, whilst gagged and bound. The person filming the video speaks to the man in Armenian, then approaches him and sticks a knife

into his throat.

The captive man was reported by Azerbaijani media as having been killed in the incident, and named as Ismail Irapov. He does not die while the video is being filmed, but independent pathological analysis confirmed that the wound sustained would have led to his death in minutes.

Outrages upon personal dignity and inhuman treatment

Eleven other videos show violations by Armenian forces, and seven by Azerbaijani forces. In several videos, Armenian soldiers are seen cutting the ear off a dead Azerbaijani soldier, dragging a dead Azerbaijani soldier across the ground by a rope tied around his feet, and standing on the corpse of a dead Azerbaijani soldier. In other videos, Azerbaijani soldiers kick and beat bound and blindfolded Armenian prisoners, and force them to make statements opposing their government.

International humanitarian law expressly prohibits acts of violence against any detained person, including prisoners of war, the mutilation of dead bodies, and the filming of confessions or denunciations for propaganda purposes.

The third Geneva Convention states that “prisoners of war must at all times be humanely treated ... In particular, no prisoner of war may be subjected to physical mutilation ... Likewise, prisoners of war must at all times be protected, particularly against acts of violence or intimidation and against insults and public curiosity. Measures of reprisal against prisoners of war are prohibited.”

Wilful killing, torture or inhuman treatment, and committing outrages upon personal dignity - in particular humiliating or degrading treatment and desecration of the dead - are war crimes.

Background

On 27 September, heavy fighting erupted between Azerbaijan and Armenia and Armenian-supported forces in the Nagorno-Karabakh region. In the months that followed, both sides involved in the conflict exchanged artillery and rocket fire.

Amnesty International called on all sides to the conflict to fully respect international humanitarian law, and to protect civilians from the effects of the hostilities. The fighting concluded with the signing of the Nagorno-Karabakh ceasefire agreement on 9 November.

Azerbaijan: Unlawful Strikes in Nagorno-Karabakh (Human Rights Watch) December 11, 2020

Investigate Alleged Indiscriminate Attacks, Use of Explosive Weapons

Azerbaijani forces carried out apparently indiscriminate attacks in Stepanakert in violation of the laws of war during the conflict in Nagorno-Karabakh, Human Rights Watch said today.

A Human Rights Watch on-site investigation in Stepanakert, Nagorno-Karabakh’s largest city, found numerous incidents in which Azerbaijan’s forces used inherently indiscriminate cluster munitions and artillery rockets or other weapons that did not distinguish between military targets and civilian objects. Evidence relating to an attack on October 4, 2020, indicates that multiple strikes hit residential homes in less than a minute suggesting possible bombardment – treating the whole area as a military target – which is prohibited under the laws of war. Azerbaijani forces also attacked infrastructure that may have an unlawfully disproportionate impact on the civilian population. The use by Armenian and local Nagorno-Karabakh forces of military bases and dual-use infrastructure in Stepanakert placed the civilian population unnecessarily at risk.

“Azerbaijani forces carried out apparently indiscriminate air and ground strikes hitting civilian structures in Nagorno-Karabakh’s largest city that should be impartially investigated,” said Lama Fakih, crisis and conflict director at Human Rights Watch. “While the hostilities may have stopped, the civilian population continues to suffer from possibly disproportionate attacks on critical infrastructure.”

On September 27, Azerbaijan began air and ground attacks across Nagorno-Karabakh, an escalation in the conflict between Azerbaijan and Armenia and the local authorities in Nagorno-Karabakh. Fighting continued until November 10, when Armenia, Azerbaijan, and Russia concluded an agreement to end the hostilities.

From September 27 through October 28, Azerbaijani forces conducted strikes on Stepanakert, at times using cluster munitions and Smerch and Grad rockets, which are not capable of precision targeting. Azerbaijani forces attacked Armenian and Nagorno-Karabakh forces based in or around Stepanakert, including at two military bases, one of which is believed to be the headquarters for the local defense forces. Several structures were also military objectives, subject to

attack. However, Human Rights Watch found that in the attacks investigated, Armenian and local forces were not deployed nor had set up any significant defensive systems or other weaponry in the city.

By early October, most of the over 50,000 residents had fled the city, many to Goris and Yerevan in Armenia. Some civilians remained in Stepanakert, including older people and servicemen's families. Since the fighting ended, tens of thousands have reportedly returned.

Human Rights Watch visited Nagorno-Karabakh in October and November and spoke to 19 civilian residents of Stepanakert, two officials from the local authorities, a nongovernmental organization worker, and four other residents who had fled to Armenia but who were present during the fighting. Human Rights Watch also acquired and analyzed satellite images taken between September 27 and late October that corroborate accounts, photographs, and videos of repeated Azerbaijani air and ground attacks in Stepanakert, including scores of damaged structures and impact sites. Human Rights Watch was able to examine a small number of the attack sites in Stepanakert.

Human Rights Watch found that, in addition to the attacks on military targets, Azerbaijani forces attacked residential areas with inherently indiscriminate weapons and dropped aerial munitions and fired heavy artillery into populated areas that contained no apparent military objectives. Such attacks are indiscriminate, violating the laws of war, because they do not distinguish between civilians and civilian objects and military targets. Warring parties should also refrain from using explosive munitions with wide-area effects in populated areas because they cause both immediate and long-term harm to the civilian population.

Azerbaijani forces repeatedly struck infrastructure with dual use – military and civilian – functions, including the main electricity control center for Nagorno-Karabakh, and the central administrative building of Karabakh Telecom, the territory's sole telecommunications provider. While dual-use objects are legitimate targets, Human Rights Watch found that Azerbaijani forces attacked them with inherently indiscriminate weapons, such as cluster munitions, or carried out attacks that may have been disproportionate – that is, the anticipated civilian harm caused may have been excessive in relation to the expected military advantage.

Azerbaijani strikes damaged or destroyed numerous businesses and homes in four neighborhoods visited, two of which had no apparent military target nearby. Also, on October 28, an Azerbaijani artillery rocket strike damaged the new maternity ward of the Republican Medical Center, which had yet to open; because the maternity ward had moved its operations to the basement, the attack caused no serious injuries.

Azerbaijani officials have denied that their forces carried out indiscriminate attacks in Nagorno-Karabakh. On October 18, Hikmet Hajiyev, a foreign policy adviser to President Ilham Aliyev, told the BBC that attacks in Stepanakert were against military targets and denied engaging in indiscriminate attacks, saying, "We are very accurate in our target selection using precision guided munitions." He indicated that all civilian casualties occurred during lawful attacks. On November 8, President Aliyev, in an interview with the BBC, dismissed reports of indiscriminate attacks and the use of cluster munitions documented by Human Rights Watch as "fake news."

The strikes on Stepanakert have taken a toll on civilians and civilian infrastructure. The human rights ombudsman for the Nagorno-Karabakh local authorities reported that from September 27 to November 10, 13 civilians were killed in Stepanakert and another 51 were injured.

In five locations that Human Rights Watch visited, there was visible damage from explosive weapons to natural gas lines, which are above ground. On October 2, the deputy mayor said that natural gas was shut off for "security reasons." Residents said that without natural gas, they had no reliable heating or hot water.

Azerbaijan forces struck four times the area near School Number 10, which is across the street from the main electrical substation. The attacks seriously damaged dozens of classrooms, the building's exterior, and the school's electrical and water supply.

"The Azerbaijani government should investigate and hold accountable those responsible for serious laws-of-war violations," Fakih said. "Accountability for all violations of the laws of war is absolutely necessary if the region is ever going to move beyond a vicious, decades-long conflict."

Attacks in Stepanakert: Strikes on Critical Infrastructure, Essential Services

Main Electrical Control Building and Substation

Azerbaijani forces repeatedly attacked the main management and control center for electricity in Nagorno-Karabakh, Artsakh Energo, as well as a substation, with artillery rockets, including those with cluster munition payloads, and air-dropped munitions. Both facilities are in populated areas of Stepanakert, close to a school, businesses, and multi-story

apartment buildings.

Electrical power stations that make an effective contribution to military action and whose partial or total destruction, capture, or neutralization, in the circumstances ruling at the time, offers a definite military advantage are legitimate military targets. However, the laws of war prohibit an attack on such a target if the anticipated civilian harm caused would be excessive in relation to the military advantage. The attacking force should also assess whether an attack on other military objectives causing less damage to civilian lives and objects would offer the same military advantage.

On the night of October 3, Azerbaijani forces attacked the area of the main control building and substation with a LAR-160 series cluster munition rocket. Human Rights Watch observed the remnants of the rocket about 100 meters from the main control building, and scores of the distinctive impacts of the MO95 submunitions, the remnants of the pink-colored stabilization ribbons, and submunition fragments mostly along the street adjacent to the building and substation.

Numerous buildings, private businesses, and markets had varying degrees of damage. While the main control building and substation appear to have been the targets, Human Rights Watch research did not identify any other possible military objectives in the area at the time of the attack.

On October 4, around midday, Azerbaijani forces struck both the main control building and the substation, damaging both. The first attack struck the main building, disabling the control center, causing service interruptions, and killing two civilian employees, including the head of control and distribution operations. Another attack, which was part of a series of over a half dozen strikes on the area shortly thereafter, around 1 p.m., damaged the substation.

Human Rights Watch visited the site, reviewed satellite imagery of the area before and after the attack, and analyzed photographs and videos taken there. The damage observed is consistent with the damage signatures detected from satellite imagery.

Satellite imagery recorded on October 8 shows at least 10 impact sites within a radius of approximately 300 meters from the substation. A burn scar is also visible along the edge of the substation leading into the center of the transformer units.

Human Rights Watch visited seven of these impact sites. One was on the main control building; four were on the periphery of an elementary school. A cluster munition rocket also struck a store nearby and scores of submunitions damaged adjacent residences, businesses, and numerous vehicles.

Human Rights Watch reviewed and verified three videos taken at the time of the 1 p.m. attack. Human Rights Watch located three videos on Twitter and Telegram and contacted the videographers who provided longer and higher-resolution versions. In one, taken by Artsakh Public TV on October 4 about 100 meters from the substation and main control building, at least eight detonations can be seen or heard, including on the substation, and residential buildings.

In all three videos, the sound of jet aircraft flying can be heard and two of the videos filmed from different locations show a munition falling toward the substation at an 80- to 90-degree angle. The angle of attack as well as the presence of aircraft overhead at the time are consistent with the munition being air-dropped. The strike at 1 p.m. was among over a half-dozen on the area around the substation in the span of just under a minute, some of which landed over 400 meters away.

Civilians remaining in Stepanakert and two municipal employees described electricity outages across the city following the attacks. One employee said in mid-October that electricity was available in some areas of Stepanakert and that they were routing it to bunkers and basements where people were sheltering. Repair work, he said, was hampered by ongoing attacks. No figures about the total damage were available, and he expressed concern about providing electricity during the winter months.

Following the negotiated cessation of hostilities on November 25, Hunan Tadevosyan, spokesperson for Nagorno-Karabakh's Rescue Services, told Human Rights Watch that electricity was still limited in Stepanakert and that repair work was ongoing.

The attacks on both the main control building and the substation may have caused disproportionate civilian harm compared with the immediate military advantage. However, the use of inherently indiscriminate cluster munitions in a residential area, causing harm to civilian objects, violates laws-of-war prohibitions against indiscriminate attacks.

Communications Network

Karabakh Telecom is a privately held business that provides cellular communications, including voice, text, and mobile internet services, to Nagorno-Karabakh. On October 2, the local Nagorno-Karabakh authorities took control of Karabakh Telecom, citing the security situation and the need to maintain interference-free communication throughout the territory, including to its armed force.

Telecommunications networks used by armed forces and armed groups are military objectives subject to attack.

On October 4, Azerbaijani forces attacked the immediate area of Karabakh Telecom's head office in Stepanakert, which includes a large communication tower, with multiple LAR-160 series rockets that dispersed hundreds of M095 submunitions.

Human Rights Watch visited Karabakh Telecom's headquarters in mid-October and identified a cluster munition rocket used to attack and damage the main building. Submunitions impacts were also observed in the vicinity. The submunitions damaged three large apartment complexes and numerous homes and businesses, punching holes in roofs, shattering windows, damaging and destroying several vehicles, including those owned by Karabakh Telecom, and causing localized electricity and water outages in buildings struck by submunitions.

Following the attack, residents in mid-October described significant difficulties accessing telecommunications networks. Family members, particularly those displaced to Armenia, described difficulty reaching and communicating with their relatives still in Nagorno-Karabakh. During the Human Rights Watch visit, mobile internet was not available.

By providing communications services to the local military, Karabakh Telecom was a legitimate military objective. Having its headquarters in a deeply populated neighborhood put civilians unnecessarily at risk. The importance of communications for health and well-being of the civilian population may have made the attack disproportionate. And the use of cluster munitions in a residential setting was unlawfully indiscriminate.

Indiscriminate Attacks; Use of Explosive Weapons with Wide-Area Effects

During the on-site investigations, Human Rights Watch documented the use of explosive weapons with wide-area effects in six areas of Stepanakert, damaging and destroying homes, businesses, hospitals, schools, and the local water supply, and significantly harming critical infrastructure to deliver electricity and natural gas and the telecoms network.

Explosive weapons with wide-area effects may have a large destructive radius, be inherently inaccurate, or deliver multiple munitions at the same time, causing high civilian loss if used in populated areas. Often a single weapon will fall into two of these categories.

They include air-delivered weapons, some rockets, and large-caliber artillery. Several types of weapons and weapon delivery systems, both manufactured and improvised, are inherently difficult to use in populated areas without a substantial risk of indiscriminate attack. Weapons such as mortars, artillery, and rockets, such as Grad rockets, when firing unguided munitions, are fundamentally inaccurate systems. In some cases, armed forces can compensate by observing impacts and making adjustments, but the initial impacts and the relatively large area over which these weapons could strike regardless of adjustments make them unsuitable for use in populated areas.

Their use kills and injures civilians at the time of attack, either directly, due to the weapons' blast and fragmentation, or indirectly, as a result of fires, flying debris, or collapsing buildings. When used in cities and towns, these weapons also cause longer-term, reverberating effects because they damage infrastructure, which in turn interferes with basic services, such as health care or education. The wide-area effects of certain explosive weapons greatly exacerbate this harm to civilians.

Impact on Schools

Explosive weapons damaged at least two schools in Stepanakert.

The damage to school number 10 occurred when Azerbaijani forces repeatedly fired explosive weapons with wide-area effects at the main electrical substation across the street, and 200 meters from Artsakh Energo's main control building.

Stepan Khachatryan, 57, the deputy head of School Number 10, said that the school had 1,300 students, ages 5 to 16, and about 100 teachers and 40 other employees. The school closed after hostilities broke out. Khachatryan said that starting on September 27 he and other staff, including a security guard, went to the school every day to keep watch. After strikes hit the school's field in the first week of fighting he told the staff not to return.

Between September 27 and October 8, Azerbaijani forces fired two munitions that struck the field on the northern side of the school. During a visit on October 12, Human Rights Watch identified an unexploded Grad rocket in the ground on the northeastern end of the field. On the southwestern edge, there was blast damage from an explosive weapon and remnants of a rocket with a diameter of 300 millimeters, consistent with that of a Russian-made Smerch rocket.

Human Rights Watch analyzed a satellite image of the school and its vicinity taken on October 8. It shows damage to a wall in the soccer field, and an expended rocket motor is visible.

Due to the fundamental inaccuracy of the artillery rockets used in the attacks in an area with a high concentration of civilian objects, the strikes may constitute an indiscriminate attack.

On a subsequent day, Azerbaijani forces fired two munitions that struck the school grounds, causing significant damage. Khachatryan said that the first landed in the front of the school, blowing out the front-facing windows and doors. Human Rights Watch on October 12 observed a crater several meters wide and deep in the front of the school and significant blast damage to the front of the school, including scores of broken windows, tables, chairs, and other school equipment in numerous classrooms.

Khachatryan said the second munition landed in the northern courtyard, a few meters from the cafeteria. Human Rights Watch observed a crater several meters wide and deep, damage to dozens of classrooms, external damage to the building, a cut to the main electrical line, and damage to the water system. The explosion left much debris inside the school and as of October 12 it had no power, running water, or natural gas.

Narine Khachaturyan, was staying in her parents' apartment, which faces the school, during the October 4 attack between 8 and 9 p.m. She said:

I was in the kitchen with the groceries on the table in front of me, and suddenly, there was this roar, and glass flying everywhere, so I quickly turned off the gas and rushed downstairs and back into the basement. I was very frightened and left with the children the next day without going up even once, not even to take any belongings.

Khachaturyan said that as they were leaving they could see that the school was badly damaged.

Human Rights Watch analyzed a satellite image of the school and its vicinity taken on October 8. The image shows damage on the interior western part of the school and another impact site in front of the school, about 50 meters from the electrical substation.

Human Rights Watch was not able to identify the specific munition used, but both had a wide-area effect due to the large destructive radius of the munitions.

Witnesses said that on October 6 and 7, repeated attacks with explosive weapons apparently on a military compound used by local authorities damaged windows at School Number 12. Human Rights Watch on October 12 observed several damaged windows on the second floor. One school employee said that nearby blasts, which damaged a multi-story building inside the military compound, shattered about 40 windows in the school.

Impact on Hospitals

At least two hospitals were damaged by strikes during the October fighting.

On October 28, at least one artillery rocket launched by Azerbaijani forces struck the Republican Medical Center, one of the main hospitals in Stepanakert. The new maternity ward had the most significant damage. Human Rights Watch visited the site on November 23, reviewed 12 photographs and two videos posted on Twitter, Telegram, and news websites, and spoke to three witnesses. The photographs and videos show four stories of windows blown out on a stairwell of the northern side of the maternity ward. Human Rights Watch also located the remnant of a Smerch artillery rocket on the first-floor ledge of the ward.

Artur Marutyan, deputy-head of the maternity ward, said that because of the constant shelling in the city, they moved their operations into the basement in early October. He described the attack:

We were busy working and suddenly, everything is shaking, and it's all dust and smoke. We couldn't see one another even half-a-meter away. Just before it happened, our technician went to get an oxygen tank and the [blast] wave threw him all the way down the hall.

He said that although the munition directly hit the facility, because it hit the upper floors they were able to clean up and continue working.

Grigori Arustamyan, head of the emergency ward, who was on the ground floor, said:

Around 1 or 2 p.m. we heard a very loud explosion. The windows and window frames blew out and pieces of ceiling fell down. I was on the first floor in the emergency ward when it happened. We could hear several explosions, but others were remotely heard, while this one was very close, a direct hit on the maternity ward. People and staff got very scared, as the smoke even filled the bunkers.

Aida Marutyán, 50, head nurse of the emergency ward, said that “When the explosion happened the nurses in the dialysis unit, which is closer to the maternity ward, were thrown against the wall – suffered bruises and small cuts of shattered glass.”

Staff members said that dozens of patients and staff were at the hospital during the attack, including pregnant women, women with bleeding and other gynecological issues, civilians with light wounds, and soldiers in the emergency ward. The presence of injured soldiers in a hospital does not change its protected nature.

The hospital does not normally have any identifying markings on its roof, such as a red cross, Arustamyan said, and did not have one at the time of that attack.

Satellite imagery analysis corroborates the location and the timing of the attack, between October 28 to 29. Satellite imagery recorded on October 28 at 11:22 a.m., shows no signs of damage over the hospital complex but an image recorded the next day shows several impact sites near the main hospital and the maternity ward.

The use of an unguided artillery rocket in a populated area is inherently indiscriminate.

Three witnesses at the Health Center for Women and Children, which the new ward in Republican Hospital was to replace, said that it was struck during an attack in October. Human Rights Watch visited the site and observed an impact crater and shattered glass.

Impact on Residences

On October 4, a large explosive weapon from an Azerbaijani attack at about 1 p.m., struck the middle of Sasountsi David Street, in a residential neighborhood about 120 meters from the International Committee of the Red Cross offices, and over 400 meters from Artsakh Energo’s main control building. It created a crater more than 10 meters in diameter with damage patterns consistent with that of an air-delivered munition using a delayed fuze. Human Rights Watch was not able to determine whether the munition was guided or unguided. The strike was one of a series that damaged Stepanakert’s electrical substation along with area residences and businesses. Since many of the strikes that occurred in less than a minute were near multiple civilian residences, and not a military target, it suggests that the attack may have constituted bombardment violating the laws of war.

Human Rights Watch analyzed satellite imagery, reviewed and verified photographs and videos of the incident, and spoke to witnesses.

In three videos taken at the time of the attack, including one from approximately 220 meters away, the sound of jet aircraft can be heard as eight explosions are heard or seen. No soldiers or military equipment are visible in any of the videos or photographs of the attack.

Both the size of the crater and the presence of aircraft overhead are consistent with the use of air-delivered munitions.

Human Rights Watch visited the site on October 11 and saw one destroyed building and damage to several nearby multi-story apartment buildings and businesses, as well as to the water and natural gas lines.

Mirzoyan Arleta, 69, who was in a basement about 15 meters away from the strike site, said that dust and other debris filled the room. “We were covered by debris,” she said. “We are so lucky that we were not outside. We went outside after that and saw that all around us the windows were broken and so dirty.” She said that around the time of the attack she did not see any soldiers or other military equipment in the vicinity.

Human Rights Watch is unaware of any military target in the vicinity besides the Artsakh Energo control building and substation, which was over 400 meters away, making this attack apparently indiscriminate.

On October 4, Azerbaijani forces damaged a five-story apartment building with a furniture shop on the ground floor, over 120 meters from Stepanakert’s main electrical substation.

Human Rights Watch visited the site on October 12 and observed significant damage to the southern edge of the building, including the destruction of several garages behind it and nearby vehicles. Human Rights Watch also observed scores of broken windows and damage on the east-facing portion of the building.

Nvard Aleksanyan, who lives in the building, said that the area was attacked multiple times since September 27 and that her building was hit on October 4. She said that she had been making coffee before the attack and managed to rush down to the basement.

One high resolution video, among the three taken at the time of the attack on the electrical control building and

substation, taken from a hotel east of the building shows a munition falling at an 80- to- 90-degree angle before striking the southwest corner. The angle of attack and sound of jet aircraft are consistent with an air-delivered munition.

A satellite image recorded on October 8 shows significant damage to the southern edge of the building and severe damage to 10 structures south and west of the building, consistent with the photographs and videos Human Rights Watch reviewed. A video taken shortly after the attack did not show any soldiers or military equipment. The strikes, which hit multiple residences in the span of less than a minute, may have amounted to bombardment.

In another residential area, Human Rights Watch observed apartment buildings with substantial damage from explosive weapons that struck directly or from fragments or debris.

Eva, who asked that her real name not be used, said that she was in her home at night on either October 7 or 8 when an Azerbaijani attack struck a building across the street. She described two large explosions and a blast that propelled large stones dozens of meters, some of which damaged her home. She said that at the time, everyone was hiding in bunkers except for one man who had minor leg injuries. Eva said that after the attack, there was no electricity until workers repaired the electrical lines on October 11.

Human Rights Watch reviewed photographs posted online on the morning of October 8 that matched the location and damage from the site visit. Satellite imagery taken on October 8 at 2:25 p.m., shows several residential buildings damaged during the attack and debris along the street and a cross street.

The closest military target that Human Rights Watch could identify was a military base over 500 meters away. In the absence of a valid military objective, this attack appeared to be indiscriminate.

Relevant International Humanitarian Law Standards

International humanitarian law, or the laws of war, applicable to the international armed conflict between Azerbaijan and Armenia, prohibits deliberate attacks on civilians or attacks that are indiscriminate or cause disproportionate harm to civilians and civilian objects. Warring parties must take all feasible precautions to avoid or minimize civilian harm, including not deploying in densely populated areas.

Indiscriminate attacks strike military objectives and civilians or civilian objects without distinction. These include attacks that are not directed at a specific military objective or that use weapons that cannot be so directed. Prohibited indiscriminate attacks include area bombardment – attacks by artillery or other means that treat as a single military objective a number of clearly separated and distinct military objectives in an area containing a concentration of civilians and civilian objects.

Military commanders must choose a means of attack that can be directed at military targets and will minimize incidental harm to civilians. If the weapons used are so inaccurate that they cannot be directed at military targets without a substantial risk of civilian harm, they should not be deployed.

While there is no general prohibition against using explosive weapons in populated areas, the use of weapons that are inherently indiscriminate, such as cluster munitions or unguided rockets, may invariably cause indiscriminate harm to civilians and civilian objects. Warring parties should avoid using explosive weapons with wide-area effects in populated areas due to the foreseeable civilian harm they cause, both at the time of attack and in the future.

Serious violations of the laws of war by individuals with criminal intent – deliberately or recklessly – are war crimes. Governments have a duty to investigate allegations of war crimes by members of their armed forces or forces on their territory and to fairly prosecute those found responsible.

Countries are in the process of negotiating a political declaration that would commit them to refrain from using explosive weapons with wide-area effects in populated areas. Azerbaijan and Armenia should endorse such a political declaration.

The 2008 Convention on Cluster Munitions comprehensively prohibits cluster munitions and requires their clearance as well as assistance to victims. Cluster munitions have been banned because of their widespread indiscriminate effect and long-lasting danger to civilians. Cluster munitions typically explode in the air and send dozens, even hundreds, of small bomblets over an area the size of a football field. Cluster submunitions often fail to explode on initial impact, leaving duds that act like anti-personnel landmines for years and even decades.

Armenia and Azerbaijan are not among the cluster munition treaty's 110 states parties. Both should take the necessary steps to join the convention without delay, Human Rights Watch said.

Azerbaijan officials arrest four soldiers suspected of war crimes (Jurist) By Ryan House

December 15, 2020

Azerbaijan's Prosecutor General's Office announced on Monday that it had detained four soldiers accused of war crimes against Armenians in the recent Nagorno-Karabakh Conflict. The Prosecutor General's Office denounced the actions of the soldiers, calling them "unacceptable" and contradictory to "the mentality of the Azerbaijani people."

The Prosecutor General's report was careful to exonerate Azerbaijani officials, including President Ilham Aliyev, Supreme Commander-in-Chief of Azerbaijan's military. The report claims that the alleged war crimes were due to a "regrettable" misunderstanding "of the methods and techniques" condoned by Aliyev in "the struggle against the enemy by some servicemen under the influence of the severe psychological state caused by the war."

The four detained servicemen are Rashad Aliyev, Gardashkhan Abishov, Arzu Huseynov and Umid Aghayev. Aliyev and Abishov recorded their "offensive acts" against the bodies of deceased Armenian soldiers and shared the videos via social media. Huseynov and Aghayev destroyed Armenian gravestones in a village cemetery. These two also recorded their actions and shared the videos through social media.

According to the report, "necessary research will be conducted" to authenticate the videos of these alleged crimes. The Prosecutor General claims that some videos depicting other war crimes "were found to be fake, and there are serious doubts as to whether some of them are true and reflect reality."

Monday's announcement follows a report from Human Rights Watch condemning the treatment of Armenian prisoners of war. The December 2 report stated that "there are serious grounds for concern about their safety and well-being" of Armenian prisoners.

Azerbaijan and Armenia signed a ceasefire agreement on November 10 in an attempt to end the 30-year conflict over the Nagorno-Karabakh region. The Russian-brokered ceasefire was seen as a victory for Azerbaijan, as it gave formerly Armenian-occupied territory back to Azerbaijan. However, on Saturday and Sunday, both countries accused the other of breaching the ceasefire. Aliyev said that if fighting with Armenia broke out again, "this time, we will fully destroy them."

Several prominent Armenian activists have spoken out about the conflict, including the metal band System of a Down. The band released two songs, their first music in 15 years, to "spread awareness about this humanitarian catastrophe." Singer Serj Tankian claimed that Azerbaijan, aided by Turkey, purposely conducted an attack on Armenia to retake the occupied territory during the COVID-19 Pandemic: "Who attacks a country during COVID?"

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Iraq

Grotian Moment: The International War Crimes Trial Blog

ICC drops probe into alleged UK war crimes in Iraq despite 'reasonable' evidence (Middle East Eye)

December 9, 2020

Despite finding "reasonable basis" for allegations of war crimes against British soldiers in Iraq, an International Criminal Court (ICC) prosecutor dropped a preliminary investigation, citing the UK's own efforts to investigate the conduct of its troops in the war.

In a statement released on Wednesday, prosecutor Fatou Bensouda acknowledged the fact that the probe did not lead to the prosecution of any suspects, but stressed that the outcome of the investigation does not mean war crimes did not occur.

"There is a reasonable basis to believe that members of the British armed forces committed the war crimes of willful killing, torture, inhuman/cruel treatment, outrages upon personal dignity, and rape and/or other forms of sexual violence," Bensouda said.

"The Office [of the Prosecutor] has identified a confined number of incidents to reach this determination which, while not exhaustive, appear to correspond to the most serious allegations of violence against persons in UK custody."

The ICC statement also refuted claims that legal proceedings made on behalf of Iraqi victims of alleged war crimes were all "vexatious" or spurious, as stated by former British Prime Minister Theresa May and her successor Boris Johnson.

"The Office has found untenable the proposition that these various processes all arose from vexatious claims," the ICC prosecutor said in her statement, adding that the lack of prosecutions "has deprived the victims of justice".

The UK's Service Prosecution Authority threw out hundreds of claims brought on behalf of Iraqis against the UK Ministry of Defence for alleged abuses.

Rupert Skilbeck, director of legal firm Redress, which brings legal cases on behalf of victims of torture, said: "Survivors of torture and ill-treatment will be profoundly disappointed that the ICC Prosecutor will not now be pursuing her investigation against the UK.

"The prosecutor is clear that there was strong evidence of war crimes - including the use of the 'five techniques' [of physical and psychological abuse] - and identifies numerous concerns with the UK investigations, not least that there were no prosecutions despite such a large number of accepted claims."

'Shoot to kill'

Middle East Eye has previously reported damning evidence of alleged abuses by British forces in Iraq including:

How the British Army relaxed the rules of engagement while soldiers were stationed in Basra in 2007 to sometimes allow them to 'shoot to kill' unarmed civilians
How the British Army deployed interrogators to the US-run Abu Ghraib prison despite being aware of reports that detainees were being tortured
How British and US forces ran secret desert prisons in Iraq after the 2003 invasion, concealing detainees from Red Cross inspectors

In August, MEE reported in a story cited in the ICC report that the Ministry of Defence could not say how many millions of pounds it had paid to thousands of Iraqis who had lodged complaints of mistreatment by British forces because it would take weeks for civil servants to collate the figure.

In Wednesday's ICC report, the prosecutor detailed alleged incidents committed by UK armed forces against "civilians or hors de combat" at detention facilities in Iraq between 2003 and 2009.

The report speculated that the Iraq Historic Allegations Team (IHAT) and later the Service Police Legacy Investigations (SPLI) - which led internal UK probes - did not press charges against soldiers because of a lack of evidence or because they were not confident in securing convictions.

The report justifies the ICC's decision to drop its inquiry by emphasising that the court can only act when the country of origin of the suspects is demonstrably unable or unwilling to investigate alleged atrocities.

"As the court has emphasised, the ICC is not a human rights body called upon to decide whether in domestic proceedings the requirements of human rights law or domestic law have been violated," it read.

"Rather it is tasked with determining whether it should exercise its own competence in a criminal case, in place of the primary duty which belongs to a state.

"To do so, the court must be satisfied that no relevant proceedings have been undertaken, or if they have, that those proceedings were not genuine, either because the state is unable to undertake genuine proceedings, or because the state is unwilling to do so in the sense that it has taken steps to shield perpetrators from criminal justice."

The report's release comes with the UK government currently pushing legislation through parliament to shield soldiers from prosecution for any acts of murder or torture committed after the invasion of Iraq in 2003.

The Overseas Operations Bill has been criticised by parliament's human rights committee, human rights groups and former soldiers who argue that the proposed new protections are dangerous and demeaning.

'Ugly double standard'

Bensouda's office had previously probed whether the UK's own investigation was genuine.

"The office will seek to ascertain whether the allegations of a lack of genuineness can be substantiated in order to enable it to come to a final determination with respect to the preliminary examination as early as practically possible," a report said in August.

The UK was the chief partner of the US in the invasion of Iraq that toppled Saddam Hussein in 2003.

Both American and British forces have faced accusations of abuse during the conflict, which killed hundreds of thousands of Iraqis.

Earlier this year, Washington imposed sanctions on top ICC officials, including Bensouda, over investigations of US abuses in Afghanistan and Israeli war crimes against Palestinians.

On Wednesday, Human Rights Watch voiced disappointment in the ICC's decision to terminate the case.

"The UK government has repeatedly shown precious little interest in investigating and prosecuting atrocities committed abroad by British troops," said Clive Baldwin, senior legal adviser at HRW.

"The prosecutor's decision to close her UK inquiry will doubtless fuel perceptions of an ugly double standard in justice: one approach to powerful states and quite another for those with less clout."

Dozens killed, injured in Iraq's Kurdistan protests as some consider leaving (Al-Monitor) By Shelly Kittleson
December 11, 2020

Protests beginning Dec. 2 in Sulaimaniyah over unpaid public sector salaries have escalated, with political party headquarters and government buildings burned, several killed and scores injured in the southeastern part of the Kurdistan Region of Iraq.

Anger surged despite Kurdistan Regional Government (KRG) appeals for calm ahead of meetings in Baghdad. Civil servants in Iraqi Kurdistan have for years suffered from irregular income due to budget disputes with the central government as well as the fight against the Islamic State (IS), falling oil prices, and — more recently — the coronavirus pandemic.

Photos circulating online showed plumes of black smoke rising from buildings set alight and of women in black weeping after their male relatives were killed, some of whom had allegedly not even taken part in the protests.

The protests almost immediately spread to both the Halabja governorate southeast of Sulaimaniyah near the Kurdistan Region's border with Iran and the Garmiyān administration further south of it. Halabja had been a district of Sulaimaniyah until 2014.

One member of the security forces and nine protesters had been killed as of the evening of Dec. 10, Ali al-Bayati from Iraq's Independent High Commission for Human Rights told Al-Monitor.

He said that 58 people including two minors had been injured and that violations by the government and/or forces answering to it included the temporary shutting down of the internet in Sulaimaniyah for several hours, the use of tear gas and live ammunition, and the closing of a media channel. Protesters had set fire to both private and public buildings, he added.

One source in Kalar, the largest town in the Garmiyān administration near the Iranian border, told Al-Monitor that he had not seen such anger before among his friends and acquaintances about the general situation in the Kurdistan Region. He said he had been shocked by some of their reactions to social media posts, including on the beating of an elderly man in Said Sadiq, Halabja, by protesters.

"They were posting it on their Facebook pages as if this were a great achievement," he said.

Many point to a disconnect between those able to count on regular salaries or investment and homes, and those at the

mercy of uncertain wages and the need to provide for their basic needs and those of their families. Concern over both the state of the country's finances and the ongoing, yearslong disputes with the central government have worn down the patience of many.

Among the public sector employees that have not received several months' salaries this year are the peshmerga; this fact was stressed by some after one soldier was killed in an attempt to put down the recent protests.

As the United States pulls more troops out of the country, an uncertain future looms heavily.

This journalist spent a few days on the base of the Unit 70 commandos of the peshmerga, which are affiliated with the Patriotic Union of Kurdistan (PUK) in Sulaimaniyah, in late November.

The commander, Akam Omar, said that the unit had been set up during the fight against IS mainly by Sheikh Jaafar Sheikh Mustafa, current KRG vice president.

Omar had been living in the United States after working as an interpreter for the US forces in Iraq. When the fight against IS began in 2014, he decided to return to Iraqi Kurdistan.

Sheikh Jaafar and the PUK are very strong in the southeastern part of the country and are often at odds with the Barzani-led KDP, which enjoys greater support in Erbil and the northern parts of Iraqi Kurdistan than the PUK. Offices of both parties were burned in the recent protests.

Omar noted that initially Unit 70 had welcomed many foreign fighters from Western countries and later went on to receive training from the US Marines and then the Navy SEALs. That support, Omar told Al-Monitor during an interview at the base in Sulaimaniyah Nov. 28, stopped earlier this year.

Contacted subsequently on Dec. 10 for comment on the protests, the commander told Al-Monitor that the commandos had not yet been involved in restoring order to the streets, adding, "We will wait to see, in case things get out of control."

Emergency response units, the Asayish, police and some peshmerga forces are currently involved, he said, noting that commandos were also suffering from nonpayment of salaries.

One soldier in the unit told Al-Monitor at his base in late November that many peshmerga forces have 10 days on duty and 20 days off, during which they work at second jobs to provide for their families. Common side employment includes working as taxi drivers and running cellphone and repair shops.

During the fight against IS in 2016, Al-Monitor reported on the effects on the peshmerga frontlines in Kirkuk of an economic crisis in the Kurdistan Region sparked by a freeze on the KRG's share of the federal budget. At that time, Kurdish officials had warned that many peshmerga might desert the forces due to an inability to provide for their families. The peshmerga had in that period blocked roads in Sulaimaniyah for days in protest.

South of Sulaimaniyah in the Garmiyan administration, locals expressed concern to Al-Monitor in September during a visit to the area, where dams were built recently across the border in Iran, of the reduced water supplies to this side of the border that could lead to massive forced migration in the coming years.

Massive anti-government protests that started in early October 2019 in Baghdad and other central and southern areas of Iraq led to the resignation of the government months later. At the peak of those protests, Sulaimaniyah and Erbil often served as a place of refuge for activists under threat in the central and southern regions of Iraq. Most Kurds do not see central and southern Iraq as a place to take refuge in if need be, however.

According to the Summit Foundation for Refugee and Displaced Affairs, over half a million people have migrated abroad over the past five years from across Iraq, including the Kurdistan Region. The town of Ranya in Sulaimaniyah governorate had at one point seen as many as 800 leave for Europe in a single month earlier this year, according to local media outlets.

If protests continue and more youths lose hope of being able to survive in the region, more may also wish to emigrate any way possible. Or anger may boil over and more seriously damage both the social texture and the internal cohesion of Iraqi Kurdistan.

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Syria

Car bomb in Syrian city kills 2 Turkish soldiers, 2 locals (Associated Press)

December 10, 2020

A car bombing at a checkpoint in a Turkish-controlled area in northeastern Syria on Thursday killed at least two Turkish soldiers and two local security officers with the Syrian opposition, a Turkish official said.

It was the latest in a string of attacks in Turkish-controlled areas in this part of Syria. No group immediately claimed responsibility for the bombing.

A war-monitoring group, the Britain-based Syrian Observatory for Human Rights, said however that the death toll was much higher, with at least 16 were killed, including four Turks, in the attack at the checkpoint in the Syrian town of Ras al-Ayn. The difference in the death tolls could not be immediately reconciled.

The governor's office for the southern Turkish Sanliurfa province said two Turkish soldiers were killed and six were wounded in the Ras al-Ayn attack. The statement said two Syrian security officers from the Turkey-backed forces were also killed and two others were wounded.

Turkish troops and allied Syrian opposition fighters captured the area last October, when Ankara invaded northeastern Syria to drive away Syrian Kurdish fighters from the border region. Ankara views the Kurdish fighters as terrorists for their links to a Kurdish insurgency inside Turkey.

A Kurdish-led administration controls much of northeast Syria, after driving Islamic State militants out of the area in partnership with the U.S.-led international coalition.

Turkey's state-run Anadolu Agency said the car bomb went off at the entrance of Ras al-Ayn at a checkpoint manned by the Turkish-backed fighters.

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Yemen

Yemen: Unchecked violations 'may amount to war crimes', Security Council hears (UN News)

December 3, 2020

UN experts called on the Security Council on Thursday, along with the international community at large, to put an end to the "surreal and absurd dimension" of human rights violations engulfing war-torn Yemen, where abuses continue unchecked.

"Civilians in Yemen are not starving, they are being starved by the parties to the conflict", said Kamel Jendoubi, the Chairperson of the UN Group of Eminent International and Regional Experts on Yemen, in the closed session.

The conflict in the Arab world's most impoverished nation ramped up in 2015, when fighting erupted between a Saudi-backed coalition supporting the internationally recognized Government, and the Houthi rebel group, which is known formally, as Ansar Allah.

Figures released on Tuesday from the UN humanitarian office, OCHA, suggest that more than 230,000 Yemenis have died due to the war, the majority – some 131,000 - through indirect causes such as lack of food, health services and infrastructure. Over 3,000 children have been killed, and 1,500 civilians casualties have been reported in the first nine months of this year.

'Rampant levels' of violations

The UN rights experts outlined to ambassadors serious violations of international human rights and humanitarian law, which encompassed indiscriminate mortar attacks; laying of landmines; recruitment of child soldiers; and the use of torture, including sexual violence while in detention.

“Our investigations this year have confirmed rampant levels of serious violations of international human rights law and international humanitarian law, many of which may amount to war crimes”, Mr. Jendoubi continued.

Against that backdrop, the Group called on the Council to end impunity, expand sanctions and refer the situation to the International Criminal Court (ICC).

No safe place

This year’s continuation of violations “underlines the complete lack of respect for international law and human life being displayed by parties to the conflict”, said Mr. Jendoubi.

“For civilians in Yemen, there is simply no safe place to escape the ravages of the war”.

No clean hands

The Group stressed that there are no clean hands in the war and that all parties to the conflict bear responsibility.

They cited their third report, which concluded that violations have been committed by the government, Houthis, separatist Southern Transitional Council, and members of the Coalition, in particular Saudi Arabia and United Arab Emirates.

Yet, to their knowledge, no combatants have so far been held accountable.

The group reiterated its call for “third States” beyond the immediate combatants, to stop transferring arms to the parties, in light of the role that such transfers are playing in perpetuating the fighting, and contributing to abuses.

Moreover, Mr. Jendoubi maintained that the continued supply of weapons into the conflict “is only perpetuating the conflict and prolonging the suffering of the Yemeni people”.

The Group of Experts called upon the Ambassadors to expand the Security Council sanctions’ list and to fully integrate human rights into its regular agenda, which they maintained “would send a powerful message to the conflicting parties that there will be no impunity for serious violations of human rights”.

Record levels of hunger

At the same time, new figures revealing record levels of acute food insecurity in Yemen have prompted the UN Children’s Fund (UNICEF), Food and Agriculture Organization (FAO) and World Food Programme (WFP) to issue a joint statement warning that the window to prevent famine there is narrowing.

They pointed to the latest Integrated Food Security Phase Classification (IPC) analysis saying that more than half of the 30-million-strong population, risk slipping into “worsening levels of hunger” by mid-2021.

“Yemen is on the brink of famine...make no mistake, 2021 will be even worse than 2020 for Yemen’s most vulnerable”, said WFP chief David Beasley. “These alarming numbers must be a wake-up call to the world”.

FAO chief QU Dongyu acknowledged that “maintaining the flow of food is imperative, but this cycle cannot continue forever” and upheld that “Yemen needs a cessation of conflict, which is the primary driver of food insecurity in the country”.

Financial gaps

And although humanitarian support is critical to preventing famine and saving lives, significant funding shortfalls threaten to cut lifeline food assistance and life-saving malnutrition treatment services.

“The world cannot stand by as Yemen slips into famine and millions of vulnerable children and families go hungry”, stressed UNICEF chief Henrietta Fore.

“The situation is already catastrophic, and without urgent action, more children will die”, she cautioned. “We have prevented famine in Yemen before, and we should be able to prevent it again, with increased support and with unimpeded access to every child and family in need”.

Yemen: Houthi Terrorism Designation Threatens Aid (Human Rights Watch)

December 10, 2020

The Trump administration's potential designation of the Houthi armed group in Yemen as a "foreign terrorist organization" would threaten humanitarian aid on which millions of Yemenis rely for survival, Human Rights Watch said today. Over 20 million people in Yemen – nearly two-thirds of the population – require food assistance.

If the US government designates the Houthis as a foreign terrorist organization, then anyone in the United States or abroad suspected of providing support or resources to the armed group could be prosecuted under various federal laws, including those banning material support for terrorism. This could prevent numerous nonprofit groups and humanitarian aid organizations from operating in areas under Houthi control, where the bulk of the country's population lives. The material support restrictions could also create serious obstacles for outside mediators involved in peace negotiations between the Houthis and other parties by making it a criminal offense to provide any property or service – including expert advice or assistance – to a designated organization.

"Many Yemenis are already on the brink of starvation, and US actions that would interfere with the work of aid organizations could have catastrophic consequences," said Afrah Nasser, Yemen researcher at Human Rights Watch. "Any designation of the Houthis should at a minimum provide clear and immediate exemptions for humanitarian aid, but millions of lives should not have to depend on that."

A federal statute grants the US secretary of state broad authority to designate any foreign entity a "foreign terrorist organization" once the State Department determines that it engages in "terrorist activity," has the "capacity and intent" to do so, and that such actions threaten US nationals or US national security. A related executive order permits the government to label individuals or groups that assist or are "associated" with terrorist organizations as "specially designated global terrorists" and to block their assets. The law provides few legal protections to those designated.

The US designation is being considered as part of the Trump administration's "maximum pressure" campaign against Iran, media reported. In the administration's waning days, the US has imposed additional sanctions on Iran or Iranian officials every week. Iran has supported the Houthi armed group, which has controlled the capital, Sanaa, and much of western Yemen since late 2014.

United Nations Secretary-General António Guterres said in November 2020 that "Yemen is now in imminent danger of the worst famine the world has seen for decades. In the absence of immediate action, millions of lives may be lost." Thousands of people in Yemen are already facing famine-like conditions amid significant funding shortfalls, according to a joint UN agencies' report.

International aid groups have said that a US terrorism designation would "cause even greater suffering." Members of the US Congress said that the designation would have "a disastrous impact on the ability of aid organizations to provide relief to millions of Yemenis who depend on their assistance for survival."

NBC News reported that the head of the United States Agency for International Development (USAID) John Barsa appealed to Secretary of State Mike Pompeo not to make the designation after the agency carried out a detailed analysis of the possible negative impact. The head of the UN World Food Program, David Beasley, reportedly expressed "grave concerns" to Pompeo about the possible designation.

The Human Rights Watch September report, "Deadly Consequences," documented that the parties to the conflict in Yemen, particularly the Houthis, have imposed a series of obstacles for local and international humanitarian groups to navigate, including logistic difficulties and outright obstruction of aid delivery. The "foreign terrorist organization" designation for the Houthis would exacerbate an already difficult situation for humanitarian groups. Houthi authorities and other warring parties should ensure the unimpeded passage of humanitarian assistance, including in the event of this designation, Human Rights Watch said.

Since March 2015, the US has supported the Saudi and United Arab Emirates (UAE)-led coalition with weapons transfers and other assistance. Human Rights Watch has documented more than 90 apparently unlawful coalition airstrikes, which have hit homes, markets, hospitals, schools, and mosques. Some of these attacks may amount to war crimes. According to the Yemen Data Project, which compiles estimates using open-source data, at least 18,400 civilians have been killed or injured since the beginning of the war. News reports revealed that US State Department officials have warned that US officials could face prosecution for war crimes over arms sales to Saudi Arabia and coalition partners.

"The US has stood by as Saudi and UAE forces have committed war crimes in Yemen, sometimes with US weapons,"

Nasser said. “It adds insult to injury that the Trump administration – as a parting gift to its Gulf allies – would take such drastic action that is sure to harm even more civilians.”

Biden Must Stick to His Pledge to End US Support for the Yemen War (Just Security) By Priyanka Motaparthy and Osamah Alfakih
December 14, 2020

When President-elect Joe Biden is inaugurated in January, his administration will face a host of formidable challenges. Key among them is ending U.S. support for the military intervention in Yemen that is being led by Saudi Arabia and the United Arab Emirates (UAE).

The war in Yemen has become a global mark of shame. It is a spiraling humanitarian disaster threatening the lives of 24 million people who rely on some form of humanitarian aid. A peace process continues to falter, due to lack of significant international support, and because it fails to include key parties to the conflict.

Meanwhile, thousands of civilians have been killed, many in coalition airstrikes with U.S.-made weapons sold to the Saudis and the UAE, and others in U.S. raids and drone strikes. Coalition airstrikes have hit civilians and civilian objects, including weddings, funerals, schools, markets, and medical facilities. The Saudi- and UAE-led coalition, as well as other warring parties in Yemen including Ansar Allah (the Houthis), have committed grave violations of international law, yet there have been only farcical nods towards accountability. While the UAE withdrew most ground troops in 2019, it maintains some, has continued its air operations, and still supports about 90,000 Yemeni fighters, including by supplying them with weapons.

The Biden campaign promised to end U.S. support for the Saudi and Emirati-led intervention in Yemen. But they have yet to provide details on how they will do so, leaving reasons to be skeptical of just how far this shift will go.

One important signpost should be an open letter from 30 former Obama administration officials, published two years ago, calling for an end to that support. Many signatories have now been selected as Biden’s nominees for high-level roles in his administration, including Antony Blinken as secretary of state, Avril Haines as director of national intelligence, and Linda Thomas-Greenfield as U.S. ambassador to the United Nations.

The letter made clear that ending refueling for Saudi- and Emirati-led coalition planes carrying out military operations in Yemen – which the Trump administration halted a few days before its publication – was not enough. It called for “a suspension of all U.S. support for the campaign in Yemen,” along with “a clear demand for an immediate and comprehensive ceasefire, and increased U.S. investment in the high-level diplomacy needed to end this war.”

Arms Sales

Yet if we have learned anything from the past 5 1/2 years, it is that “support” can be interpreted in a variety of ways. The called-for diplomacy and backing for the peace process would be undercut if the same governments continue to sell weapons, ignore accountability, and otherwise undermine efforts to end the war.

Conditions that already apply to these sales have been ignored, failing to ensure better targeting or less harmful outcomes from the coalition. Any meaningful end to U.S. support must include suspending all U.S. arms sales to Saudi Arabia and the United Arab Emirates, given the risk these weapons could be used to carry out further human rights abuses or war crimes. It should also include strong calls for Saudi Arabia, the UAE, and the coalition they lead to end unlawful attacks, credibly investigate those that have occurred, and take concrete steps to ensuring accountability and redress.

The U.N. Group of Eminent International and Regional Experts on Yemen has repeatedly called for an end to arms transfers, which it says “help perpetuate the conflict.” This should include a halt to the Trump administration’s planned sale to the UAE of Reaper drones, F-35 aircraft, and other weapons, potentially worth a staggering \$23 billion. It should also include halting the provision of spare parts and maintenance to military equipment already sold, intelligence sharing, and any other logistical support.

An end to U.S. support should also include an end to diplomatic measures that shield Saudi Arabia, the UAE, and other coalition partners from scrutiny for their actions in Yemen. Instead, the new administration should recognize that no lasting peace is possible without a meaningful accounting for past crimes. Future diplomacy should ensure that respect for human rights is enshrined in any agreement. Moreover, efforts should ensure accountability for all parties to the conflict and redress for victims.

If the United States rejoins the U.N. Human Rights Council, it should do more to support accountability efforts through that body. In 2015 and 2016, the United States appeared to have undermined an effort at the Human Rights Council to

establish an inquiry into abuses in Yemen. If Biden wants to prove that the United States has a genuine commitment to ending abuses in Yemen, he should start a new chapter in which the United States takes principled positions regarding human rights, accountability, and redress at the council.

Humanitarian Aid

Finally, as COVID-19 spreads in Yemen and the humanitarian crisis grows ever worse, the United States should push all warring parties to protect and ensure humanitarian-aid delivery, lift obstructions, and allow access to affected populations in all areas. It should also reconsider U.S. policy decisions that negatively impact the humanitarian situation. Recent news reports, for example, say the Trump administration plans to designate the Houthis as a terrorist group, a move that top U.N. officials, including Secretary-General António Guterres and humanitarian agencies have strongly opposed. Such a designation would make it far more difficult for humanitarian agencies to deliver aid to Houthi-controlled parts of Yemen, which remain in need, and would negatively impact peace talks.

By the time Biden takes office, the United States will be close to entering its sixth year of support for the Saudi/UAE-led coalition in Yemen. That backing continued nearly unabated through the end of Obama's term, except for pausing the sales of some precision-guided munitions — a move Trump easily reversed.

Not only should an incoming Biden administration do far better than revert to Obama-era policies and positions on Yemen by comprehensively ending support, but it should rethink U.S. policy on Yemen. Instead of accepting military support as the price for Saudi Arabia and the UAE supporting other U.S. interests, or focusing on the country solely as a source of threat, a new policy should be driven by the goals of lasting peace, and ensuring human rights for Yemenis. After so many missteps, achieving peace and stability in Yemen for the sake of Yemenis deserves to be an independent goal, rather than viewing the country solely through a security lens.

As Biden himself wrote this year, when his election was far from assured, “The next U.S. president will have to address the world as it is in January 2021, and picking up the pieces will be an enormous task ... There will be no time to lose.” A 2018 U.S. public opinion poll, one of the few if not the only one on the war in Yemen, showed the majority of Americans want their country to end its complicity in this tragedy, and the Yemenis we know agree there is no time to waste — both countries have too much to lose.

One of the biggest lessons from Biden's time as vice president should be to learn from the mistakes the U.S. has made in Yemen, and the catastrophic damage those errors continue to cause. Picking up those pieces will indeed be a formidable task—one that he won't solve by incomplete, or half measures.

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Special Tribunal for Lebanon

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

Special Tribunal for Lebanon sentences Hezbollah member to five life terms for assassination of former PM Hariri (Jurist) By M. Tyler Gillett

December 12, 2020

An international tribunal on Friday issued five life sentences to Salim Jamil Ayyash, a Hezbollah member who was convicted in absentia in August for the assassination of former Lebanon prime minister Rafik al-Hariri in 2005.

Hariri was killed in a massive suicide bomb explosion in Beirut which also killed twenty-one other people and injured 226. Ayyash and three others were charged with conspiracy to commit a terrorist act, intentional homicide, attempted intentional homicide, and other charges. However, the Special Tribunal for Lebanon unanimously acquitted the three co-conspirators due to insufficient evidence. The tribunal agreed with the prosecution's request to impose five life sentences, one for each count against Ayyash.

In pronouncing sentence, the tribunal announced that the attack had been political. While there was no direct evidence, they found the attack “most probably had to have involved state actors,” with the most likely state actor being Syria. Ayyash is affiliated with Hezbollah, a Lebanese political party and militant group that is allied with Syria. In a concurring opinion attached to the judgment, Judge David Re cited a speech the secretary-general of Hezbollah made in 2011, following the announcement of charges against Ayyash and the other accused, calling them “four honourable resistance men,” and how in another speech he indirectly threatened the Special Tribunal should it attempt to arrest or detain any Hezbollah members. Noting that Ayyash is still at large, Judge Re concluded that a “strong inference” can be made “as to who has been shielding him from justice for all these years.”

The Special Tribunal also noted that few of the victims of the attack have received any sort of compensation. However, the tribunal has no mechanism to issue compensation or reparations. The judges recommended that Lebanon set up a national compensation scheme, not just for victims of this attack, but for “victims of crime generally.”

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Israel and Palestine

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ASIA

Afghanistan

Islamic State claims killing of female TV presenter in Afghanistan (Reuters)

December 10, 2020

Islamic State claimed responsibility for the shooting death of a female TV presenter and women’s rights activist in Afghanistan on Thursday, an attack that underscored an increasing trend of violence against journalists in the country.

Malalai Maiwand, a presenter at Enikas Radio and TV in the eastern province of Nangarhar, was killed along with her driver in the attack on their vehicle in the regional capital Jalalabad, taking the total number of journalists and media workers killed this year in Afghanistan to 10.

“She was on the way to the office when the incident happened,” said Attaullah Khogyani, spokesman for the provincial governor.

Nangarhar has been a hotbed of militant activity, most notably involving Islamic State, which issued its claim of responsibility via its Telegram communications channel, calling her a “pro-regime” journalist.

Maiwand, who was 25, was not the first in her family to be targeted. Five years ago, her mother, also an activist, was killed by unknown gunmen. Enikas has been targeted before, with its owner, Engineer Zalmay, kidnapped for ransom in 2018.

“With the killing of Malalai, the working field for female journalists is getting more smaller and the journalists may not dare to continue their jobs the way they were doing before,” Nai, an Afghan media advocacy group, said in a statement.

Last month, Elyas Dayee, a Radio Azadi journalist, was killed in a bomb blast in the southern province of Helmand, and Yama Siawash, a former TOLONews presenter, was killed in a similar blast in Kabul.

The Afghan government, the German Embassy, European Union delegation and Britain’s ambassador condemned growing attacks on journalists and activists.

Afghan interior ministry spokesman Tariq Arian said that in the last decade and a half, the vast majority of journalists killed had been victims of Islamist Taliban militants.

International donors and governments have voiced apprehension about a possible reversal of progress on women’s rights over the last two decades if the Taliban return to any sort of power with the withdrawal of foreign troops from the country scheduled next year.

The Taliban’s ultra-hardline rule in 1996-2001 was marked by oppressive laws for women up until the group was toppled following a U.S.-led invasion of Afghanistan.

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Extraordinary Chambers in the Courts of Cambodia (ECCC)

Official Website of the Extraordinary Chambers [English]

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

Cambodia Tribunal Monitor

War crimes prosecutor Rana Dasgupta calls for united stand against anti-liberation forces (Bdnews24)

December 8, 2020

War crimes prosecutor Rana Dasgupta has warned of "disastrous consequences" if the pro-liberation forces fail to take a united stand against the Islamists groups that have caused a stir by openly railing against the construction of a statue of Bangabandhu Sheikh Mujibur Rahman.

He fired the warning during a human-chain protest organised by civil society and cultural groups in Chattogram on Monday.

“In 1971, the collaborators with the occupation forces were officially defeated. But the politics of this defeated power has not been eradicated in independent Bangladesh. They have been eager to avenge the defeat with political chicanery for 50 long years,” said Rana.

“Today, in the golden jubilee year of our independence, they have shown the audacity to do this [oppose Bangabandhu's statue]. Through their involvement in the state and politics, they are taking communalism and fundamentalism to the grassroots. The Bengali nation can in no way accept the audacity shown in relation to the sculpture of Bangabandhu.”

Rana, also the general secretary of the Hindu-Buddhist-Christian Unity Council, went on to highlight the instances of

communal terrorism in Ramu and Cumilla, in 1991-92 and 2001-06, respectively.

“Since independence until today, the disunity of the pro-liberation forces has given them strength. Let us stand united by the spirit of the Liberation War and fight like we did for our independence in 1971. If we fail to take a stand then disaster is inevitable.”

Abul Momen called for an end to the indulgence of fundamentalist groups by 'certain sections of the government' and said, "We think this is enough. This time we must immediately stand against anti-religious forces and those who peddle religion. The state must take action. We have to ban their politics in Bangladesh.”

Freedom fighter Nurul Abshar believes the anti-communal forces are now 'out of control' due to the support they have received until now as he called for immediate action against them. "We can't handle them today. They have shown the audacity to break the sculpture of Bangabandhu. I demand immediate action against these defeated anti-liberation forces.”

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Bangladesh International Crimes Tribunal

Leaked Myanmar Ministry of Defence documents reveal military's systemic corruption, business networks (Dhaka Tribune)

December 8, 2020

The publishers assert this is evidence of wide scale misappropriation of funds from military businesses at a massive loss for the people of Myanmar.

Justice For Myanmar on Tuesday published data from Ministry of Defence budget documents spanning a period from the 2016-17 financial year to 2020-21 exposing the greed and corruption of the Myanmar military cartel, and its international business networks that enable the military's continued criminal conduct.

In addition, Justice For Myanmar published files related to the proposed purchase of two Airbus CASA C-295s, for a total of \$38,600,000, and the VIP conversion of an Airbus A319-112, formerly used by Myanmar Airways International (MAI), for \$4.8 million.

The C-295 proposal involves Airbus certified training and after-sales service.

UK-based Swire Group subsidiary HAECO Xiamen is contracted for the A319-112 conversion.

Justice For Myanmar, a group of covert activists campaigning for justice and accountability for the people of Myanmar, is calling for an end to military business and for federal democracy and a sustainable peace.

Budget documents detail large-scale spending without parliamentary oversight and the allocation of funds to procure items from major corporations, including Caterpillar (USA), Alcatel-Lucent (France/Finland), Heidelberger Druckmaschinen AG (Germany) and FANUC (Japan).

Data also shows the Myanmar military's failure to disclose the bulk of their business income.

The publishers assert this is evidence of wide scale misappropriation of funds from military businesses at a massive loss for the people of Myanmar.

Justice For Myanmar spokesperson Yadanar Maung said the information exposes the greed and corruption of the Myanmar military cartel, and its international business networks that enable the military's continued criminal conduct.

"We call on the Myanmar government and parliament to urgently rein in the Myanmar military's spending until they are fully under civilian control, respect human rights, are held accountable for their crimes and abide by Myanmar and international law. All assets stolen by the Myanmar military must be returned to the people of Myanmar.”

The documents were also provided to the Organized Crime and Corruption Reporting Project (OCCRP), an international consortium of investigative journalists, which investigated some of the companies and exposed loopholes in the EU sanctions regulations. OCCRP confirmed with a Jordanian source familiar with the C-295 deal that Jordan is selling the planes, although the source did not know which country the planes are being sold to.

Yadanar Maung said domestic and international businesses that supply the Myanmar military risk aiding and abetting the commission of war crimes and crimes against humanity.

If the C-295 purchase goes ahead, they will likely be used to carry troops to ethnic areas, supporting the military's international crimes, Maung said.

"We call on the government of Jordan to refrain from selling arms Myanmar military, including C-295 planes. We call for all businesses to cut ties with the Myanmar military and for foreign governments to sanction military leaders and military-owned companies."

Maung said Airbus and their partners must end all direct and indirect ties with the Myanmar military, including training and technical support. "Action is urgently needed to end Myanmar's 70-year long civil war and the people's suffering, and build a federal democracy and sustainable peace."

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War Crimes Investigation in Myanmar

Leaked Myanmar Ministry of Defence documents reveal military's systemic corruption, business networks (Dhaka Tribune)

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The C-295 proposal involves Airbus certified training and after-sales service.

UK-based Swire Group subsidiary HAECO Xiamen is contracted for the A319-112 conversion.

Justice For Myanmar, a group of covert activists campaigning for justice and accountability for the people of Myanmar, is calling for an end to military business and for federal democracy and a sustainable peace.

Budget documents detail large-scale spending without parliamentary oversight and the allocation of funds to procure items from major corporations, including Caterpillar (USA), Alcatel-Lucent (France/Finland), Heidelberger Druckmaschinen AG (Germany) and FANUC (Japan).

Data also shows the Myanmar military's failure to disclose the bulk of their business income.

The publishers assert this is evidence of wide scale misappropriation of funds from military businesses at a massive loss for the people of Myanmar.

Justice For Myanmar spokesperson Yadanar Maung said the information exposes the greed and corruption of the Myanmar military cartel, and its international business networks that enable the military's continued criminal conduct.

"We call on the Myanmar government and parliament to urgently rein in the Myanmar military's spending until they are fully under civilian control, respect human rights, are held accountable for their crimes and abide by Myanmar and international law. All assets stolen by the Myanmar military must be returned to the people of Myanmar."

The documents were also provided to the Organized Crime and Corruption Reporting Project (OCCRP), an international consortium of investigative journalists, which investigated some of the companies and exposed loopholes in the EU sanctions regulations. OCCRP confirmed with a Jordanian source familiar with the C-295 deal that Jordan is selling the planes, although the source did not know which country the planes are being sold to.

Yadanar Maung said domestic and international businesses that supply the Myanmar military risk aiding and abetting the commission of war crimes and crimes against humanity.

If the C-295 purchase goes ahead, they will likely be used to carry troops to ethnic areas, supporting the military's international crimes, Maung said.

"We call on the government of Jordan to refrain from selling arms Myanmar military, including C-295 planes. We call for all businesses to cut ties with the Myanmar military and for foreign governments to sanction military leaders and military-owned companies."

Maung said Airbus and their partners must end all direct and indirect ties with the Myanmar military, including training and technical support. "Action is urgently needed to end Myanmar's 70-year long civil war and the people's suffering, and build a federal democracy and sustainable peace."

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South America

US embassy took part in DEA plot to discredit Colombia's war crimes tribunal (Colombia Reports) By
Adriaan Alsema
December 14, 2020

A US Embassy official was actively involved in a DEA conspiracy to discredit Colombia's war crimes tribunal last year, evidence released by Noticias Uno showed.

In a letter, Special agent Craig M. Michelin of the DEA's Country Office asked his liaison at Colombia's Prosecutor General's Office in February last year to provide \$500,000 for an illegal operation against the Special Jurisdiction for Peace (JEP).

Local media previously implicated Michelin in a conspiracy that led to the arrest of former FARC ideologue “Jesus Santrich” that sunk Colombia’s peace process in crisis in April 2018.

The criminal conspiracy to extradite Santrich began failing in October after which a DEA agent flew in for a second conspiracy to entrap the JEP’s chief prosecutor, Giovanni Alvarez, and magistrate Ivan Gonzalez.

After this conspiracy also failed, Michelin wrote prosecutor Mauricio Nieto on February 25 last year that “a criminal organization” agreed to meet “in order to sell, delay or omit decisions that are part of criminal and administrative drug trafficking processes... in exchange for a sum of approximately \$500 thousand dollars.”

Former Prosecutor General Nestor Humberto Martinez personally granted the money on February 27, days before an assistant prosecutor, Julian Carlos Bermeo, was filed receiving \$40,000 while in the company of a convicted criminal, former Senator Luis Alberto Gil.

An associate of Gil, Orlando Villamizar, simultaneously received \$460,000 in a different location in Bogota.

According to the prosecution, Bermeo agreed to delay the JEP’s testing of evidence against Santrich, a claim denied by the suspect and dismissed by Alvarez, who told press that Bermeo had no way to influence the proceedings.

Martinez resigned in May last year after the JEP ordered an investigation against the former chief prosecutor and DEA agents who had been conspiring against Santrich and the FARC’s former political chief, “Ivan Marquez,” since before June 2017.

Recordings made public by newspaper El Espectador last month revealed that the prosecution had been conspiring to frame both FARC members and pro-peace politicians since February 2017, but without success.

The US government’s alleged meddling in internal affairs strained relations between the US government and Colombia’s judicial and legislative branches, and spurred Santrich and Marquez to rearm.

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Venezuela

Atrocity Alert No. 232: Mali, Venezuela and South Sudan (reliefweb)

December 9, 2020

VENEZUELA HOLDS ELECTIONS DESPITE ONGOING CRIMES AGAINST HUMANITY

Last Sunday, 6 December, Venezuela held parliamentary elections. President Nicolás Maduro’s ruling United Socialist Party (PSUV) and allied parties regained control of the National Assembly, the last major democratically-elected institution held by the opposition. The elections, which lacked the minimal conditions to ensure a free and fair vote, were criticized internationally and boycotted by much of the opposition, including Juan Guaidó, who has been President of the National Assembly and recognized as “caretaker” President by many governments since January 2019. The PSUV and its allies won an estimated 67 percent of the vote for the National Assembly, although official turnout was estimated at only 31 percent.

State-led repression – including extrajudicial executions, torture and ill-treatment, enforced disappearances and arbitrary detention – has been a defining feature of Maduro’s government since he took office in 2013. Due to the ongoing multidimensional crisis, the majority of Venezuelans are also facing acute hunger and extreme poverty, with at least 7 million people in need of urgent humanitarian assistance, while more than 5.5 million have left the country. Civil society organizations, human rights defenders and humanitarian workers continue to be systematically targeted, threatened and persecuted.

On 2 December the General Secretariat of the Organization of American States released a report accusing state and affiliated non-state agents of perpetrating 18,093 alleged killings and 15,501 cases of potential arbitrary detention since

2014. Utilizing data derived from investigations by the UN Office of the High Commissioner for Human Rights, civil society and independent media, the report reaffirmed that, “crimes against humanity in Venezuela have increased in scale, scope and severity.” Earlier this year the UN’s Independent International Fact-Finding Mission on Venezuela (FFM) also warned that state policies aimed at crushing political dissent and confronting criminality may amount to crimes against humanity. The FFM named President Maduro, as well as the Ministers of Interior and Defense, as being responsible for giving orders, exercising oversight and coordinating activities that led to the commission of these crimes.

The ongoing crisis in Venezuela requires a comprehensive international diplomatic response that prioritizes socio-economic needs as well as the rights of victims of serious human rights violations, including pressure to bring the government and the opposition back to negotiations. UN member states should continue to impose targeted sanctions on senior government officials responsible for systematic violations and abuses of human rights, but lift any measures that may limit the population’s access to basic goods and services. In the absence of domestic accountability, states should also consider taking legal action, including under universal jurisdiction, targeting those responsible for extrajudicial killings, torture and other crimes against humanity.

Venezuela: Justice Needed for Systematic Abuses (Human Rights Watch)

December 14, 2020

The new report from the International Criminal Court (ICC) prosecutor’s office, indicating that the office’s examination of possible crimes against humanity in Venezuela is moving forward, advances the search for justice by victims of atrocities under Nicolás Maduro’s government, Human Rights Watch said today.

On December 14, 2020, the ICC Office of the Prosecutor published its annual report covering situations the office is examining to determine whether a full ICC investigation is warranted. The Office of the Prosecutor has concluded that there is a reasonable basis to believe that crimes against humanity have been committed in Venezuela. Specifically, the prosecutor found that there is a “reasonable basis to believe that since at least April 2017, civilian authorities, members of the armed forces and pro-government individuals have committed the crimes against humanity of imprisonment or other severe deprivation of physical liberty,” “torture,” “rape and/or other forms of sexual violence,” and “persecution against any identifiable group or collectivity on political grounds.”

“There has been no justice in Venezuela for the victims of extrajudicial killings, arbitrary arrests, and torture by security forces with the knowledge or acquiescence of Venezuelan high-level political, military, and judicial authorities,” said José Miguel Vivanco, Americas director at Human Rights Watch. “Since Venezuela’s judiciary is an appendix of the executive branch, the Office of the Prosecutor should be on the lookout for attempts by Venezuelan authorities to overwhelm them with information to try to delay the office’s decision.”

The prosecutor’s report noted that the office focused on “allegations related to the treatment of persons in detention, for which a sufficiently detailed and reliable information was available,” but “without prejudice to other crimes that [it] might determine at a later stage.”

The annual report indicates that there is information implicating the Bolivarian National Police, the Bolivarian National Intelligence Service, the Directorate General of Military Counterintelligence, the Special Action Forces, the Scientific, Penal and Criminal Investigations Corps, the Bolivarian National Guard, the National Anti-Extortion and Kidnapping Command, and certain units of the Bolivarian National Armed Forces. It also states that available information indicates that pro-government individuals have participated in the repression of actual or perceived government opponents, with participation or acquiescence of security forces.

The prosecutor’s office anticipates concluding the preliminary examination during the first half of 2021, to determine whether there is a reasonable basis to proceed with an investigation. The office will determine whether the crimes within the court’s jurisdiction that it has identified are sufficiently grave to merit the court’s attention. It will also determine whether national authorities are carrying out credible investigations and, if appropriate, prosecuting cases that would otherwise be subject to ICC jurisdiction.

Since former President Hugo Chávez and his supporters in the National Assembly carried out a political takeover of Venezuela’s Supreme Court in 2004, the judiciary has stopped functioning as an independent branch of government. Supreme Court justices have openly rejected the principle of separation of powers and have consistently upheld abusive policies and practices. Human Rights Watch research has shown that the judiciary has failed to adequately investigate compelling evidence of widespread abuses, and impunity for human rights abuses remains the norm.

The ICC prosecutor opened a preliminary examination into possible crimes in Venezuela in February 2018. Venezuela is an ICC member state. Under the ICC’s founding Rome Statute, the ICC is charged with acting as a court of last resort to

investigate serious international crimes, including crimes against humanity, war crimes, and genocide. On September 26, 2018, six ICC member countries asked the court's prosecutor to investigate potential crimes in Venezuela, an unprecedented move. The Maduro government also referred other crimes to the ICC prosecutor in February 2020 allegedly caused by unilateral sanctions imposed on Venezuela, leading to the opening of a second, separate preliminary examination by the Office of the Prosecutor.

Human Rights Watch reports released in 2014 and 2017 and shared with the Office of the Prosecutor found widespread abuses during crackdowns in Venezuela. Security force personnel beat detainees and severely tortured them. Security forces also used disproportionate force and carried out violent abuses against people in the streets, and arbitrarily arrested and prosecuted government opponents. The nature and timing of many of the abuses – as well as the frequent use of political epithets by the abusers – suggest that their aim was not to enforce the law or disperse protests but rather to punish people for their perceived political views.

Similarly, in her July 2020 report, which covered the human rights situation in Venezuela from June 2019 to May 2020, the UN high commissioner for human rights, Michelle Bachelet, reported documenting cases of severe beatings with boards, suffocation with plastic bags and chemicals, waterboarding, electric shocks to eyelids and genitals, exposure to cold temperatures and/or constant electric light, being handcuffed for extended periods of time, and death threats.

Human Rights Watch research shows that the abuses were not isolated cases or the result of excesses by rogue security force members. On the contrary, the fact that widespread violations were carried out repeatedly, by multiple security forces, during a determined time frame, and in numerous locations, supports the conclusion that the abuses have been part of a systematic practice by the Venezuelan security forces.

Human Rights Watch also documented cases in which victims were subject to enforced disappearances for periods of days or several weeks.

Police and security forces have killed nearly 18,000 people in Venezuela in instances of alleged “resistance to authority” between 2016 and 2019. Nobody has yet compiled detailed information as to how many of these killings by security forces have been extrajudicial executions, but the Office of the UN High Commissioner for Human Rights (OHCHR) has concluded that “many of these killings may constitute extrajudicial executions.” In six cases OHCHR documented, those killed were government opponents or people perceived as such. Agents executed them during raids after anti-government protests.

On September 16, 2020, the United Nations Independent International Fact-Finding Mission on Venezuela presented its first report to the United Nations Human Rights Council, concluding that Venezuelan authorities and colectivos (armed pro-government groups) committed egregious violations amounting to crimes against humanity. The independent experts leading the mission said they had reasonable grounds to state that “Most of the violations and crimes ... were part of a widespread and systematic attack against a civilian population ... in furtherance of a state policy.”

The experts found that “[H]igh-level authorities had knowledge of and contributed to the commission of these crimes” and that “Commanders and superiors knew or should have known about them, and ... did not take measures to prevent or repress them.”

Correction: The news release had improperly stated that the Office of the Prosecutor's decided that “it is reasonable to believe that crimes against humanity have been committed in Venezuela.” This has been corrected to clarify that “there is a reasonable basis to believe that crimes against humanity have been committed in Venezuela.”

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TOPICS

Truth and Reconciliation Commission

What Australia's first Aboriginal truth and justice commission might look like (ABC News) By Joseph Dunstan
December 11, 2020

Sometime next year, there's a good chance Australia will see the start of its first formal truth and justice commission into the ongoing impact of colonisation on Aboriginal communities.

It is being pursued in Victoria, where the First Peoples' Assembly, which is setting up state-based treaty negotiations, has secured the Government's support for a commission.

In its final meeting for the year, the assembly resolved to continue consulting with elders and the community on what that commission should look like. International examples show truth-telling processes are rarely straightforward and are never the final step in the process of reconciling a history of human rights abuses with the present.

But advocates for the processes say they "connect the dots" between the past and present, and open up conversations that can lead to lasting positive change.

So what is a truth and justice commission?

Probably the most high-profile truth-telling commission was South Africa's Truth and Reconciliation Commission, which examined the torture, abductions and human rights abuses committed under that country's apartheid regime.

Unlike the Nuremberg Trials following World War II, the focus was not on prosecuting people for their crimes, but on reconciling a community.

The International Center for Transitional Justice (ICTJ) is a not-for-profit organisation founded by participants in South Africa's commission, which works with countries around the world to help communities address legacies of human rights violations.

ICTJ senior expert Virginie Ladisch said most truth-telling commissions were not about laying "personal blame" for individuals, but recognising that a system that had benefited and empowered some had done so through unjust means, and examining what may need to be done to correct that.

"I think just the importance of a truth commission process is to connect the dots between the past and present, so we can really understand the full extent of the problems that we're struggling with in the present, and then establish a roadmap for how to reform, to redress those violations and make sure they don't keep happening in the future," she said.

In Victoria, assembly co-chair and Taungurung man Marcus Stewart said a truth-telling process would allow the community to better understand the factors driving over-incarceration and lower life expectancy for Aboriginal and Torres Strait Islander people.

"Truth telling can actually provide the avenue for all Victorians to understand," he said.

"How are we in this position as Aboriginal and Torres Strait Islander communities? How are we in this position as traditional owners in Victoria?"

"I don't see that as something that can't galvanise our whole state."

What about the 'justice' part of it?

Gregory Phillips, a Waanyi-Jaru man, is the chair of Aboriginal think tank the Ebony Institute and said it was critical that commissions produced reports to "control a political narrative" without addressing the substantive issues of justice.

"In South Africa, for example, while it was a nationally significant and very genuine truth-telling process, black South Africans rightly have asked since then, 'what was the point of us forgiving all of that history almost in an instant, if we still don't have electricity or housing?'" Professor Phillips said.

"So who's controlling the money? What's really happening with the resources in the country?"

"The lesson out of that is, the truth is not enough. There needs to be national healing. And there needs to be justice, substantive justice as well." What can we learn from commissions held overseas?

Victoria and Australia are not alone in working to confront their pasts.

Canada held a truth commission delving into the legacy of First Nations residential schools, where Indigenous children were forcibly taken from their homes and put into boarding schools run by the church and state — under a similar policy to the Stolen Generations in Australia.

Professor Phillips recalled visiting Canada's National Centre for Truth and Reconciliation, where a First Nations elder explained to him the ripple effect truth-telling had had in the Canadian community.

"The director of that centre said after that five-year journey of establishing the commission, 10-year journey of running it, government dragged kicking and screaming in the hallway and right at the end kind of agreed to it ... we have Canadians coming to us and saying 'ohhh, now we know why those housing programs are important. Now we understand why treaties are important,'" Professor Phillips said.

"So there is a very real issue there and answering the why. And this is why truth telling is so critical.

"Because when the truth is told properly, and the public are educated properly and safely, without blame, but just honestly and openly, respectfully on all parties, when there is healing and support for victims and their families to recover and reparation ... then the questions, the structural questions about constitutional change or about treaties or about bigger social reforms become easier, because everyone knows why."

Ms Ladisch said one of the most moving events she had witnessed was at the small community of Inuvik in the Northwest Territories of Canada, during a national truth-telling event at a former residential school.

"[The former school had been] transformed from a site of cultural assimilation, physical and sexual abuse, violation of cultural rights, to a space of acknowledgement and sharing stories," she said.

"Hearing the survivors kind of walk down the halls and remember the different rooms and connect with each other, connect with their own family members. "And for many family members being at the national event was the first time they heard about what had happened to their father, mother or grandfather. "And sometimes, you know, you've seen those 'ah-ha' moments intergenerationally, understanding better part of the hurt also that you've suffered because of what your elders have gone through, and starting that healing journey."

Ms Ladisch said truth-telling commissions were often "very fraught processes" and no one commission could be held up as some kind of commission "poster child".

But she said early truth-telling commissions across Argentina, Chile and Guatemala demonstrated how a commission could open a conversation. "At the time [they were first set up], they had a very limited scope of what was possible," she said.

"But then over the years, people kept pushing based on what was revealed in the truth commission report, for more justice, for more reforms. And that struggle continues today.

"So I think, rather than give a false sense of you do this commission, then everything is resolved, it's more about how to do this in a way that sets the groundwork for the ongoing justice work that every country has to take, and giving them tools to those will take that work forward."

But while Victoria might draw inspiration from overseas commissions, Ms Ladisch said it had to have "its own stamp" unique to the state's cultural and political context.

"And we'll be learning from what happens in Victoria as well," she said.

'No-one could contest what they were saying about their own history'

Mauritian researcher Vijaya Teelock was the vice-chairperson of her country's Truth and Justice Commission, which explored the nation's history of slavery and indenture, primarily under French and British rule.

Its final report handed down in 2011 noted there had never been a real inquiry into the impact of slavery, despite the fact that the descendants of slaves suffered poorer outcomes in housing, education and political power.

Dr Teelock said the most important outcome from Mauritius's commission was that those affected by slavery felt their stories had been validated and "the truth had come out in black and white on paper".

"So no-one could contest what they were saying about their own history," she said.

The commission's work also led to the creation of a lands division in Mauritius's Supreme Court, to assist families and descendants of slaves who had lost their land in seeking redress.

Dr Teelock said creating a commission that recognised the validity of not just the stories documented by Western historians, but also oral history from the descendants of slaves, was also important.

"Culture is very oral among the Creole population of Mauritius," she said.

"And so many historians, for example, the traditionalist ones who say, 'yes, but there's nothing written down, how do you know? And then the anthropologists stepped in, giving the validation for oral tradition."

Dr Teelock said it was important to appoint sensitive, compassionate people who also held enough maturity and life experience to handle the traumatic material involved.

She said several young workers involved in the commission in Mauritius left "absolutely traumatised" by what they had seen.

"So I think you do need to have people who have experience in very tragic situations," she said.

How does this fit with the Uluru Statement from the Heart?

After months of consultations with Aboriginal and Torres Strait Islander communities across the continent, the Uluru Statement from the Heart delivered a call for a constitutionally enshrined Indigenous voice to Parliament, treaties and a truth-telling Makarrata commission in 2017.

Three years on, Aboriginal Affairs Minister Ken Wyatt is hopeful that legislation to create a non-constitutional voice to government should pass Federal Parliament before the next election.

Sophie Rigney is a senior research associate with the University of New South Wales's Indigenous Law Centre who has worked to develop the structures that might support the Uluru Statement's work.

She said it was "fantastic" to see Victoria moving on treaties and a truth-telling process, but there were vulnerabilities with state-based negotiations.

"That's why it's really important to kind of safeguard the processes to ensure that Indigenous peoples are in a strong negotiating position, that the Federal Government can't come in and override treaties that are negotiated in good faith with the states," she said.

"You don't want to see a situation where you've gone through all this legwork, and then the political situation changes and, and something else changes." It is also worth noting Victoria's truth and justice commission is likely to be the first in Australia, but there have been other kinds of truth-telling processes before now.

In 1991, the Royal Commission into Aboriginal Deaths in Custody handed down a report containing 339 recommendations after examining the stories of the 99 Indigenous people who had died in custody between 1980 and 1989.

Six years later, the Human Rights Commission's Bringing Them Home report was tabled in Federal Parliament, detailing the pain and damage caused by Australian governments' policies of forcibly removing Aboriginal children from their families.

Does it have bi-partisan support?

The Andrews Labor Government has backed the establishment of a commission, but that doesn't necessarily mean it will agree with the exact terms of reference the assembly is hoping to put forward next year.

The Victorian Coalition, which voted against the establishment of the First Peoples' Assembly and the Victorian treaty process, is watching closely but has not declared whether it would continue the work of a truth and justice commission if it won the next election.

"Victoria's first peoples deserve equality before the law and equality of opportunity. Victoria must work to eliminate disparity wherever it exists," Shadow Aboriginal Affairs Minister Peter Walsh said in a statement.

"The Victorian Government has a key role in continuing to enhance the relationship between Aboriginal and non-Aboriginal Victorians, including demonstrating how the commission process will achieve positive outcomes for the Indigenous community in line with measures outlined in Closing the Gap."

The Liberal Party took a platform supporting truth-telling processes to the last federal election.

Kosovo Truth Commission's Future in Doubt After Thaci's Indictment (Balkan Insight) By Serbeze Haxhijaj
December 15, 2020

Back in 2017, Kosovo President Hashim Thaci initiated the establishment of a Truth and Reconciliation Commission, emphasising that the country must face the truth about what happened during the 1998-99 war so that its people do not remain hostage to the past.

Thaci, who was the political director of the Kosovo Liberation Army during the war, said he hoped that the commission would provide the basis for dialogue between Kosovo's divided communities.

"Kosovo society and the Balkans in general is still a hostage to these old narratives and the generations that were born after the war still see their peers from the other community as enemies, not as [part of] a society for cooperation and coexistence," he said at a planning meeting for the commission.

In 2018, a preparatory team was set up to prepare legislation to establish the commission. The team's mandate expired at the end of October this year and it has asked for another six months to finish its work because of disruption caused by the coronavirus pandemic.

But President Thaci resigned in November after being indicted for war crimes and crimes against humanity by the Kosovo Specialist Chambers in The Hague, raising questions about whether or not others will carry forward the initiative to set up the committee.

Artan Murati, an adviser to Kosovo's acting president, Vjosa Osmani, said that the issue has not been discussed yet.

"An evaluation of the work and mandate of the preparatory team must be done before proceeding further," Murati told BIRN.

There is no clarity yet about what exactly the commission aims to achieve, while questions have been raised about whether Kosovo Serbs, who have a different view of the conflict from the country's ethnic Albanians, will be involved in the process.

Kushtrim Koliqi, one of the members of the preparatory team, told BIRN that the team's work isn't finished yet and a meeting with the acting president is needed to work out how to continue.

"While we are working on preparation, a broader political dialogue should start in parallel because this process needs political support. Political consensus is a must [if we want] to go ahead," Koliqi said.

'It cannot create reconciliation'

Zenun Xhemajli, 78, who lives in the village of Rracaj in Kosovo's Gjakova/Djakovica municipality, said he has lost hope that the truth about what happened to his four sons will ever be established.

In August 1998, two of his sons, Muharrem, who was 27, and Ilir, 25, were stopped by a Serbian police patrol near their village and taken away.

Less than a year later, on April 27, 1999, his two younger sons, 21-year-old Shkelzen and 19-year-old Alban, were killed alongside 375 other Kosovo Albanians in a massacre in the village of Meja/Meje.

Alban's remains were found in a mass grave in the Belgrade suburb of Batajnica in 2004. But the bodies of Xhemajli's three other sons are still missing. Xhemajli has never heard of the initiative to establish a Truth and Reconciliation Commission.

"If it is dedicated to the victims, not for political calculations, it should be discussed with the victims and their families," he told BIRN.

"My sons, like many others who are missing, have no grave yet. They can call [the commission] whatever they want but it cannot serve to create reconciliation. It can't," he argued.

Similar initiatives for commissions in various other post-conflict countries have failed because they did not create a solid foundation for future inter-ethnic reconciliation.

Jasna Dragovic Soso, a professor in the Department of Politics and International Relations at Goldsmiths, University of London, expressed doubts that Thaci's project will turn out to be successful.

"I'm afraid I am not very optimistic at the moment. For many citizens of Kosovo, I think it would be difficult to believe in the authenticity of the former president's gesture," Dragovic Soso told BIRN.

She argued that clearer endorsement from the authorities for civil society initiatives to uncover facts about the past in Kosovo and across the post-Yugoslav region would be a step forward.

"An inclusive consideration of the recent past one that seeks to capture and recognise various people's experiences is a more promising way of approaching difficult and divisive topics," she explained.

"It is a mistake to burden courts with reconciliation. They need to focus on the determination of the guilt or innocence of individuals and do that well, free of political meddling," she added.

'Including ethnic Serbs would be critical'

If the truth commission is established, Kosovo would be the first ex-Yugoslav country to have such a body.

Bosnia and Herzegovina has been trying for years to establish a similar institution without any success, while initiatives in Croatia and Serbia have failed.

"In Serbia and Croatia the truth commissions were destined to failure because they were politically driven, designed to simultaneously whitewash history," said Brian Grodsky, a professor of political science at the University of Maryland, Baltimore County.

"In both of these cases, commissions were a half-baked attempt at watering down international pressures for criminal prosecutions of war crimes," Grodsky added.

Party politics could also present obstacles to the progress of the initiative in Kosovo.

Thaci said that the commission's goal would be to reach reconciliation through internal dialogue between communities, and that war victims' experiences would be at the forefront of the initiative.

But opposition politicians argued that Thaci launched the initiative for his own political purposes, not out of a sincere desire for reconciliation.

Grodsky argued that to maximise its legitimacy, a truth and reconciliation commission needs to be established by a broad, representative body.

"It needs to include members who represent to a degree the range of actors involved in the conflict. Including ethnic Serbs would be critical to having an impact," he said.

"They need to maintain maximum transparency and to be willing to hear and have heard a variety of perspectives, including victims on both sides," he continued. "Giving some alleged perpetrators the ability to speak could help society, as well, but involves a commitment of protection (like South Africa's amnesty programme)."

The South African Truth and Reconciliation Commission, a restorative justice body set up in the aftermath of apartheid, had the power to grant amnesties to perpetrators of human rights violations.

It focused on establishing a historical record of crimes committed under white minority rule and on formulating proposals for reparations rather than prosecuting those responsible.

Crimes committed during the Kosovo war have been addressed by judiciaries in Kosovo and Serbia, without any great success so far, as well as by the International Criminal Tribunal for the Former Yugoslavia in The Hague, which secured the convictions of some senior Serbian officials.

Now the Hague-based Kosovo Specialist Chambers is to start trying former Kosovo Liberation Army members for alleged wartime and post-war crimes.

But Grodsky argued that the proposed Kosovo truth commission should not be intended to amass evidence for prosecutions.

"It should complement the work of the [Hague] war crimes court, rather than compete with it," he said.

5 years after report, Truth and Reconciliation commissioners say progress is 'moving too slow' (CBC) By Leonard Monkman
December 15, 2020

Members of the Truth and Reconciliation Commission (TRC) say that five years on from the release of the commission's final report, it is more urgent than ever that Canada implement its 94 Calls to Action.

"We're losing survivors every day, and the one thing that they were looking for, was they were looking for change," said Sen. Murray Sinclair, chair of the TRC. He said the commission "could have been done better" but "we now have a population of people in Canada who are actively talking about reconciliation and are openly supporting it."

The Truth and Reconciliation Commission was created in 2008 as part of the Indian Residential Schools Settlement Agreement. In 2009, Sinclair, Wilton Littlechild and Marie Wilson were appointed as its commissioners to investigate the history and legacy of the schools.

The TRC gathered close to 7,000 statements from residential school survivors over six years.

Sinclair said survivors shared their stories with a belief that things would get better in Canada.

"They were looking for somebody to take the story seriously and start to do something about not just the history of residential schools, but also about the impact the residential schools have had, so that their children and their grandchildren and great grandchildren would be able to benefit from the telling of their stories," said Sinclair.

Littlechild said the fifth anniversary of the final report has brought the commissioners together again and it brings up mixed emotions.

"I'm encouraged by what I've seen going on across the country since we tabled our report... meeting with different groups and different parts of Canada to talk about the follow up to our calls to action," said Littlechild.

"But on the other hand, we're collectively quite concerned that it's been moving too slow and it's a matter of urgency that we have another look at our Calls to Action and maybe get a fresh start in terms of some of the changes that you've seen over the past five years."

In a statement issued Tuesday, Crown-Indigenous Relations Minister Carolyn Bennett said 76 of the report's 94 Calls to Action fall under the sole or shared responsibility of the federal government and that 80 per cent of them are completed or well underway.

"I believe that Canada is now firmly on that path of healing and reconciliation that the Truth and Reconciliation Commission charted for us," she said in the statement.

"We must, and we will, continue this work together."

'Opened eyes'

Martina Fisher, Anishinaabekwe from Bloodvein First Nation in Manitoba, went to the Assiniboia Indian Residential School in Winnipeg from 1969 to 1972. She attended four out of the 11 national gathering events held by the TRC, including the last one in Ottawa in June 2015.

"It opened up a lot of wounds at the same time it opened eyes to the public," said Fisher, who works with residential school survivors as a cultural advisor at Wassay Healing Centre in Winnipeg.

She said many former students are still unable to talk about their experiences inside of the schools due to the trauma they faced. She said the TRC helped her to understand her own mother's parenting techniques.

"Some of them began to put two and two together for themselves, for the way they were treated when they were kids like myself," said Fisher.

"Now I know why my mom was the way she was when I was growing up."

She said she has noticed there is more education about residential schools now than before the TRC.

Educating the Canadian public about residential schools is the thing that Littlechild is most proud of when it comes to the work of the TRC.

"I remember at the beginning when we started, there had been a poll that was done across Canada, apparently, and the awareness level of the residential school history at the time was five per cent or less," said Littlechild.

"And over that journey of the five years and the additional year, the awareness level was almost 60 per cent."

A 95th Call to Action

Littlechild said that if he was able to, he would have added a 95th Call to Action saying "we must work together."

He said systemic discrimination against Indigenous people continues in 2020, referring to examples such as the hostility faced by Mi'kmaw lobster fishery in Atlantic Canada and Joyce Echaquan's recording of racist slurs by staff prior to her death in a Quebec hospital.

Moving forward, Littlechild and Sinclair said they are optimistic that young Canadians will take on the challenge of improving the relationship between Indigenous and non-Indigenous people.

"We need to ensure that we never, ever let Canada forget what they have done, and the situations that we are now facing that are the responsibility of this history, of the losses that have been experienced by Indigenous communities and Indigenous Peoples," said Sinclair.

He said it's important to ensure "there's a legacy of information we pass on to our children and our grandchildren so that they can take up the fight armed with all of this knowledge."

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Terrorism

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Piracy

Four Attacks in One Week: The Rising Risk of West African Piracy (The Maritime Executive) By Ankur Kundu
December 4, 2020

It's no secret that African waters are among the most perilous in the world when it comes to piracy. Tom Hanks' "Captain Phillips" brought attention to Somalian piracy, but the immediate concern for ship owners is on the opposite side of the continent: West Africa.

West Africa's Gulf of Guinea has been topping the charts for quite some time now when it comes to piracy and kidnapping. Last week, however, the problem accelerated: A total of four cases has been recorded in a single week, spanning from November 26 to December 2. In this week, a total of 14 crew members have been directly abducted from their ships, something that happened in just three days from two different ships.

In one incident on November 26, the general cargo ship Milan was attacked and boarded by pirates, who went on to kidnap 10 crew members. In a separate incident three days later, the Greek tanker Agisilaos was attacked and boarded by pirates in the Gulf of Guinea south of Lome, Togo, while she was en route from Pointe-Noire, Republic of Congo, to Lome. Four crew members - including Filipino, Romanian and Russian nationals - were kidnapped, and the pirates escaped the scene.

The list doesn't stop there. Armed pirates stormed the cargo vessel Tango Rey in Conakry Anchorage, Guinea. Six armed pirates boarded the ship and looted the superstructure and the living quarters of the crew.

The last attack was repulsed. On December 2, the oil tanker *Levanto* was attacked in Nigerian waters by a host of pirates. Fortunately, the guards onboard thwarted the attack.

Kidnappings rose by 40 percent in the Gulf of Guinea in the first nine months of this year, and the region of West Africa's coast now accounts for 95 percent of global maritime kidnappings, according to data from the International Maritime Bureau (IMB).

West African pirates armed with guns and knives have attacked everything from oil platforms to fishing vessels and refrigerated cargo ships. Out of all the countries in the Gulf of Guinea, Nigeria (particularly the Niger Delta) accounts for the bulk of attacks on these ships.

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Gender-Based Violence

The Risks of Relying on Counterterrorism Laws to Reduce Wartime Sexual Violence (Just Security) By
Lauren Aarons
December 7, 2020

The year after Boko Haram kidnapped hundreds of girls from their school in Chibok in 2014 and the world learned that ISIS was abducting and selling Yazidi women and girls, the United Nations Security Council proclaimed that “certain terrorist groups” use sexual and gender-based violence as a “tactic of terrorism.” Building on the longer-standing recognition of rape as a weapon of war, they meant that such groups use sexual violence in conflict to generate revenue, support recruitment, and destroy communities, all to advance their terrorism objectives.

To combat such tactical use of sexual violence, the Security Council called for “more integration” of its previously separate agendas: counterterrorism and violent extremism; and women, peace, and security (WPS). This further developed a commitment by the council several years earlier to give attention to WPS in the fight against terrorism. More recently, the council has also called on States to ensure their domestic efforts to combat terrorism give consideration to sexual and gender-based violence.

But while mobilizing counterterrorism measures to address conflict-related sexual violence may sound like a step forward for women’s rights, it’s not. In practice, counterterrorism approaches lead to more insecurity and risk for women in conflict.

Engaging Counterterrorism Laws

Of particular concern is that recently U.N. officials and other influential voices have called for States to adapt and use their counterterrorism laws in the fight against sexual violence in conflict. In the last few months, U.N. Secretary-General António Guterres and U.N. Special Representative on Sexual Violence in Conflict Pramila Patten criticized Nigeria, Iraq, and Mali, pointing out that ongoing counterterrorism trials in these countries do not take sexual violence offenses into account, despite their use in each place as a tactic of terrorism. The Secretary General also raised concerns, for example, that Nigeria’s Terrorism Prevention Act “does not explicitly criminalize sexual violence as an act of terrorism, and counterterrorism investigators and prosecutors have failed to address sexual violence as an integral aspect of Boko Haram ideology and operations.”

Such high-level public pressure is having an impact. The Iraqi authorities have asserted recently that they are considering expanding their counterterrorism law to explicitly include sexual violence. Various U.N. entities have provided technical guidance and training setting out how other provisions of counterterrorism laws could be interpreted to include such offences, beyond specific amendments to specifically criminalize sexual violence. Nigerian officials have reported that, based on such guidance, they have prepared terrorism charges for Boko Haram cases involving sexual violence, which now await trial. Meanwhile, action to limit the expanding use of counterterrorism measures, despite clear indications of misuse around the world, have had little traction.

Legitimizing a Human Rights Disaster

Efforts to invoke the legal frameworks of counterterrorism to address sexual violence in conflict have glossed over the human rights implications of these laws and trials, which often fail to respect basic fair-trial guarantees and cause terrible harms, including to women. In promoting them, proponents risk legitimizing abusive counterterrorism laws and procedures and increasing their use. They also may undermine broader efforts to advance equality and human rights protection for women.

In Nigeria, where I have worked with Amnesty International to document abuses of women's rights in the conflict, the Terrorism Prevention Act gives what appears to be carte blanche to the military for indefinite detention. Most of its incredibly broad and vague provisions set out a minimum prison sentence of 20 years and allow for the death penalty. In parallel, our research has documented that tens of thousands of people have been arbitrarily detained in counterterrorism responses. Several thousand suspects, including children, have been brought to trial in sham proceedings meant to provide legal cover for years already spent in arbitrary detention. Almost all appeared to be victims of arbitrary arrests, incommunicado detentions, and torture and other ill-treatment, and most were charged with non-violent crimes related to membership in or support to Boko Haram.

It's not just men and boys who have been caught up in counter-terror dragnets; women and girls are also detained or prosecuted in arbitrary and often discriminatory ways. In both Nigeria and Iraq, women have been imprisoned or charged under counterterrorism laws simply because they had family members who were suspected Boko Haram or ISIS members. In Iraq, women have been convicted of terrorism offences for having concealed a family member who is an alleged terrorist offender. Women also suffer indirectly when family members and loved ones are detained or subjected to enforced disappearance. This has emotional, economic, and security implications, including where female-headed households are at increased risk of sexual and gender-based violence when they are displaced.

Fox in Charge of the Hen House

Invoking counterterrorism laws and measures to address sexual violence in conflict effectively means empowering the security forces, when they have often been responsible for committing serious and systematic sexual violence crimes themselves, and also acting abusively towards those assisting survivors. It also affords the security forces a huge amount of authority and impunity, given the political imperative to combat terrorism at all costs and the lack of sympathy accorded to anyone accused of being affiliated with terrorism.

In Nigeria, I documented that security forces conducting counterterrorism operations have perpetrated rape, sexual exploitation, enforced prostitution, and human trafficking — in some cases possibly amounting to crimes against humanity. They also subjected many survivors of Boko Haram abduction, rape, and forced marriage to years of arbitrary detention. In Iraq, security forces have likewise committed sexual violence in their counterterrorism efforts. Of course, the use of counterterrorism legal mechanisms to respond to sexual violence also offers nothing to address the impunity gap for abuses committed by State actors.

No Justice for Victims of Sexual Violence Under Counterterrorism Laws

An approach that favors the counterterrorism legal frameworks can't provide the justice that many survivors are entitled to. As I've written previously at Just Security, a narrow focus on prosecutions is already frequently at odds with survivors' priorities for intervention and accountability.

Where survivors do want prosecutions — and certainly many do — the use of counterterrorism laws and procedures may be far from what they were promised. Nobel Prize recipient and Yezidi survivor activist Nadia Murad called on the Security Council to recognize ISIS's human trafficking as genocide and to "find a way to open a case before the International Criminal Court." Instead, in 2016, the council was more interested in identifying that human trafficking could also be a potential tactic of terrorism. While some survivors may wish to see perpetrators punished whatever the legal framework applied, for those hoping for recognition as survivors of atrocity crimes, the application of a counterterrorism legal process may be a disappointment.

Even for those who do seek prosecutions, irrespective of charges, counterterrorism trials — at least as currently formulated — may not satisfy that desire. In both Iraq and Nigeria, these trials have been heavily flawed not only from a due process perspective, but also in terms of providing justice to victims. Though there have been a small number of important exceptions, victims have been largely shut out of the proceedings in both countries, even as witnesses. Charging suspects with violating counterterrorism laws rather than specific offenses under ordinary criminal laws may also make it harder to establish a thorough judicial record of the range of crimes the armed groups have committed.

Missed Opportunities

Efforts to invoke counterterrorism laws to combat sexual violence may also sideline any consideration of root causes, as

well as efforts to ensure other important legal reforms. Advocacy for the use of counterterrorism laws to address sexual violence in Nigeria, for example, may replace or de-prioritize efforts to bring into national law the Rome Statute that established the International Criminal Court and sets out crimes of genocide, crimes against humanity, and war crimes.

Likewise, a focus on counter-terror prosecutions comes at the expense of general criminal laws, which often include better human rights protections. In Nigeria again, some proponents of using the counterterrorism legal framework to combat sexual violence have pointed to the marital rape exemption in the general criminal law, and also to onerous evidentiary requirements imposed to prove rape – standards that are particularly hard to meet in the chaos of war. But if advocates' efforts were directed at amending the general criminal law to bring it in line with international human rights standards, instead of trying to re-direct cases into the counterterrorism system, they could benefit a wider category of survivors.

Tactical Advantages vs. Human Rights Costs

There are, of course, strategic advantages of framing sexual violence and human trafficking in conflict as tactics of terrorism. Doing so demands that such abuses by groups such as ISIS and Boko Haram be recognized as a global national security priority; it calls for the re-direction of counter-terror measures to address these harms; and it potentially gives women a stronger claim for participating in forums where key security decisions are made. The appeal of using counterterrorism laws in particular to combat sexual violence is especially stark in contexts such as Iraq and Nigeria, where these are the primary legal mechanism through which ISIS and Boko Haram members are being prosecuted, and into which State energy and resources are being directed.

But despite the rapidly growing interest in gender in the development of counterterrorism responses, including counter-terror legal frameworks, there has been very little interest in human rights. As Fionnuala Ní Aoláin has pointed out, it would be naïve for women's rights advocates to think this dismissive attitude towards human rights may change if gender perspectives are mainstreamed through counter-terror measures. There is little evidence this will be the case. Indeed, in some cases, gender has become an alternative to human rights. In this human rights void, engaging counterterrorism measures to address sexual violence committed by so-called terrorist groups will almost certainly come at a heavy cost to human rights more widely, including women's rights.

Kenya to compensate rape victims from violence 13 years ago (Star Tribune) By Tom Odula
December 10, 2020

A Kenyan high court on Thursday ordered the government to compensate four victims of sexual attacks by security agents during post-election violence 13 years ago.

Rights activist say the judgment sets a precedent and clears the way for hundreds, possibly thousands, of other victims to seek redress.

Eight victims of sexual violence — six women and two men — had sued the government for neglect on behalf of thousands of sex abuse victims during the post-election violence after a flawed presidential election in Dec 27, 2007. Their cases were backed by several rights groups.

Justice Weldon Korir awarded four of the eight victims \$36,000 compensation Thursday after he found their rights to life and security — as well as prohibitions against torture, inhuman and degrading treatment — were violated as a result of government failure to act.

More than 1,000 people were killed and 600,000 displaced from their homes during the violence. Some 900 people reported being sexually assaulted, but human rights groups say the number runs into thousands and many could not report the attacks to police because the police themselves were perpetrators, or because they were too afraid to report the perpetrators.

Korir, however, did not find enough evidence that the government failed to address crimes against other victims of sexual and gender based violence during the post-election violence, and declined to issue orders directing them to do so.

Human rights groups involved in the case hailed it as a landmark ruling.

It sends a message that other survivors can use this avenue, said Naitore Nyamu, head of Physicians for Human Rights in Kenya, which helped the eight victims seek justice. She said it also sends a message to police that they have a responsibility to conduct genuine investigations that will lead to prosecutions

"We have had no other avenues to obtain justice since the gruesome ordeal of the 2007-2008 post-election sexual violence," the eight victims in the case said in a statement.

"We have endured long-term physical, psychological, and social scars – which will only continue until the Government of Kenya fulfills its basic legal and human rights duties to acknowledge the harm we have suffered, ensure accountability, and give us reparation," the statement said.

Kenya's government claims that these actions have been taken and that it prosecuted hundreds of cases, but has refused to give evidence of the prosecutions

Most of the survivors were raped – several gang-raped – and some were forcefully circumcised in front of their relatives, Nyamu said.

She added that they have been living with the consequences of their ordeals, such as being infected with HIV, losing their livelihoods, being abandoned by their spouses or stigmatized by their communities.

Liberian women still wait for promised action on rape (The New Humanitarian) By Lucinda Rouse
December 14, 2020

More than three months ago, Liberian President George Weah declared rape a national emergency at a keynote conference, vowing to improve support for rape survivors and strengthen the country's prosecution system.

But few concrete steps have been taken since and Weah's ambitious-sounding promises were quickly drowned out by the din of campaigning in the run-up to last week's Senate elections: Sexual and gender-based violence (SGBV) hardly featured as an issue.

The appointment of a Special Prosecutor for rape, the creation of a National Sex Offenders Registry, and the establishment of a National Security Task Force on SGBV are all now stalled initiatives. "There has not been any progress made on the government's part," said a disappointed Benita Urey, a 22-year-old student, blogger, and charity worker.

Launching the government's anti-abuse roadmap in September, Weah acknowledged the "alarming increase in rape and sexual and gender-based violence in recent times, especially during a time when we are at war with the deadly COVID-19 pandemic".

What led Weah to make his declaration began with one appalling act of sexual violence. In August, a three-year-old girl in the northern county of Gbarpolu was lured away from the central water pump in her grandmother's village.

Moments later, she was attacked by a 15-year-old high school student who used a razor blade to slice open her genital area and penetrate her. He is in police custody awaiting trial. The girl survived.

The attack sparked public outrage and led to three days of protest in the capital, Monrovia, by a collective of mainly youth-led groups demanding the government act against the spike in SGBV cases.

COVID not the only culprit

Coronavirus – as Weah suggested – has played its part. The lockdown, ordered in March to control its spread, closed schools and kept people at home. As in the rest of the world, those measures heightened the risk of sexual abuse, especially for young girls.

Between January and July this year, more than 150 SGBV cases were forwarded to Criminal Court E, the designated court for sex crimes – double the number for the same period last year, said Isaac George, director of the SGBV crimes unit.

But campaigners say COVID-19 has masked a deeper problem: a culture of impunity that has gone hand in hand with an even longer tradition around gender inequality and the marginalisation Liberian women often face.

"The issue of SGBV in Liberia is not something that just started," said 23-year-old gender advocate Aaron Ireland, who was among the protest organisers. "This has been going on from generation to generation, and nothing has been done about it."

Rates of sexual violence were extremely high during 14 years of back-to-back civil wars in Liberia that upended society. And there is a common perception that the continuing high SGBV prevalence is largely down to that culture of impunity. But after 17 years of peace, many feel that wartime experiences can no longer be used as an excuse for continued abuses. What is needed are substantive societal changes that go beyond legal reform.

"All of us have friends who have been raped, by their fathers, by their stepfathers, by their friends, by their uncles," said

Urey, the student and blogger.

Deputy Minister for Gender Alice Johnson Howard sees the increase in Liberia's rape figures as reflecting a greater public awareness and faith in the justice system. "People know now where to go to report and how to report," she told The New Humanitarian.

But if there is greater awareness of SGBV, it has not translated into strong conviction rates. Out of the total SGBV cases handled by Criminal Court E in the first seven months of this year, there were just 42 convictions – a problem common to legal systems around the world.

Weak prosecution system

The weakness of the judicial system is one issue. "Compromised cases and the weakness of the justice system are the reasons why rape cases are sky-rocketing," said Deddeh Kwekwe, executive director of My Voice, My Safety, a Liberian NGO, and former director for SGBV at the Ministry of Gender, Children and Social Protection.

Much of this comes down to a lack of cash. A 2017 study by UN Women concluded that "institutions mandated to combat SGBV are not adequately resourced", which undermines their ability to deliver.

The process of collecting evidence is hampered by the absence of a forensic laboratory or functioning DNA-testing machine, said Howard. She argues that special courts to try SGBV cases need to be set up in all 15 counties of Liberia.

Even at the first stage of reporting a rape, "police will say they don't have the means to reach the crime scene," said Ne-Suah Beyan-Livingstone, whose Rescue for the Abandoned and Children in Hardship charity is caring for the three-year-old rape survivor.

From hiring a motorbike to get officers to the crime scene, to the pen and paper needed to produce a report, costs are borne by complainants for the police to do their job. As well as being too poor to navigate the judicial process, economic dependence and the prevalence of rape within extended families can prevent victims from reporting perpetrators in the first place, with relatives preferring to manage the situation the "family way".

"Maybe a girl's uncle rapes her but this uncle is the breadwinner of the family," protest organiser Ireland told TNH. "So even if the family is aware, they might be afraid to speak out because this is somebody who's bringing food home."

The rural challenge

Hawa Dunor-Varney, who leads a project tackling SGBV in Liberia, told TNH that this reluctance to pursue justice through formal, state-run channels is more pronounced in rural areas, where sexual violations are a taboo subject and victims are less inclined to speak out,

In the same way, stigma surrounding same-sex relations nationwide deters male rape victims from pursuing justice, with case numbers suspected to be far higher than reported.

The lack of reporting in conservative rural societies is compounded by the distance between far-flung communities and Criminal Court E in Monrovia.

Instead, disputes tend to be mediated through more accessible but male-dominated traditional justice mechanisms such as the "palava hut", with discussions directed by community elders. These processes tend to dismiss the suffering women face and reinforce gender inequality.

"We live in a patriarchal society where men have power and women are vulnerable, so the men take advantage, including through sexual violence," said Dunor-Varney. For her, the heart of the problem is the entitlement some men feel towards women's bodies: "The woman is the property of the man, and the way our society is structured puts women into a position where they will always be violated."

And that can even extend to the body of a three-year-old girl.

With the consent of her family, the girl now lives with Beyan-Livingstone at her home in a quiet Monrovia suburb that doubles as a refuge for children in crisis.

"She can tell you [the name of her attacker]; she can describe him," said Beyan-Livingstone. "And do you know what she tells me? She says to me, 'Mom, have you killed him?'"

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Commentary and Perspectives

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WORTH READING

Women Strapped with Bombs: 'Victim-Perpetrators' in the Book Haram Insurgency - A case of Gender Persecution (Journal of International Criminal Law)

Christiana Sagay

December 3, 2020

The surge in the use of female suicide bombers by Boko Haram since 2014 has received heightened attention, particularly after the abduction of 276 girls in Chibok, Borno State, Nigeria on 14 April 2014. It is believed that the abducted schoolgirls are coerced along with many other women and young girls into being suicide bombers by Boko Haram for Boko Haram. This phenomenon, therefore, creates a binary status for many of these suicide bombers – 'victim-perpetrators' under International Criminal Law. As victims - a target group of gender persecution, as a crime against humanity. As perpetrators - unwilling cocoons in the Boko Haram insurgency. Because the International Criminal Court is saddled with the prosecution of those 'most responsible' for international crimes, it is doubtful that suicide bombers would be prosecuted at the International Criminal Court. This leaves prosecution of suicide bombers to domestic courts. But domestic prosecutions would have to look to International Criminal Law for the adoption of internationally recognized standards in prosecuting international crimes. This article is a modest contribution to the field of gender and International Criminal Law. This piece offers an analysis of the crime of gender persecution. It interrogates the question of criminal responsibility or lack thereof for the women coerced into being Personne Borne Improvised Explosive Devices (PBIEDs.)

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