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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 warcrimesswatcheditors@case.edu and type "subscribe" in the subject line.

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AFRICA

CENTRAL AFRICA

Central African Republic

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

Slovenia pledges support for victims of Rome Statute crimes in the Central African Republic (ICC)

February 28, 2025

The Trust Fund for Victims (TFV) at the International Criminal Court (ICC) announces with appreciation that the Republic of Slovenia, a State Party to the ICC since 2001, has provided a contribution to the TFV for a total amount of EUR 15,000. Slovenia's contribution will be used to support victims of the Rome Statute crimes in the Central African Republic, in particular women and children.

Andres Parmas, member of the TFV Board of Directors stated, "Slovenia's support will help provide assistance to victims of Rome Statute crimes in the Central African Republic, particularly women and children, who have endured immense suffering and deserve justice and healing. We would like to thank Slovenia for their regular contributions and continue to call on States to commit to the Rome Statute principles."

H.E. Jožef Drogenik, Ambassador of Slovenia to the Kingdom of the Netherlands stated, "Slovenia supports the International Criminal Court in its efforts to ensure justice and accountability for the most serious crimes and considers it its duty and responsibility to ensure the conditions for the implementation of its mandate. Respect for human rights, the fight against impunity and assistance to victims/survivors are among Slovenia's priorities. Contributing to the ICC Trust Fund for Victims is an important part of a holistic approach to meeting the expectations of victims of the most serious crimes by addressing their needs and providing assistance."

Slovenia has been providing regular support to the TFV through voluntary contributions since 2006.

For more information about the Trust Fund for Victims, please contact trustfundforvictims@icc-cpi.int or visit www.trustfundforvictims.org. You can also follow TFV's activities on X, LinkedIn, Bluesky and Facebook.

Background information

Voluntary contributions received by the Trust Fund for Victims ensured the completion of the first ever reparation programme for victims in the Katanga case in October 2023. Ongoing reparations are also being implemented in the Lubanga and Al Mahdi cases. Additionally, the TFV is actively implementing reparations for one group of victims in the Ntaganda case, who are also part of the Lubanga programme for former child soldiers and preparing the reparations programme for a second group of victims of attacks in the Ntaganda case. By the end of 2024, around 3,800 individual victims have received or are continuing to receiving reparations. In addition, the TFV implemented numerous collective-based reparations awards in the Lubanga and the Al Mahdi cases, which benefited over 70,000 persons, notably in Timbuktu in relation to the Al Mahdi case.

In June 2024, the TFV launched its First Funding Appeal of EUR 5 million in the Ongwen case to enable the implementation of the Trial Chamber's EUR 52.4 million Reparations Order of 28 February 2024, which aims to benefit more than 40,000 victims. The Trust Fund for Victims seeks to mobilise at least EUR 5 million annually to progressively implement the Ongwen Reparations Order.

For 2024-2025, the TFV is also implementing other programmes for the benefit of victims in seven situations under the jurisdiction of the ICC, namely in the Central African Republic, Côte d'Ivoire, the Democratic Republic of the Congo, Georgia, Kenya, Mali and Uganda. These programmes provide medical treatment, psychological rehabilitation, socio-economic support, education, peacebuilding, and commemoration activities, in collaboration with local authorities and communities. The assistance programmes benefited over 18,500 individuals directly in 2024, of which close to 13,000, or 69 per cent, are women.

TFV programmes for the benefit of victims of crimes under the jurisdiction of the ICC contribute to the broader impact of several United Nations Sustainable Development Goals (SDGs), including peace, justice, and strong institutions (SDG 16), poverty reduction (SDG 1), good health and well-being (SDG 3), gender equality (SDG 5), decent work and economic growth (SDG 8), climate action (SDG 13), and reduced inequalities (SDG 10).

The Trust Fund for Victims at the ICC contributes to fulfill the principles of reparative justice established in the Rome Statute by implementing measures that recognise and redress the harm caused by genocide, crimes against humanity, war crimes and crimes of aggression on victims and their families.

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

ICC prosecutor arrives in DR Congo amid conflict in east (VOA News) February 25, 2025

The prosecutor for the International Criminal Court (ICC) Karim Khan has arrived in the DR Congo, his office said Tuesday, as the country grapples with an upsurge in fighting in the east.

The Rwanda-backed M23 has in recent weeks seized two major cities in eastern Democratic Republic of Congo, giving the armed group a major foothold in the region since taking up arms again in late 2021.

"We are extremely worried about recent developments in Congo, we know the situation particularly in the east is acute," Khan told reporters on his arrival in the capital Kinshasa.

"The message has to be conveyed very clearly: any armed group, any armed forces, any allies to armed groups or armed forces don't have a blank cheque," he said.

"They must comply to international humanitarian law," Khan added.

According to UN experts, the M23 is supported by around 4,000 Rwandan soldiers.

Since its resurgence, the fighting between the group and Congolese armed forces has provoked a humanitarian crisis in a region plagued by conflict for three decades.

"This is a moment where we will see if international humanitarian law can withstand the demands that the people of the Democratic Republic of Congo insist upon, which is the equal application of the law," Khan said.

"The people of the DRC are as precious as... the people of Ukraine, the people of Israel or Palestine, girls or women of Afghanistan," he added.

Khan is set to meet DRC President Felix Tshisekedi, government ministers, the U.N. Secretary General's country representative Bintou Keita, as well as victims of the conflict and civil society members.

The first investigation that the ICC opened after it began its work in 2002 concerned the DRC.

Since then, the court has convicted three people for crimes committed in the country.

The ICC prosecutor's office also opened an investigation in 2023 into allegations of crimes committed since January 2022 in North Kivu province in the east of the vast nation.

Khan's office, which visited the country in May 2023, indicated early this month that the current situation in eastern DRC "is part of the ongoing investigation."

Congo army desertion trials spotlight a force in tatters (Reuters) By Sonia Rolley, Giulia Paravicini, and Ange Adihe Kasongo
March 3, 2025

Congolese soldiers in a mix of fatigues and street clothes crowded into a chapel last week to stand trial for crimes including rape and murder allegedly committed as they fled in the face of a lightning rebel advance.

Their statements during the court martial proceedings highlighted the dysfunction of an army that has now lost more territory in eastern Congo than ever before to Rwanda-backed M23 fighters, though its woes go well beyond the rank and file.

Testimony collected from quick-fire trials of more than 300 soldiers, interviews with three senior army officers and a confidential U.N. memo seen by Reuters paint a grim picture of a fighting force hobbled by entrenched problems, opens new tab such as poor pay and corruption that reform efforts have failed to resolve.

The chaos of the past few weeks has further strained the army's weak chain of command, raising risks of abuses committed against civilians, said the confidential U.N. memo providing an update on the fighting.

While President Felix Tshisekedi's government has touted efforts to recruit new soldiers and acquire new weapons, the senior officers said this has meant little for soldiers on the front lines, who they described as underpaid and underequipped.

"We are criticized but we suffer like the rest of the population," said a colonel whose troops have fought in South Kivu province.

At the trials in Musienene last week and in the South Kivu provincial capital Bukavu earlier in February, military prosecutors pursued charges including theft, pillage, extortion and loss of war weapons.

Most of the accused acknowledged that some soldiers committed such crimes but denied they were involved, insisting they had merely been separated from their units.

One soldier, Siko Mongombo Brice, told Reuters he lost sight of his comrades after several hours of heavy fighting in North Kivu. Authorities apprehended him in the village of Kitsumbiro and accused him of desertion, which he denied.

"It wasn't a flight. We were looking for our unit," he said. "They saw us in this village, (but) we don't even know how we got there. Those who stole exist and innocent people like us exist. God alone knows the truth."

'WE WERE BOMBED'

The trials have yielded death sentences for more than 260 soldiers, including 55 in Musienene on Friday. More than 200 escaped during a prison break that coincided with the army's retreat from Bukavu on February 14.

The army's spokesperson for the northern front, Lieutenant Colonel Mak Hazukay, said the accused soldiers had "dishonoured the army" and committed "atrocities" that could spur the population to aid the rebels' advance.

The M23 advance since late December is already the gravest escalation in more than a decade of the long-running conflict in the region, rooted in the spillover into Congo of Rwanda's 1994 genocide and the struggle for control of Congo's vast mineral resources.

The rebels are backed by thousands of Rwandan troops, according to U.N. experts, and their superior weaponry and equipment creates a stark battlefield imbalance, officers said.

"We resisted sometimes but we were bombed a lot. The Rwandans have fearsome weapons," said the colonel, adding that allied Burundian soldiers also fled. "It's not just us."

Rwanda denies providing arms and troops to M23, and says its forces are acting in self defence against the Congolese army and militias hostile to Kigali.

It is not only Congolese foot soldiers who are fleeing.

The night before the rebels seized Goma, east Congo's largest city, the military command and provincial authorities fled by boat on Lake Kivu towards Bukavu without letting their soldiers know, the U.N. memo said.

Such moves by military leaders are a blow to morale already deflated by salaries of around \$100 per month.

This is despite the fact that military spending has risen sharply under Tshisekedi, more than doubling in 2023 to \$794 million, according to financial data tallied by the Stockholm International Peace Research Institute.

'BETRAYED FROM WITHIN'

Tshisekedi has blamed military higher-ups for the poor performance, telling supporters the army had been "betrayed from within".

But his critics blame him for leaning heavily on regional forces and mercenaries while incorporating militias who have proved difficult to control.

"Among these new recruits, there were thugs," one general knowledgeable about military operations in the east told Reuters.

Tshisekedi's office, responding to questions from Reuters, said some members of the armed forces did not have proper training and lacked a "sense of duty" to the nation. It stressed that the problems predated Tshisekedi and that the president "wants to do it differently".

For now, the dynamic of indiscipline continues to fuel clashes between soldiers and incorporated militias in Uvira, a city on the Burundian border, putting residents on edge.

A humanitarian source said the clashes had killed 30 and wounded more than 100 after militias tried to disarm soldiers who

were fleeing.

Generals on February 26 announced an operation to track down soldiers suspected of "intolerable acts of barbarity" in and around Uvira.

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EUROPE

Turkey

Türkiye: Use Call to Halt Violence as Catalyst to End Rights Abuses (Human Rights Watch) February 28, 2025

The landmark call on February 27, 2025, to end a decades-long armed insurgency against the Turkish state should be a catalyst to end its abusive use of terrorism charges to criminalize and silence government critics including politicians, journalists, lawyers, and activists.

Against the backdrop of the call by Abdullah Öcalan, the jailed leader of the Kurdistan Workers' Party (PKK), for the group to lay down arms and disband, thousands of people remain arbitrarily detained or on trial for alleged PKK links on the basis of their legal and nonviolent activities. Among them are politicians Selahattin Demirtaş and Figen Yüksekdağ, jailed for over eight years despite European Court of Human Rights rulings calling for their immediate release.

"The Erdoğan government should seize the moment of this landmark call to correct course and as a first step drop unfounded criminal charges against those accused of PKK links simply for exercising their rights to free speech, association, and other lawful activities," said Hugh Williamson, Europe and Central Asia director at Human Rights Watch. "The government should review all convictions under the same charges and embark on reforms to end the misuse of criminal law and detention of government critics."

The widespread misuse of terrorism charges, accusing people of links with the PKK, has been the source of serious and pervasive violations of human rights in Türkiye for many years, as documented in numerous reports by Human Rights Watch. Abuses include criminalization of protest and abusive prosecutions of Kurdish politicians, among them elected mayors, lawyers, journalists, and others. The European Court of Human Rights has repeatedly found that Turkish authorities have violated the rights of people convicted for PKK links on the basis of protests, speeches, and other nonviolent activities. A pattern of terrorism investigations and detentions over the past four months initiated by the Istanbul chief prosecutor against dozens of politicians, activists, lawyers, and journalists has been a stark demonstration of political abuse of the justice system to curtail the rights of the political opposition and perceived government opponents, Human Rights Watch said.

The authorities have cited terrorism investigations and charges as the reason to replace elected mayors with government-appointed officials in 10 municipalities in southeastern Türkiye controlled by the pro-Kurdish rights Peoples' Equality and Democracy Party (DEM) and in two municipalities controlled by the main opposition Republican People's Party (Cumhuriyet Halk Partisi, CHP).

The Istanbul chief prosecutor's office has targeted Istanbul municipalities controlled by the CHP, which received support from DEM party voters in the March 31, 2024 local elections, and has initiated investigations and detentions of numerous other activists.

The prosecutor's accusations rest on the unsubstantiated premise that all of the politicians and activists were operating under the instructions of the PKK or that they were working for an organ of the PKK under the guise of an opposition platform, the Peoples' Democratic Congress (Hakların Demokratik Kongre, HDK), which encompasses Kurdish and leftist groups as well as civil society organizations. The platform, set up in 2011, is not banned or closed down and has held news conferences outside the Istanbul courthouse protesting the detentions.

The move to accuse the CHP of PKK links began with the October 30, 2024 arrest and removal of Ahmet Özer, a 65-year-old

university professor who is the mayor of the Esenyurt district of Istanbul. On the same day, a court ordered his pretrial detention on allegations of “membership” of the PKK, and the authorities removed him from office, appointing the Istanbul deputy governor in his place.

Among the most recent terrorism-related arrests in Istanbul have been the February 13 detentions of 10 elected council members on charges of “membership of the PKK.” All were elected as part of a political strategy by the DEM party and CHP to cooperate in the local elections. Fifty more people are under investigation for their political activism, journalism, and civil society activities and accused of PKK membership as a result of their alleged involvement with the legal HDK platform. On the night of February 21, Istanbul courts placed 30 of them in pretrial detention, with 13 placed under house arrest and 7 released under judicial controls. Among them are Ercüment Akdeniz, a journalist for İlke TV; Yıldız Tar, a journalist and LGBT activist; Elif Akgül, a journalist who formerly worked for the online news site Bianet; and Pınar Aydınlar, a singer.

“The Erdoğan government committed in October 2024 to end the decades-long conflict with the PKK through direct negotiations with Abdullah Öcalan, the jailed PKK leader, but simultaneously it has escalated a crackdown on the legal political opposition and on political and civic activism,” Williamson said. “Abusive prosecutions and arbitrary detentions of elected opposition politicians and government critics on wholly dubious evidence have no place in any society based on the rule of law and should never be part of conflict resolution.”

Prominent human rights defender released after 94 days in pretrial detention (Stockholm Center for Freedom) March 4, 2025

A Turkish court on Tuesday ruled for the release of Nimet Tanrıkulu, a prominent human rights activist, after she had spent 94 days in pretrial detention at an Ankara prison on terrorism-related charges, Turkish Minute reported.

Tanrıkulu was among a group of politicians and activists detained in a police operation in late November.

She was taken into custody at her home in İstanbul. After a short period of detention at a police station, she was transferred to the Ankara Police Department’s counterterrorism branch. Following four days in police custody, she was put in pretrial detention at Ankara’s Sincan Prison on November 30.

The İstanbul 24th High Criminal Court, which held the first hearing of Tanrıkulu’s trial on Tuesday, ordered her release despite the prosecutor’s request to continue her detention.

She is being tried on charges of membership in a terrorist organization — the outlawed Kurdistan Workers’ Party (PKK), which has been waging a bloody campaign in Turkey’s southeast since 1984 and is designated as a terrorist group by Turkey and its Western allies.

The hearing was attended by representatives from several human rights organizations, a number of rights activists and a delegation from the European Union.

In her testimony Tanrıkulu denied the charges against her, saying she has dedicated 40 years of her life to human rights, while calling the trial an attempt to “discredit” human rights defenders.

“I am a human rights defender and a feminist. I carry out my human rights work openly and transparently, without engaging in any covert activities. A peace process is underway now, and I find it valuable. I hereby request my release,” she told the court.

Her release comes at a time when jailed PKK leader Abdullah Öcalan has called on his militant organization to lay down its arms and disband, in a historic statement read out in İstanbul last week, which raised hopes about the end of the decades-long conflict between the Turkish state and the PKK.

Öcalan made the call as a result of peace talks with him initiated by a far-right leader Devlet Bahçeli and endorsed by President Recep Tayyip Erdoğan last year.

Tanrıkulu is a prominent human rights defender and a founding member of the Diyarbakır-based Human Rights Association. She has been active in Turkey’s human rights community for several decades, including campaigning with the Saturday Mothers, a group of relatives of victims of enforced disappearances and their supporters seeking truth, justice and accountability.

In a December statement, Amnesty International called for the immediate release of Tanrıkulu, saying that it is deeply concerned that she is being maliciously investigated due to her human rights work.

Amnesty accused Turkish authorities of misusing counterterrorism investigations to silence those who defend human rights

and recalling that Tanrikulu has herself faced such malicious investigations on at least two occasions.

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ASIA

Bangladesh International Crimes Tribunal

Situation to improve by Dec with ICT passing verdicts in some cases against Hasina, others: Chief prosecutor (The Business Standard) February 24, 2025

The country's law-and-order situation is expected to improve after the International Crimes Tribunal gives its verdict in some cases filed against top officials of the ousted Sheikh Hasina-led government, the tribunal's Chief Prosecutor Md Tajul Islam said today (24 February).

"Once the International Criminal Tribunal passes its verdicts on some cases, the gloating and arrogance of the leaders of the fallen government will stop. The law and order situation will improve," he said while talking to reporters after attending a workshop on law enforcement, with emphasis on human rights and the environment amid the country's changing circumstances, at the Primary Teachers Training Institute in Rajshahi.

"We would like to assure the nation that we are hopeful that the trial of several cases will be completed before December," he also said.

He called on the countrymen to be patient, in the meantime.

Tajul Islam said, "We will receive the investigation reports of several cases by March. The formal judicial proceedings will begin only after the investigation reports are received."

"So, the full swing of the trial, that is, taking testimonies, will begin from April or May," he added.

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TOPICS

Gender-Based Violence

Beyond binaries: Gender-Based Persecution and LGBTQI+ Rights in the OTP's Case Against Taliban Leaders (Blog of the European Journal of International Law) By Vinícius Alexandre Fortes de Barros

March 5, 2025

On 23 January 2025, the Office of the Prosecutor (OTP) before the International Criminal Court (ICC) filed two arrest

warrants before the Pre-Trial Chamber II (PTC II), one for the Supreme Leader of the Taliban, Haibatullah Akhundzada, and the other for the Chief Justice of the “Islamic Emirate of Afghanistan”, Abdul Hakim Haqqani.

The OTP filed the warrants of arrest due to their criminal responsibility for the crime against humanity of gender persecution, under Article 7(1)(h) of the Rome Statute.

In both requests, the crime of persecution has been based on gender grounds (Article 7(3) of the Rome Statute). However, the sexual and gender-based violence (SGBV) was not only committed against girls and women but also against LGBTQI+ persons and those who were allies of women because the victims did not conform to the Taliban’s ideology on gender.

Interestingly, the OTP examined Article 7(3) of the Rome Statute to extend protections to sexual orientation and non-conforming gender identities (transgender and intersex persons) within the concept of gender. At the ICC, this is the first concrete application of the OTP’s interpretation of gender-based persecution despite the Colombian Special Jurisdiction for Peace having asserted this possibility back in 2021.

The situation in Afghanistan

The Islamic Republic of Afghanistan has been under the examination of the OTP since 20 November 2017. In 2020, the Appeals Chamber of the ICC authorised the investigation, which was followed by a deferral granted by the PTC II in 2022. In November 2024, Chile, Costa Rica, Spain, France, Luxembourg, and Mexico referred the Afghan situation before the OTP, which responded by confirming that there was an active investigation. On 23 January 2025, the OTP requested those two warrants of arrest against the Supreme Leader of the Taliban, Haibatullah Akhundzada, and the Chief Justice of the “Islamic Emirate of Afghanistan”, Abdul Hakim Haqqani.

Facts of the case: The Taliban’s persecution of girls, women and their allies, and LGBTQI+ persons.

For the first time in an ongoing investigation, the OTP applied its interpretation of SGBV to include the protection of non-conforming gender expression and sexual orientation, which syllogistically protects LGBTQI+ persons.

The warrants of arrest detailed how Taliban leaders deprived women, girls, and LGBTQI+ individuals of fundamental rights, including the rights to education, to free movement and free expression, to private and family life, to free assembly, and to physical integrity and autonomy.

Regarding girls, the Taliban progressively banned girls over the age of 12-13 from attending school and prohibited their university enrollment. According to the United Nations Office for the Coordination of Humanitarian Affairs, more than 1.4 million girls have been prohibited from accessing secondary education.

Women have been consistently deprived of public life and excluded from working. The Taliban replaced the former Ministry for Women’s Affairs with the Ministry for the Promotion of Virtue and the Prevention of Evil (PVPE), which the name itself confirms how women are situated in a gendered and reductive framing. According to UN Women, in 2021, a decree mandated that all women must be accompanied by a male relative or guardian (mahram) when travelling, and in 2022, the Taliban imposed a ban on women working for national and international NGOs, which was followed by a much more restrictive ban in 2023 that prohibited women from owning beauty salons. Women are not allowed in public spaces, not even to celebrate their religions, like attending Eid celebrations or going to public parks. Taliban also targeted boys and men who were considered allies to women and in favour of women’s rights.

The Taliban instituted “morality crimes” to punish members of the LGBTQI+ community. The de facto criminal justice in Afghanistan perpetrated corporal and capital punishments against LGBTQI+ persons. The Human Rights Watch demonstrated that the Taliban has committed persecution not only to LGBTQI+ persons but also to their families, which has led to the forced displacement of many persons. The OTP showed evidence that the Taliban’s persecution consisted of targeting lesbian women, gay men, queer, transgender or intersex persons through harassment, beatings, detainment, torture, or subjection to sexual violence (§90). The OTP describes horrible scenes of “stoning or crushing under a 2-3m high wall, intentionally collapsed onto the [LGBTQI+] victim” (§96).

Finally, to prove the crime against humanity of persecution, the OTP provided evidence that the Taliban systematically targeted those groups of victims (girls, women, their allies and the LGBTQI+ persons) through depriving fundamental rights of those victims as a collectivity by imposing discriminatory rules and prohibitions (the element of organisational policy); and then enforcing violent and coercive punishments against those civilians who breached the Taliban’s ideology on gender. According to the OTP, the Taliban created a “deep climate of fear” in Afghanistan for those who did not conform to their policies (§3).

This widespread gender-based persecution focused on three main groups: girls and women, their allies and the LGBTQI+ community. However, how did the OTP insert the protection of sexual orientation under gender-based persecution?

The OTP's diagonal protection of sexual orientation and non-conforming gender identities through gender.

Sexual and gender-based violence (SGBV) has been under the radar of the OTP for a while. In 2014, the OTP released its first Policy Paper on Sexual and Gender-Based Crimes, which was followed by the 2022 and 2023 Policy on Gender-Based Crimes. In all those policy papers, the OTP understood that sexual orientation and LGBTQI+ persons are protected under the Rome Statute. For example, in the 2023 Policy, gender is “a social construct” that “refers to social constructs and criteria about roles, expressions and behaviours used to define maleness and femaleness in a given context” (§17 and §19). From this concept of gender, the OTP defines gender perspective as

“the understanding of differences in status, power, roles, and needs between men and women, including/and LGBTQI+ persons, and how gender inequality and discrimination on the basis of sex, gender identity or sexual orientation may impact people's opportunities, interactions, and experiences in a given context”. (§20)

Therefore, the OTP's interpretation of gender, while it does not equate gender to women's rights, enables the protection of other grounds, like sexual orientation, and other gender identities, like cisgender male allies of women, under the framework of gender-based expressions and persecution.

This inclusive interpretation of gender provides diagonal protection for other grounds, extending safeguards to individuals based on sexual orientation and non-conforming gender identities. Article 21(3) also dictates that internationally recognised human rights must be used when applying and interpreting the Rome Statute. This is why the OTP, in those two warrants, used the jurisprudence of the Inter-American Court of Human Rights and the European Court of Human Rights to assert the baselines for gender protection.

Under the concept of gender perspective, Article 7(1)(h) of the Rome Statute is interpreted to incorporate SGBV against LGBTQI+ persons as a crime against humanity of persecution.

The OTP construes the concept of gender persecution from the perpetrator's point of view. Taliban's ideology on gender is rigid and reductive, according to the OTP (§29). The gendered dimension of the Taliban's persecution demonstrates that “society is and must be strictly divided between females and males, and females are not entitled to the same rights and freedoms as males” (§29). Also, the Taliban's ideological expectations are circumscribed to persons being either heterosexual cisgender males or heterosexual cisgender females -nothing apart from that. Thus, the persecution of LGBTQI+ persons is not because they are part of a specific group but because the organisation policy and widespread targeting committed by the Taliban was focused on civilians who did not fit into the gender binary. According to the OTP:

Members of the LGBTQI+ community in Afghanistan were often perceived by Taliban members as not conforming with their ideological expectations of gender identity or expression—either because the person concerned did not identify as belonging to the gender which the Taliban assumed to be correct for them, or because the persons did not otherwise act in a way the Taliban considered appropriate for that gender (§92).

Concluding remarks

It is thought-provoking how the OTP encompassed sexual orientation through gender-based persecution, especially by framing how the Taliban's own binary construction of gender goes against internationally recognised human rights and the gender concept in Article 7(3) of the Rome Statute. This diagonal protection of LGBTQI+ persons from SGBV is a pioneer and remarkable threshold in international criminal law.

The OTP's interpretation of gender persecution as inclusive of LGBTQI+ rights marks a groundbreaking development in international criminal law. If upheld, it could set a precedent for addressing gender and sexuality-based persecution worldwide.

The following step is to wait for the PTC II's decision on whether to include in the concept of gender-based persecution the protection of sexual orientation and non-conforming gender identities. Hopefully, the Court may end the ongoing marginalisation of LGBTQI+ persons in international criminal law.

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Commentary and Perspectives

Terror, Chaos, and Shame: When Information Operations Constitute War Crimes (The Lieber Institute at West Point) By Lindsay Freeman

February 26, 2025

The informational dimension of Russia's war of aggression against Ukraine has provoked important debate around the legal framework applicable to information operations in armed conflict. However, Russia's weaponization of information goes far beyond Ukraine, with different types of information campaigns tied to conflicts in Europe, Latin America, the Middle East, and Africa. While information and psychological operations have always been an integral part of warfare, new and emerging technologies are amplifying their effects and expanding their reach. The increasingly harmful consequences of these types of operations have prompted legal scholars and criminal prosecutors to consider when and under what circumstances the spread of malicious information may qualify as an international crime. In August 2023, the UN Human Rights Council warned that Russian propaganda could amount to incitement to genocide, and in June 2024, the International Federation for Human Rights petitioned the International Criminal Court (ICC) to investigate Russian hate speech as contributing to the crime against humanity of persecution.

In October 2024, the Human Rights Center at the University of California, Berkeley School of Law (where I work) submitted a confidential filing to the ICC Prosecutor detailing the ways in which Russian private military contractors (PMCs) are committing war crimes and using social media to advance political and military objectives in the Sahel region of Africa. Drawing from material in that submission, this post analyzes how several provisions of the Rome Statute could apply to the malicious dissemination of "conflict content": a term that describes any information on the internet including text, images, audio, video, and software applications that depict, describe, originate from, or otherwise relate to an armed conflict. Without exploring the specific details of the Berkeley Human Rights Center's submission to the ICC, this post uses real-world examples from the Wagner Group's use of Telegram in Africa, where Wagner fighters are engaged in active hostilities alongside local armed forces in a number of countries.

The most prevalent "conflict content" spread by Wagner-affiliated Telegram channels is graphic imagery of civilians or captured combatants who are dead or wounded. This includes content ranging from torture videos to mutilated bodies to trophy photos in which, for example, a fighter poses with the decapitated head of his slain enemy. The intent of documenting and distributing this content is often to humiliate, demean, threaten, or terrorize enemy combatants and civilian populations alike. This content may violate several protections established under international humanitarian law (IHL) including, but not limited to, the prohibition against exposing prisoners of war (POWs) to public curiosity, the prohibition against mutilating and despoiling dead bodies, the prohibition against collective punishment and all measures of intimidation or terrorism, and the prohibition against torture and other cruel, inhuman, or degrading treatment.

The publication of violence has long been a hallmark of the Wagner Group, which became infamous for sharing videos of brutal sledgehammer murders and beheadings in Syria and Ukraine. On the African continent, however, this content has gone far beyond a few viral videos. Rather, the group's media channels have evolved into a 24/7 stream of on-demand gore. These Wagner-affiliated accounts post images and videos of their crimes in the most graphic way imaginable with disturbing or mocking commentary that not only serves as evidence of their crimes but amount to potential crimes in and of themselves (namely, the war crime of outrages on personal dignity and the crime against humanity of other inhumane acts).

The War Crime of Outrages on Personal Dignity

In 1946, an Australian Military Court convicted three Japanese officers in the Trial of Tanaka Chuichi and Two Others of severe ill-treatment of POWs after the Japanese officers beat POWs unconscious and cut off their hair and beards. The prisoners were Indians belonging to the Sikh religion, the tenets of which forbade them from removing their hair or beards. They were also forced to smoke cigarettes in contravention of their religious beliefs. This novel decision was the first to interpret the 1929 Geneva Convention (GC) to protect prisoners of war from attacks on their religious beliefs as well as attacks on life and limb. The court, which based its decision entirely on documentary evidence, found support for its decision in Article 2, which states that prisoners of war shall "at all times be humanely treated and protected, particularly against acts of violence, from insults and public curiosity," and Article 3, stating that "prisoners of war are entitled to respect for their persons and honour."

The following year, a United States Military Court issued its decision in the Trial of Max Schmid, acquitting him on two charges of murder of POWs, but convicting him for the mistreatment of a dead member of the U.S. Army. Schmid was a German medical officer serving in France during the Second World War. Evidence in his trial showed that he took the severed head from the corpse of an American airman, "boiled it and removed the skin and flesh and bleached the skull which he kept on his desk for several months." He later sent the skull to his wife in Germany as a souvenir. The court sentenced Schmid to ten years in prison for the mutilation of the dead body and refusal of honorable burial in contravention of the rule protecting the dead left on the battlefield enshrined in the 1929 GC for the Amelioration of the Conditions of the Wounded and Sick of Armies in the Field.

These two cases provided initial jurisprudence upon which the judges at the International Criminal Tribunal for the former Yugoslavia (ICTY) expounded several decades later. At the ICTY, the Trial Chamber considered the war crime of outrages on personal dignity in *Prosecutor v. Aleksovski*, *Prosecutor v. Kvočka*, *Prosecutor v. Kunarac*, and *Prosecutor v. Furundžija*. In *Aleksovski*, the Trial Chamber described outrages upon personal dignity as particularly intolerable forms of inhumane treatment that cause “more serious suffering than most prohibited acts falling within the genus.” Thus, the act or omission “must cause serious humiliation or degradation to the victim.” The Chamber emphasized the objective measure that “the humiliation must be so intense that the reasonable person would be outraged.”

Kvočka confirmed this approach, but the Trial Chamber in that case found it appropriate to include the victim’s temperament or sensitivity in addition to the reasonable person standard. Following the same approach, the Kunarac Trial Chamber explained that “the humiliation or degradation inflicted upon the victim need not be lasting.” With respect to the mens rea, the Kunarac Appeals Chamber affirmed that “the crime of outrage upon personal dignity requires that the accused knew that his act or omission could cause serious humiliation, degradation or otherwise be a serious attack on human dignity,” highlighting that this only requires that the accused had knowledge of the “possible consequences” of the act or omission. Finally, the Trial Chamber recognized that the manner in which other crimes are carried out may give rise to this charge. For example, in *Furundžija*, the judges found that the rapes in front of soldiers who were watching and laughing caused severe public humiliation in addition to physical and mental pain.

In 1998, the war crime of outrages on personal dignity was codified in Article 8 of the Rome Statute. To charge this crime in the context of a non-international armed conflict pursuant to Article 8(2)(c)(ii), the prosecution must establish the following elements:

- 1) The perpetrator humiliated, degraded or otherwise violated the dignity of one or more persons;
- 2) The severity of the humiliation, degradation or other violation was of such degree as to be generally recognized as an outrage upon personal dignity;
- 3) Such person or persons were either hors de combat, or were civilians, medical personnel or religious personnel taking no active part in the hostilities;
- 4) The perpetrator was aware of the factual circumstances that established this status;
- 5) The conduct took place in the context of and was associated with an armed conflict not of an international character; and
- 6) The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

The language used in the Rome Statute is the same as Common Article 3(1)(c) of the 1949 Geneva Conventions. The statutes of other international and hybrid criminal courts, such as the ICTY, International Criminal Tribunal for Rwanda (ICTR), and the Special Court for Sierra Leone (SCSL), also codify this as a crime, defining it as “outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault.” The ICC Elements of Crimes adopts the jurisprudence of the ICTY, recognizing the objective and subjective elements of the crime. In a footnote, it explains that “the cultural background [of] the victim” should be considered when assessing whether an act amounts to an outrage upon personal dignity. Significantly, the Elements of Crimes explicitly states that for this crime, the term “person” can include a dead person, and that the victim “need not personally be aware of the existence of the humiliation or degradation or other violence.” Therefore, this crime can be perpetrated against “unconscious persons, mentally handicapped persons or on dead bodies.”

Over the last decade, there have been a growing number of universal jurisdiction cases in national courts in which accused persons have been charged and convicted of the war crime of outrages on personal dignity. The principle of universal jurisdiction allows States to bring criminal proceedings for grave international crimes irrespective of the location of the crime and the nationality of the perpetrator or victim. Most of these cases have involved the use of information and communications technologies (ICTs), particularly smartphones and social media, to commit the act.

For example, in 2016, a Finnish court separately convicted two Iraqi migrants for taking photographs while holding or posing with the decapitated heads of Islamic State fighters and sharing the images on social media. The same year, German authorities convicted a radicalized German national for taking photographs of himself posing with the severed heads of enemy combatants impaled on metal rods in Syria. In the Netherlands, in a case that marked the first time prosecutors used a geolocation report as evidence, the courts convicted a defendant who posed next to a dead man hanging on a cross and posted the photograph to Facebook. To date, there have been at least fifteen similar cases in which digital photographs or videos found on the accused’s phone or posted to Instagram, Facebook, Telegram, or YouTube have been the critical evidence garnering convictions for outrages on personal dignity.

In the majority of these cases, the prosecutors tried but were unable to convict the accused of murder as a war crime based on

this evidence. However, the digital documentary evidence alone was enough to secure a conviction for the war crime of outrages on personal dignity. In this sense, this war crime provides a useful tool for prosecutors, similar to the often-cited use of tax evasion charges to convict notorious American gangster Al Capone. It is a lesser, but related and easier-to-prove criminal charge. There is now ample case law in multiple jurisdictions that establishes social media posts as admissible evidence sufficient and strong enough to prove that a defendant has committed the war crime of outrages on personal dignity.

These European universal jurisdiction cases generally involved one or a couple of trophy photographs of fighters posing with dead bodies or decapitated heads. However, these cases, while horrible and reprehensible, pale in comparison to the constant flow of harmful content across multiple Wagner-affiliated Telegram channels. Some specific examples, which are not shown or linked to here (both to spare the reader and to avoid interfering with ongoing investigations), include troves of images of beheading, castration, and dismembered bodies. Images include those depicting men with their pants pulled down to reveal castrations paired with jokes about their “black hoses,” piles of severed arms and legs accompanied with jests about making “black jelly meat,” and impaled heads, some with severed penises placed in their mouths. There are images of trees decorated with decapitated heads and a video of masked white men driving a truck with heads tied off the back. The content also includes themes of cannibalism, bestiality, and rape. Some images of dead bodies have captions like “the liver is already with the cook” and “meat tastes better when you procure it yourself.” Some images show murdered men, naked and posed to embrace dead goats, with captions such as “tired lovers after a hot f*ck in the sun.” Frequently, dead bodies showing signs of torture and brutality are referred to as “roosters,” which is Russian gulag jargon for the lowest caste of prison inmates, often with the pejorative association of being the subject of homosexual acts and sexual violence.

For years now, on the open internet for any member of the public, anywhere in the world to see, members of the Wagner Group have displayed their crimes. Worse yet, to date, they have done this with full impunity, despite significant legal precedent establishing that creating this content in the context of an armed conflict and posting it publicly is a war crime that could be charged by the ICC or any national court in States that have integrated the Rome Statute into domestic legislation and accept the principle of universal jurisdiction.

Crimes Against Humanity and Other Inhumane Acts

In addition to the humiliation and degradation intentionally caused by the posting of this very graphic content, Wagner fighters have other aims in publishing and promoting this information online. They use digital content strategically to instill fear in the opposition and terrorize the civilian population. Therefore, a prosecutor could use the same digital evidence that proves the commission of the war crime of outrages on personal dignity to prove the same perpetrator engaged in the commission of crimes against humanity pursuant to Article 7 of the Rome Statute. In particular, the crime against humanity of other inhumane acts serves as a “catch-all” category for acts that have not been articulated in the statute but are of equal gravity, such as causing severe mental harm.

To charge the crime against humanity or other inhumane acts pursuant to Article 7(1)(k), the prosecution must establish the following elements:

- 1) The perpetrator inflicted great suffering, or serious injury to body or to mental or physical health, by means of an inhumane act.
- 2) Such act was of a character similar to any other act referred to in Article 7(1) of the Statute.
- 3) The perpetrator was aware of the factual circumstances that established the character of the act.
- 4) The conduct was committed as part of a widespread or systematic attack directed against a civilian population; and
- 5) The perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population.

The Elements of Crimes and ICC case law establish that crimes against humanity are, among other factors, “characterized by intentional and severe violations of fundamental rights” insofar as this amounts to “conduct which is impermissible under generally applicable international law, as recognized by the principal legal systems of the world.” The fundamental rights to privacy and human dignity are both implicated by the non-consensual posting of naked, tortured, or dead POWs or civilians.

Unlike war crimes, crimes against humanity do not require a nexus to an armed conflict. Rather, crimes against humanity need only to be committed as part of a widespread or systematic attack directed against a civilian population. Importantly, as established in ICTY and ICC jurisprudence, the term “attack” carries a slightly different meaning for crimes against humanity than it does for war crimes. In *Prosecutor v. Kunarac et al.*, the ICTY Trial Chamber considered the existence of an attack in the context of crimes against humanity and determined that an attack “can be described as a course of conduct involving the commission of acts of violence.”

The conflict content distributed through Wagner-affiliated Telegram channels is unquestionably widespread; indeed, some may even characterize it as systematic in specific instances. To give a sense of its scale, researchers at the Berkeley Human Rights Center have identified more than 150 Telegram accounts and channels in this network, with many cross-posting and communicating with one another. A few of these channels boast hundreds of thousands of followers, including thousands who have subscribed to a paid channel for particularly graphic content. After years of operation, the number of posts and communications is undoubtedly in the millions. The volume of this content is staggering on its own, but it is even more shocking considering the number of unique victims of the Wagner Group's violence. There are thousands of African victims visible in these images and videos. The death of each of these victims serves as new, attention-grabbing content.

According to the Rome Statute and the Elements of Crimes, the perpetrator of an "other inhumane act" must have inflicted a sufficient degree of harm upon a person, qualified as "great suffering, or serious injury to body or to mental or physical health." As explained in the ICC's request to investigate the Bangladesh/Myanmar situation, "In past cases, conduct which caused this threshold of harm included: beatings; rape; sexual violence by means of forced nudity; confinement in inhumane conditions; forced observation of killings of family members; forced observation of mutilation; forcible transfer; and forced marriage."

Regardless of whether family members or specific individuals watch such content on Telegram, visual depictions of Africans being killed, maimed, mutilated and, in some cases, cannibalized, are clearly inhuman and inhumane. The viewing of this content is not just disturbing to those related to the victims, but to anyone who watches. There is significant research that shows watching such graphic content is psychologically harmful even for those who do not personally know the victim (something to which Berkeley researchers can unfortunately attest).

In the case of the Wagner Group specifically, the group's intent to cause psychological terror is evident in the way it has used systematic information campaigns in countries like Mali. In October 2023, for example, a convoy of Wagner and Malian armed forces set out from their base in Gao on a mission to take back the town of Kidal from insurgents. Over the course of five to six weeks, this convoy moved up Route 16 from village to village, leaving behind a wake of destruction in its path, with clusters of beheadings marking each stop on the Wagner Group's journey. Specific incidents documented online clearly show the intent to terrorize, including, for example, allegedly decapitating 80 heads of cattle, which both destroyed an important source of food for the population and sent a disturbing message that spread among civilians. In another incident, Wagner forces allegedly killed and beheaded seventeen men and boys and displayed their bodies in the center of town. Wagner forces then booby-trapped the bodies with explosives, placing each severed head ritualistically on its now-detached torso. Later, videos online showed the bodies exploding when town residents attempted to move them for proper burial.

Over the course of several weeks, these types of violent incidents escalated, documented online for all in Mali to see the convoy's progression getting closer and closer to Kidal. This information had the intended effect, causing so much fear in the population that civilians began to flee their homes. The online campaign resulted in unusually large numbers of refugees and internally displaced persons from the towns along Route 16. By November 7, 2023, an estimated 40,000 to 50,000 people (or 70 percent of the population) had fled the Kidal area. When the Wagner fighters finally reached Kidal, they found little to no resistance, with videos of their arrival showing empty streets and abandoned homes.

The extreme nature of the crimes depicted has sent and continues to send a message to the African people that Wagner Group forces know no limits to the pain they will inflict. It is, at times, designed to cause chaos and confusion that has materialized into civil panic within the population. Based on the intent of the post, what it depicts, and its harmful effects, such content could also be charged as other crimes against humanity such as forcible transfer, deportation, sexual violence, or persecution, given that the targeted victim population was of the same ethnic minority.

Conclusion

The very purpose of having laws to govern armed conflict is to preserve humanity and dignity during times of war. These laws acknowledge that, while the waging of war between States is sometimes a necessity, it should never devolve into complete chaos, lawlessness, and the absolute destruction of human civilization. At its core, the purpose of IHL is to prevent people from becoming monsters. In contrast, the Wagner Group and their public information campaigns embrace horror and moral terror. They seek to prove to the world that they are monsters and gain clout by displaying their inhumanity. The Wagner Group's use of Telegram and ICTs broadcasts their crimes to every country in the world, making their localized violence a global issue. This flagrant display of lawbreaking cannot continue, as it undermines the very conception of the rule of law.

Trump's proposal to "take over" Gaza would put Americans at risk of prosecution (The Brookings Institution) By Kelebogile Zvobgo

February 27, 2025

In a February 4 news conference, President Donald Trump proposed a U.S. takeover of the Gaza Strip and the displacement of Palestinians from the territory. Israeli Prime Minister Benjamin Netanyahu—who is wanted by the International Criminal

Court (ICC) for suspected war crimes and crimes against humanity in Israel's recently paused war with Hamas—stood beside Trump during the stunning announcement. Netanyahu didn't explicitly endorse the proposal at first, but said it was "revolutionary and creative" and "could change history." Netanyahu later said Israel was "committed to US President Trump's plan for the creation of a different Gaza."

My Brookings colleague Natan Sachs has powerfully argued that America's annexation of Gaza won't happen, explaining the plan's immorality, illegality, and impracticality—and I hope he's right. Trump also might not be serious about annexing Gaza but is instead trying to distract his rivals, at home and abroad, or trying to open the negotiating space between Israel and its Arab neighbors. (He is eager to normalize relations between them.) While we wait to see Trump's true intentions revealed, it's worth considering what annexation would mean, including for the American servicemembers who could be ordered to carry it out.

The upshot is that Trump's plan would violate a long list of international treaties, including the Geneva Conventions—and put Americans at risk of sanctions and prosecutions abroad.

International law prohibits annexing territory Last July, the International Court of Justice (ICJ)—the world's primary judicial body established under the auspices of the United Nations in 1945—determined that Israel's presence in the Occupied Palestinian Territory (or OPT, i.e., the Gaza Strip, the West Bank, and East Jerusalem) is unlawful and must end. The court's decision, initiated by a request for an advisory opinion from the U.N. General Assembly, is binding on the international community as a whole, requiring action not just from Israel but from all states and also international organizations.

The judges noted the U.N. General Assembly's declared "permanent responsibility towards the question of Palestine until the question is resolved ... in accordance with international legitimacy" and the heretofore unrealized U.N. General Assembly Resolution 181 (II). Adopted in 1947 as the U.K.'s League of Nations mandate over the land of Palestine was drawn to a close, the resolution called for the territory to be partitioned into a Jewish state and an Arab state. On this basis, Israel declared its independence in 1948 and became a U.N. member state in 1949. Later in 1967, after its victory in the Six-Day War, Israel came to occupy the rest of what had been British-controlled Mandatory Palestine, now known as the OPT.

In writing the opinion, the ICJ judges considered the prolonged nature of the occupation, Israel's settlement policy, and other measures that Israel has taken over the years, including annexing Palestinians' lands and destroying their homes and property. The judges concluded that these policies and practices are unlawful and "are in breach of Israel's obligation to respect the right of the Palestinian people to self-determination." Later in September, the U.N. General Assembly affirmed the ICJ decision in a resolution that 124 countries supported.

Trump's vision of turning Gaza into a "Riviera of the Middle East," ostensibly in partnership or in coordination with Israel, would extend the policies and practices that the ICJ said were unlawful.

Following an earlier ICJ decision in May 2024 calling on Israel to halt its incursion into Rafah, in southern Gaza, European foreign ministers gathered to discuss sanctions against Israel if it didn't comply. But the European Union (EU) ultimately didn't move forward with sanctions. (The EU has levied sanctions against a few Israeli citizens and organizations but not the state itself.)

The annexation of Gaza and the expulsion of its residents could tip the scales in favor of EU sanctions against Israel and perhaps also the United States, given that the EU (like other international organizations) is legally obligated to help bring Israel's presence in the OPT to an end, per the ICJ's July 2024 decision. Beyond legal obligations, it's in the EU's interest not to normalize land grabs—not just for the sake of Palestinians in Gaza but also for the sake of people in Greenland, Ukraine, and other neighbors.

International law prohibits forced deportations and transfers of civilians Trump's proposal, by his own admission, would require the forced deportation and transfer of the civilian population in Gaza, some 2 million Palestinians, to another territory (presumably Egypt and/or Jordan)—a clear violation of the Fourth Geneva Convention, which protects civilians during armed conflicts and in occupied territories. This would further destabilize the Middle East and could pull the United States into a regional war.

Given that Trump has long inveighed against "forever wars" and advocated for putting America "first," his stated commitment to doing whatever is necessary to "take over" and "develop" Gaza (including possibly deploying U.S. troops) is all the more perplexing. It would also risk criminal liability for involved U.S. personnel, including at the ICC.

Since 2015, the ICC has been investigating allegations of war crimes and crimes against humanity in Palestine, including in Gaza. The investigation is open-ended and both Palestinian nationals and foreign nationals on Palestinian territory are liable for prosecution. So far, Israelis are the only foreign nationals that the ICC has said it is investigating in Palestine. But Americans involved in the expulsion of Palestinian civilians could be added to that list.

Risks to Americans Neither Israel nor the United States is a party to the Rome Statute, which established the ICC and defines its jurisdiction. Ordinarily, Israeli and U.S. nationals are immune from ICC scrutiny, with an important caveat: nonmember nationals are liable to investigation and prosecution if they are suspected of committing abuses on the territory of an ICC member, which Palestine is. In fact, the State of Palestine was granted “nonmember observer state status” at the United Nations in 2012 and acceded to the Rome Statute in 2015.

Israel and the United States don’t recognize a Palestinian state and reject ICC jurisdiction over Israelis and Americans. But the law isn’t on their side. Moreover, in 2021, the ICC confirmed that it has jurisdiction to rule on matters concerning Gaza and the West Bank, including East Jerusalem—and numerous states agree and have come to the court’s defense.

Trump’s Gaza agenda could lead U.S. personnel to be prosecuted at the ICC for the unlawful deportation or transfer of a population—as a war crime (under Article 8 of the Rome Statute) and/or as a crime against humanity (under Article 7). Americans could also be tried for persecution, another crime against humanity, given that Palestinians in Gaza are an “identifiable group.” Servicemembers, it’s important to note, couldn’t rely on a superior orders defense if the orders they carried out were “manifestly unlawful.” Article 33 of the Rome Statute clearly states this.

On its face, a policy to forcibly deport and transfer a civilian population from one territory to another is unlawful. American servicemembers would know this because of their own rules. U.S. military manuals going back to the 1863 Lieber Code have prohibited unlawful deportations or transfers of civilians. U.S. military personnel are also bound by the 1949 Geneva Conventions, which the United States ratified. This means that servicemembers couldn’t claim ignorance if they ever faced an ICC arrest warrant or one day stood trial in The Hague. For their part, commanders and other superiors (including civilian leaders) could face criminal charges for ordering their subordinates to engage in unlawful acts and/or for failing to exercise control over their subordinates, per Article 28 of the Rome Statute.

However, U.S. personnel who are charged with crimes under the Rome Statute would have to come into the ICC’s custody for any trial to take place, so they could evade the court by not traveling to one of the ICC’s 125 member states.

Looking ahead Depriving Palestinians of their most basic rights, while alienating allies and destabilizing the Middle East, is too dangerous a step to take—or even to bluff about. Risking the safety and freedom of U.S. servicemembers would also be irresponsible.

Trump could be all bluster, but it would be unwise to write off his words or quietly hope that they don’t materialize. His aides have tried walking back his February 4 announcement, but Israel is taking it seriously. Trump has also doubled down, saying that he is “committed to buying and owning Gaza” and that the Palestinians living there wouldn’t have a right to return.

Trump has further threatened to withhold aid to Egypt and Jordan if they don’t take in displaced Palestinians. Moreover, during his first trip to the Middle East, Secretary of State Marco Rubio said that Trump’s plan for Gaza was “bold” and “took courage and vision in order to outline”—yet more evidence suggesting that the administration is serious about some type of Gaza takeover, which could require American troops to implement. U.S. and international leaders must push back.

Lebanon: Israeli attacks on health facilities, ambulances and paramedics must be investigated as war crimes (Amnesty International) March 5, 2025 <https://www.amnesty.org/en/latest/news/2025/03/lebanon-israeli-attacks-on-health-facilities-ambulances-and-paramedics-must-be-investigated-as-war-crimes/>

The Israeli military’s repeated unlawful attacks during the war in Lebanon on health facilities, ambulances and health workers, which are protected under international law, must be investigated as war crimes, Amnesty International said today.

The Lebanese government should provide the International Criminal Court (ICC) the jurisdiction to investigate and prosecute crimes within the Rome Statute committed on Lebanese territory, and ensure victims’ right to remedy, including by calling on Israel to provide reparation for serious violations of international humanitarian law.

In findings released today, Amnesty International presents the results of its investigations into four Israeli attacks on healthcare facilities and vehicles in Beirut and in south Lebanon between 3 and 9 October 2024, which killed 19 healthcare workers, wounded 11 more, and damaged or destroyed multiple ambulances and two medical facilities in a one-week period in October 2024.

During the war in Lebanon in 2024, the Israeli military repeatedly attacked health facilities and medical vehicles. The Israeli military has not provided sufficient justifications, or specific evidence of military targets being present at the strike locations, to account for these repeated attacks, which weakened a fragile healthcare system and put lives at risk.

“Israel’s unlawful attacks on medical facilities and personnel are not only serious violations of international humanitarian law and likely war crimes but also have devastating consequences for civilians more broadly. We call for the government of Lebanon, with the support of the international community, to step up and act to ensure that suspected perpetrators of war

crimes can be held accountable. The new Lebanese government must grant the International Criminal Court jurisdiction over all Rome Statute crimes committed on or perpetrated from its territory,” said Amnesty International’s Senior Director for Research, Policy, Advocacy and Campaigns, Erika Guevara Rosas.

“Israel’s unlawful attacks on medical facilities and personnel are not only serious violations of international humanitarian law and likely war crimes but also have devastating consequences for civilians more broadly” – Erika Guevara Rosas, Senior Director for Research, Policy, Advocacy and Campaigns

Lebanon must urgently accede to the Rome Statute of the ICC and make a declaration granting the Court jurisdiction from 2002. In the interim, Lebanon should make an ad hoc declaration accepting the exercise of the ICC’s jurisdiction with respect to all Rome Statute crimes committed on or perpetrated from Lebanese territory.

The Israeli military repeatedly accused Hezbollah of using ambulances to transport fighters and weapons, and of using medical centres affiliated with the Islamic Health Association (IHA) as a “cover for terrorist activities”. In the four attacks investigated, however, Amnesty International did not find evidence that the facilities or vehicles were being used for military purposes at the time of the attacks.

“When a health system is attacked, civilians suffer. Even when hospitals are thought to be used for military purposes and lose their protected status under international law, they can only be attacked after a warning that gives sufficient time for the evacuation of patients and staff goes unheeded. An attacking party remains at all times bound by the principle of proportionality, weighing the concrete and direct military advantage anticipated from an attack against the expected harm to civilians and civilian objects, including the reverberating humanitarian consequences resulting from the attack,” said Erika Guevara Rosas.

Amnesty International interviewed 17 people, including medical workers, witnesses to the attacks, local officials, and family members of the victims. Researchers also visited the site of the attack on the IHA’s centre in Bachoura, Beirut. In addition, Amnesty International verified 46 photographs and videos from the attacks shared directly with the organization or published in the media and on social media. Amnesty International wrote to the Israeli military with its findings on 11 November 2024 but had not received a response by the time of publication.

Medical personnel, hospitals, and other medical facilities are protected under international humanitarian law. According to the International Committee of the Red Cross (ICRC), people who have exclusively non-combat functions in armed groups or are merely members of or affiliated with political entities with an armed component, such as Hezbollah, may not be targeted unless and for such time that they are directly participating in hostilities. Medical personnel affiliated with Hezbollah, including those assigned to civil defence organizations, exclusively assigned to medical or humanitarian duties are protected from attack.

A ceasefire was announced in Lebanon in late November 2024. In early 2025, healthcare workers impacted by the four Israeli attacks said they were doing their best to provide care while still grappling with damaged or destroyed facilities and vehicles and the loss of their colleagues. One civil defence team member, whose centre was destroyed in an Israeli attack, said the team was now working from a local villager’s home, which he said they had “offered to us, on temporary basis... until we find and move to a new locale.”

“It is crucial that all attacks against medical staff and facilities are investigated to ensure that perpetrators are punished, victims receive reparations, and these crimes are never repeated” – Erika Guevara Rosas

“It is crucial that all attacks against medical staff and facilities are investigated to ensure that perpetrators are punished, victims receive reparations, and these crimes are never repeated. A ceasefire is only the first step to ending and preventing harm. To move forward, victims of serious violations by all parties must see justice and receive redress,” said Erika Guevara Rosas. Before Israel launched its operation Northern Arrows on 23 September 2024, Amnesty International had verified over 80 photos and videos from 11 attacks that hit medical crews and facilities in Lebanon between 8 October 2023 and 24 June 2024.

According to the Lebanese Ministry of Health, between October 2023 and November 2024 the Israeli military attacked 67 hospitals, 56 primary health care centres, and 238 emergency medical teams, killing at least 222 medical and emergency relief workers.

According to the World Health Organization, as of 21 November 2024, “47% of the attacks on health care – 65 out of 137 – have proven fatal to at least one health worker or patient in Lebanon”.

The Lebanese healthcare sector was already straining due to multiple, ongoing and compounding crises, including a massive economic crisis that spiralled in late 2019, followed by the Beirut Port explosion in 2020, while the country tried to recover from the impact of the Covid-19 outbreak.

On 27 November, Israel and Lebanon agreed to a 60-day ceasefire deal. Within days, numerous violations of the ceasefire deal were reported. On 27 January, the ceasefire got extended for another few weeks. Israel later announced it intended to remain in a number of positions in Lebanon's territory.

Amnesty International has also documented evidence of unlawful airstrikes that killed and injured civilians. In a briefing published in December 2024, Amnesty International documented four air strikes by Israeli forces across Lebanon which killed at least 49 civilians and killed entire families and that must be investigated as war crimes.

During the war, Hezbollah repeatedly fired unguided rocket salvos into northern Israel, including carrying out attacks that killed and injured civilians. In some cases, they insisted they were aiming at military targets, but in others said they were attacking the civilian city or town generally.

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WORTH READING

Crisis and Change at the United Nations: Non-Amendment Reform and Institutional Evolution **(Michigan Journal of International Law)** By Oona A. Hathaway, Maggie M. Mills, & Heather Zimmerman

The Security Council's inaction in response to the wars in Gaza and Ukraine has once again put a spotlight on structural problems at the United Nations ("U.N."). Security Council paralysis—particularly the (mis)use of the veto power afforded to the permanent five ("P5") members of the Council—has long prompted calls for reform. Yet the same veto power prevents nearly all efforts to reform the organization through the formal amendment process provided in the U.N. Charter.

This article argues that there is an alternative way forward: what we call "non-amendment reform." Rather than seek formal amendments that are unlikely to survive the veto of the P5 members, advocates of change should support change through evolving interpretations of the Charter. Non-amendment reform can provide a way for the United Nations to act in the face of a veto threat. Indeed, thanks to an earlier non-amendment reform, the Uniting for Peace Resolution, paralysis of the Security Council during the wars in Gaza and Ukraine has not prevented the United Nations from acting.

Although non-amendment reform has been overlooked by scholars, it has long been critical to the capacity of the United Nations to respond to crises. This article demonstrates that a four-stage process—trigger, proposal, contestation leading to a new interpretation, and consolidation—has led to non-amendment reform at key moments throughout the United Nations' history. Learning a lesson from the past, today's advocates of change should channel their efforts towards non-amendment reform to enable the United Nations to meet the challenges of the moment. This article outlines four current opportunities to do just that.

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