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NORTH AFRICA

Libya

Human trafficker gets 30-year sentence from Libyan court (Maghribi.org) By Kirsten Lenaghan
February 28, 2026

Libyan authorities are signalling a tougher stance on human trafficking after a Tripoli court handed down a 30-year prison sentence, according to Asharq Al-Awsat on February 28th.

On February 27th, the Tripoli Criminal Court sentenced an individual linked to a migrant smuggling network to 30 years in prison.

Investigations found that members of the network deliberately organised irregular sea crossings and subjected migrants to extreme abuse. According to prosecutors, several victims were held in captivity in conditions akin to slavery. In addition to the individual's sentence, the defendant was fined 90,000 Libyan dinars.

Libya has become a central transit point for migrants aiming to reach Europe through the central Mediterranean route, where deaths continue to be reported each year. Many migrants face violence, extortion and coercive conditions during these crossings. International organisations have documented that migrants in Libya face violations including torture, forced labour, rape and arbitrary detention.

Human rights groups have described the treatment of migrants in Libya as part of a wider cycle of abuse tied to trafficking networks and Libya's fractured political landscape. The collapse of central authority and the influence of armed groups have allowed smuggling networks to operate with impunity.

The 30-year sentence is being presented by authorities as an example of strong action against organised trafficking gangs. Yet experts warn that isolated convictions alone are unlikely to dismantle entrenched smuggling structures. Without sustained enforcement and effective coordination among Libya's judicial and security institutions, some analysts believe trafficking networks will continue to exploit migrants without consequence.

The ruling arrives amid ongoing international concern about the human cost of the Mediterranean migration crisis. Data from international organisations indicates that migrants continue to attempt the crossing, with many losing their lives in the process. Efforts to protect migrant rights and curb trafficking have repeatedly called for stronger legal pathways and international cooperation to address the root causes of irregular migration.

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El-Hishri to appear before ICC again on March 4 (The Libya Observer) By Mohamed Ahmed February 28, 2026

The Pre-Trial Chamber I of the International Criminal Court (ICC) in The Hague announced on Thursday that the second hearing in the case of Khaled El-Hishri will be held on March 4.

The court held its first procedural hearing in the case on December 3, 2025. This comes after the court officially received El-Hishri from German authorities on December 1, 2025, pursuant to an arrest warrant issued by Pre-Trial Chamber I on July 10, 2025.

El-Hishri faces charges of war crimes and crimes against humanity. He was arrested on July 16, 2025, by German authorities as part of ongoing investigations into these violations.

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CENTRAL AFRICA

Sudan & South Sudan

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

Sudan atrocities are 'hallmarks of genocide', UN says (BBC) By Barbara Plett Usher
February 19, 2026

A UN fact-finding mission has determined that evidence of atrocities carried out during the siege and takeover of the Sudanese city of el-Fasher points to genocide.

The paramilitary Rapid Support Forces (RSF) captured el-Fasher, located in the western region of Darfur, at the end of October after an 18-month blockade.

It was one of the most brutal chapters in Sudan's nearly three-year civil war and triggered widespread international

outrage.

This is the closest the UN has come to declaring that genocide is being carried out by RSF fighters in Darfur during the current conflict. The RSF has not commented on the report but has denied previous such accusations.

"The body of evidence we collected — including the prolonged siege, starvation and denial of humanitarian assistance, followed by mass killings, rape, torture and enforced disappearance, systematic humiliation and perpetrators' own declarations - leaves only one reasonable inference," said fact-finding mission expert Mona Rishmawi. "The RSF acted with intent to destroy, in whole or in part, the Zaghawa and Fur communities in El-Fasher. These are the hallmarks of genocide."

The report concludes that at least three underlying acts of genocide were committed, including killing members of a protected ethnic group; causing serious bodily and mental harm; and deliberately inflicting conditions of life calculated to bring about the group's physical destruction in whole or in part.

The investigators were not able to visit el-Fasher but based their report on more than 320 interviews with survivors, statements from RSF commanders and verified videos and satellite images.

Calling the findings "truly horrific", UK Foreign Secretary Yvette Cooper said she would take the report's conclusions to the UN Security Council on Thursday.

In a statement she said there must be international criminal investigations to ensure accountability for perpetrators and justice for victims, and an end to the arms flow feeding the conflict.

Sudan's civil war erupted in April 2023 out of a power struggle between the regular army and the RSF over how and whether the paramilitaries would integrate into the security forces. It evolved into a country-wide conflict fuelled by longstanding local grievances and ethnic divisions. Both sides have been accused of committing human rights abuses and war crimes.

In the Darfur region, Arab militias that form the backbone of the RSF have targeted non-Arabs they see as enemies, using savage tactics also employed some 20 years ago. At that time, they massacred hundreds of thousands of Darfuris from indigenous African ethnic groups, employed by the country's then authoritarian leader Omar al-Bashir to put down local rebellions.

The report says the city was deliberately starved and destroyed during the long siege, which systematically weakened the "targeted population" and left them defenceless against the extreme violence that followed.

"Thousands of persons, particularly the Zaghawa, were killed, raped or disappeared during three days of absolute horror," it says, as RSF troops failed to distinguish between Zaghawa civilians and the armed groups defending the city.

Investigators described RSF conduct in el-Fasher as an aggravation of earlier patterns but on a far more lethal scale, noting that this demonstrates the failure to prevent the atrocities despite clear warning signs. They say without prevention and accountability, the risk of "more genocidal acts remains serious and ongoing".

The mandate issued by the Human Rights Council in Geneva called on the investigative team to "identify, where possible" suspected perpetrators in a bid to ensure they are "held accountable". The report names RSF Leader Lt Gen Mohamed Hamdan Dagalo (widely known as Hemedti) and spokesperson Lt Col Al-Fatih Al-Qurashi, citing the way they publicly claimed and celebrated the operation.

It notes that General Hemedti acknowledged some "violations" had occurred during the takeover of the city but that while he described el-Fasher as a "catastrophe", he justified the assault as necessary.

The RSF leader also issued instructions for his fighters not to harm civilians or kill prisoners, and he promised investigations. But investigators say the RSF did not respond to the mission's request to clarify the steps it had taken, or any other questions.

"The scale, coordination, and public endorsement of the operation by the senior Rapid Support Forces leadership point to a planned and organised operation executed through an established hierarchy and structure, rather than isolated acts," the UN mission said.

The report names one notorious commander known as "Abu Lulu" who was arrested after viral footage of his brutality surfaced, but said the RSF had provided no information regarding any judicial proceedings.

It also says that despite their best efforts, the UN mission did not receive cooperation from Sudanese authorities. Yvette Cooper called obstructions "from both warring parties... shameful and unacceptable".

The mission's mandate did not include an investigation into the role of external actors who may be supporting the RSF.

But crucially the report notes that the RSF's military campaign was reinforced by foreign mercenaries equipped with

"advanced weaponry and communications systems".

It says investigators are engaging with several states regarding "credible information" that they are involved and will report on this matter in the future.

The United Arab Emirates (UAE) is widely reported to be the main backer of the RSF, although it continues to forcefully deny this, despite extensive evidence from international investigations that the UN has previously described as credible.

Abu Dhabi's role came under increased scrutiny after the el-Fasher massacre, but there was no public pressure on the UAE from the UN, the US or the UK.

The Emirati foreign ministry condemned "in the strongest terms the grave violations" documented by the investigators but also condemned what it said were atrocities committed by the Sudanese armed forces.

It underlined that the fact-finding report made no mention of Abu Dhabi and said it provided no support for the "baseless claims associating the UAE with violations of international law in Sudan".

The investigators called on the international community to fully enforce the existing arms embargo on Darfur and expand it to the rest of the country; to prevent the transfer of weapons and other support to parties implicated in serious violations; to ensure accountability through targeted sanctions; to fully cooperate with the International Criminal Court; and to consider the establishment of a judicial mechanism working in tandem with it.

Cooper said it was important that the fact-finding mission planned to conduct further investigations into reported breaches of the arms embargo and agreed that it should be extended and enforced.

She said she planned to highlight the systematic and widespread sexual violence which she calls "a war against women's bodies".

"Most important of all we need global action and pressure in pursuit of a ceasefire, and essential humanitarian access with support for survivors," she said.

The UN Security Council session is aimed at pushing for progress on a humanitarian truce, which has been elusive despite the enormous civilian suffering. The warring parties both frame the conflict as an existential battle and are able to continue fighting with increasingly sophisticated weapons supplied by their foreign backers.

"The world is still failing the people of Sudan," Cooper said. "When the stories started to emerge about the horrors of el-Fasher it should have been a turning point, but the violence is continuing. Today, in the Security Council, the UK as President will make sure the world does not look away."

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EUROPE

The Court of Bosnia and Herzegovina, War Crimes Chamber

Official Court Website [\[English translation\]](#)

Extradited from Germany, Wartime Serb Commander Faces New Trial in Bosnia (Balkan Insight) By Marija Tausan
February 25, 2026

The Prosecutor's Office of Bosnia and Herzegovina on Wednesday sought detention for Dragoljub Kunarac, accused of wartime crimes in Foca in eastern Bosnia, citing the risk of his flight and public unrest after he was extradited from Germany to Bosnia the day before.

At a hearing held after Kunarac's transfer from Germany, where he had been serving a 28-year prison sentence imposed by the Hague war-crimes tribunal, the defence insisted that detention was unjustified, noting that he had not opposed coming to Bosnia to face charges.

But prosecutor Remzija Smailagic noted that Kunarac had formerly lived in Foca, near the Serbian border with Montenegro, which he could easily cross. "He has a clear motive to flee ... The fact is that he is charged with a crime against humanity, for which the heaviest sentence can be imposed," Smailagic said.

She highlighted Kunarac's family ties in Montenegro, and pointed out that more than 100 suspects and accused persons are currently unavailable to the Bosnian judicial authorities in neighbouring countries.

The prosecutor noted that the 2018 indictment charges Kunarac with murder, torture, deportation, and other crimes, and that his remaining free "would result in a threat to public order". If the court did not order detention, she added, the Prosecutor's Office would propose restraining measures.

Kunarac, as commander of a special unit of the Bosnian Serb Army of the Republika Srpska known as "Zaga" [Saw], is indicted together with other members of the unit, with killing at least six people on July 27 and 28, 1992, from the villages of Kobilja Ravan, Luka and Falovici-Podpece.

He is also accused of participating in the torture and infliction of severe physical and psychological suffering on captured civilians, as well as the deportation of Bosniak civilians, as part of a campaign of persecution. During the attacks on Bosniak civilians, Kunarac is also accused of participating in the burning of houses and property.

Kunarac was arrested in 1998. In 2001, the Hague war-crimes tribunal, the International Criminal Tribunal for the Former Yugoslavia, sentenced him to 28 years in prison for multiple rapes and for enslaving two women, depriving them of control over their lives and treating them as his property. He was transferred to Germany in December 2002.

In both 2021 and 2024, the Hague court's Residual Mechanism rejected requests for his early release.

When questioned by presiding judge Dalida Burzic, Kunarac said he does not hold the citizenship of any other country than Bosnia and Herzegovina, and that all his personal documents have long since expired. Burzic said that, according to court information, Germany had refused a request for Kunarac's extradition, so he was essentially only transported from the country.

Defence lawyer Anja Loga said Kunarac had told the German authorities that he wanted to face the charges in Bosnia.

"He never opposed extradition to Bosnia and Herzegovina," Loga said. She added that the Prosecutor's Office has not substantiated any intention to flee. "It is not enough to say that over a hundred suspects are unavailable. This does not apply to my client. He voluntarily surrendered to the Hague tribunal," Loga said.

She said the defence would not oppose the imposition of restraining measures for him.

Responding to the defence's claim that Kunarac could have requested to go to Montenegro, prosecutor Smailagic said that a warrant had been issued for him by Bosnia. The court will issue a decision on the prosecution request at a later date

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Russia

International project to document Russian war crimes in Mariupol launched in Poland (The New Voice of Ukraine) By Alona Sonko
February 28, 2026

An international human rights initiative, Mariupol Justice, was presented in Gdansk, Poland, the fourth anniversary of Russia's full-scale invasion, aiming to seek accountability for crimes committed during the siege and destruction of Mariupol.

During the project presentation, speakers included representatives of Gdansk and Mariupol, among them Mariupol Mayor and head of the Mariupol City Military Administration Vadym Boichenko, Gdansk Mayor Aleksandra Dulkiewicz, and others. Invited speakers also included Ukrainian defenders and Rafal Wnuk, director of the Museum of the Second World War in Gdansk, where the presentation took place. As part of the Mariupol Justice presentation, a multimedia exhibition titled Mariupol: A Path of Memory and Dreams was opened, featuring evidence of Russian crimes.

The Mariupol Justice project collects evidence of war crimes committed by Russian occupiers in Mariupol. The evidentiary base includes recorded eyewitness testimonies — from city residents, military personnel, medics and volunteers — as well as photo and video documentation of destruction, diaries kept by people who survived or did not survive the siege of Mariupol, and other documents demonstrating that Russia must be held accountable for war crimes committed in the Ukrainian city.

Speaking in Gdansk, Boichenko, one of the project's initiators, said cooperation between Mariupol and Gdansk began long before Russia's full-scale invasion.

"We came to Gdansk to study the tools and methods that helped this city change for the better. It was here that we became acquainted with the principles of transparency and accountability. We signed a memorandum of cooperation with ALDA, and Mariupol became the most transparent city in Ukraine. This opened the door for us to international financial institutions such as the European Bank for Reconstruction and Development and the World Bank, which helped us modernize transport. When the war began, these ties continued to work. Gdansk, together with the World Bank and the EBRD, is helping us shape a strategy for Mariupol's rapid and sustainable recovery after its return," Boichenko said.

According to Boichenko, the foundation of the Mariupol Justice project is high-resolution satellite imagery by Maxar Technologies as of May 20, 2022, purchased with EBRD support. The images made it possible to clearly compare what Mariupol looked like before the full-scale invasion and what Russia turned the city into after launching its war.

"We are collecting evidence across 16 areas, assessing damage to municipal facilities and infrastructure. The preliminary cost of restoring the city to its previous condition is \$14.5 billion. We are gathering eyewitness accounts and destruction data to hold Russia accountable in an international tribunal for killings and the destruction of cities," Boichenko said.

The Museum of Civilian Voices of the Rinat Akhmetov Foundation is helping collect evidence of Russian crimes. Eyewitness testimonies, diaries kept during the first months of the war in Mariupol, physical evidence, documents, photos and videos form a critical evidentiary base that could help hold Russia accountable in court.

As part of the presentation in Gdansk, the multimedia exhibition Mariupol: A Path of Memory and Dreams opened. Exhibits include stories of Mariupol residents and the diary of Kateryna Savenko, who was killed in Mariupol, from the archive of the Museum of Civilian Voices. The exhibition was created by the creative team of GOGOLFEST, including Ukrainian director and playwright Vladyslav Troitskyi, in cooperation with the Mariupol City Council, the Rinat Akhmetov Foundation and the Museum of the Second World War in Gdansk.

"The foundation has been systematically collecting civilian testimonies about the experience of war since 2014. In 2022, we scaled up this work to the maximum, and now we have more than 140,000 oral histories, about 12,000 of them from Mariupol," said Natalia Yemchenko, head of the foundation's supervisory board.

"In parallel, in 2022, we signed a memorandum with the Mariupol City Council and invested about \$1.5 million in Mariupol Reborn, a large-scale initiative for the city's postwar recovery and development. We did not know how long the occupation would last, and we wanted the city to be ready for recovery if de-occupation came quickly. Part of that work involved documenting destruction — including purchasing Maxar imagery. When it became clear that rapid de-occupation would not happen, this component of Reborn, which we also funded as a separate project, became the basis for Mariupol Justice. The foundation and the Museum of Civilian Voices took responsibility for collecting and publishing human stories, while the legal process rests with the Mariupol City Council, with whom we are effectively co-founders of Justice," Yemchenko said.

The evidence is already being shown in countries around the world. In Gdansk, Mariupol Justice was presented at the Museum of the Second World War — a highly symbolic venue, Boichenko said.

"Gdansk is more than a partner for us; it is a sister city. When the tragedy happened, Gdansk, Warsaw and Wroclaw took us under their 'responsible patronage.' We share much in common: both are port cities with populations of about half a million. Our histories are intertwined — Gdansk was among the first to feel the breath of World War II on Sept. 1, 1939, and Mariupol was among the first to come under attack during Russia's full-scale invasion in 2022. Destruction and rebirth: Gdansk was destroyed and rebuilt. Mariupol now dreams of that rebirth. This museum documents the crimes of World War II. We have brought here evidence of a new tragedy — effectively a third world war that is already underway in Ukraine," Boichenko said.

Boichenko added that there are plans to present the exhibition and the Mariupol Justice project in other countries.

"We are planning our next steps very carefully. There are hopes and contacts to show this exhibition in the United States and the United Kingdom. It is crucial that decision-makers see the truth about the real tragedy of Mariupol. Only through truth and a just peace can we change the situation," he said.

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Commentary and Perspectives

Looking Forward: What Can Courts Do and When (Just Security) By Eric Jensen
February 20, 2026

Professor Laurie Blank and Professor Daphné Richemond-Barak's End of War Project motivates us to think in new ways about the institutions and processes that can play a role in ending wars, and doing so in a way that facilitates the maintenance of peace. As the previous posts in this symposium demonstrate, the question of whether, how, and when international courts play a role in facilitating – or improving conditions at – the end of armed conflict involves a range of considerations, including many that appear to operate at cross purposes. In this post, I consider if and how international courts can play a more meaningful role in ending or at the end of war.

Courts and “Ending Wars”

As an initial matter, there are at least three ways to understand the phrase “ending wars” in the context of the role of international courts. First, we could consider the role of courts in ending a current war. Courts have been active in this area, particularly in the issuance of provisional measures (see [here](#), [here](#), [here](#), [here](#), and [here](#) for examples from the International Court of Justice (ICJ), and an excellent commentary on the Russia-Ukraine provisional measures [here](#); see [here](#) for a link to the interim measures issued by the European Court of Human Rights in relation to Ukraine; and see [here](#) for a provisional measure issued by the Inter-American Court of Human Rights in relation to Colombia). Although the effect is highly debated, the use of provisional measures has dramatically increased over the past decade, including during ongoing armed conflicts. International courts such as the International Criminal Court (ICC) have also issued arrest warrants during ongoing armed conflicts (see [here](#) and [here](#)), the effectiveness of which is also highly debated, including because it seems to disincentivize engaging in a peace process (see [here](#) and [here](#)). Nonetheless, the issuance of these arrest warrants is another example of international courts taking actions during ongoing armed conflicts that, if effectuated, would almost certainly have an impact on the conclusion of the armed conflict. Here the debate is centered not on whether international courts can play that role, but on whether they have the tools needed to implement and enforce the arrest warrants once they have been issued.

Second, we could consider the role of international courts in discouraging a return to war after it has been concluded, for example by setting the conditions for peace through provisional measures (such as the above-referenced 2004 provisional measures ruling by the Inter-American Court of Human Rights in Colombia, *Matter of Pueblo Indígena de Kankuamo*, ordering Colombia to take specific steps to implement “measures necessary to protect the life and the integrity of the person of all members of the communities that comprise the Kankuamo indigenous people” from “outlaw armed groups operating in the area”), setting global expectations for peace, legitimizing post-conflict accountability mechanisms, and providing a voice for victims. These types of post-conflict actions can set the conditions that will discourage or disincentivize a return to war by the previously warring parties.

Finally, international courts can play a role in ending the prospect of war more generally by setting or reaffirming legal standards for entering into and conducting armed conflicts as well as potentially deterring the commission of future crimes and atrocities by individual actors (see more below).

Limitations on What Courts Can Do or Achieve

Many of these potential actions unfortunately are not as effective in practice as they might seem in theory. I focus here only on the role of international courts as a means of deterring individual actors. Proving a negative (that individuals have been deterred) in these discussions is, of course, difficult, but here are some helpful data points on deterrence:

- As the International Criminal Tribunal for Rwanda (ICTR) was sitting in Arusha to prosecute atrocities committed in Rwanda, the Second Congo War was raging involving nine African nations (including Rwanda), as well as about 20 armed groups. During that conflict, 5.4 million people died, including by disease and starvation. The contemporaneous adjudication of international criminal law did not appear to have any deterrent effect on the ongoing hostilities.
- Despite ICC arrest warrants for several Russians, including President Vladimir Putin, the war in Ukraine, and the conduct that is the subject of those arrest warrants, continues.
- As the ICJ hears at least two cases about, and the ICC investigates, the conflict in Gaza, including ICJ provisional

measures and ICC arrest warrants, the conflict continues.

Clearly, the mere issuance of an arrest warrant does not automatically move the needle on ending an armed conflict, in and of itself. Although potential success in other or future cases cannot be wholly discounted by these individual examples, a number of underlying issues go beyond deterrence and impact the ability of international courts to play an effective role in ending war:

- Some military leaders may believe that they have an increased chance for immunity for bad acts if they are ultimately successful in their military campaigns. Non-State armed groups fighting against current governments are the most likely example, as Alyssa Prorok explains in her post.
- The typical sentences that the ICC imposes and the nature and conditions of captivity for those convicted may not represent significant inhibitors for leaders who are violating international law, given that the sentences are considered “lenient” especially in light of the gravity of the crimes,” imprisonment is often in European countries, and most of those convicted are granted early release.
- International courts do not have a direct enforcement mechanism but rather have to rely on third party enforcement, which often has no immediate effect (if carried out at all).
- Finally, my experience in working with military leaders from State militaries and leaders from organized armed groups is that they simply do not consider potential punishment very much; they tend to prioritize their military missions. In ongoing armed conflict, they are too focused on the tasks at hand and trying to stay alive and keep their fighters alive to be influenced by a potential criminal trial resulting in detention that is likely to provide better circumstances and medical care than they currently experience.

Admittedly, this final observation is anecdotal and based solely on my own personal experience, but I do not think these perspectives by military leaders are isolated.

Moving Forward

Given the roles that courts have recently played and are currently playing, and the relevant limitations, how can courts play a more significant and meaningful role in ending war, or in preventing a return to war after it has concluded? Some of the suggestions below will be more practical than others, but I think each deserves some thought and development as the international community increasingly turns to courts to put an end to ongoing conflicts.

Set Standards

International courts have played a key role in the development and expansion of international criminal law. The inclusion of rape as a crime against humanity, the protections for child soldiers, and the development of the doctrine of indirect responsibility are several examples. However, more needs to be done. Some areas where courts can continue to develop or promote clear standards include:

- The increasingly recognized role of women in the peace process. Courts can demand that peace processes include women and other marginalized populations, and provide actionable access to remedy gaps or failures in this regard.
- The use of emerging technology in both the gathering and preserving of evidence as well as the facilitation of reconnection, aid distribution, and other important post-bellum processes.

Provide More Hope for Victims

Victims of armed conflict – their needs, risks, and challenges – are now receiving increased attention. Existing and developing attempts to not only give victims a voice, but also provide effective reparations, should be intensified. The ICC’s Trust Fund for Victims (TFV) is a significant step in the right direction and has the potential to bring hope to victims for reparations, but is only at its very early stages and is less effective because of its reliance on donations, as the Ongwen case illustrates. Until a more stable funding base is created, the long-term impacts of the trust fund will be severely limited. Although the TFV is unlikely to have much impact on ending wars, it could become a key aspect of avoiding a return to war by directly addressing the grievances of the victims of armed conflict.

Focus on the Establishment and Maintenance of Peace

Currently, international courts focus primarily on retribution, punishment, and incapacitation, with much less emphasis on the criminal justice theories of rehabilitation and general acceptance of society to the legal process. As discussed above, given the weakness of both general and specific deterrence, taking a broader role on peace and justice may yield benefits that will give courts a more active role in ending wars and avoiding the resurgence of violence. As one example, courts could take a more active role in ordering rehabilitation rather than incarceration, working in concert with religious and tribal leaders who have proven, for example, to be an effective force in reintegrating child soldiers into post-conflict communities.

Set Conditions for Reconstruction/Reintegration/Peace-building

Focusing not just on retribution or punishment but also allowing courts to take a role in setting the conditions for a lasting peace would certainly represent a shift to a more active judicial platform for judges. It may, however, present an important opportunity to move forward. One example would be demanding the involvement of women and other marginalized groups not only in the peace process, as discussed above, but also in the implementation of those peace agreements. As courts provide oversight for peace-building, or establish mechanisms that will do so, ensuring women and marginalized groups are included would help achieve a more durable peace. Another example might include judicial decisions that focus on economic reconstruction, including by applying corporate assets to rebuild the country and mitigate the impact of the conflict on victims.

These types of actions will understandably make some uncomfortable about giving this role to judges. Some might argue that these are political functions and not judicial. Nevertheless, if the international community is committed to find ways for courts to play a larger role in ending wars, there may be a meaningful way forward.

Involve Civil Society

The 2024 Report on Civil Society and the International Criminal Court: Pathways to Collaborative and Genuine Engagement (at pages 36-39) offers interesting recommendations on approaches to increase civil society involvement in the activities of international courts in ways that could, in theory, help end wars and prevent a return to armed conflict. These recommendations include increasing communication with civil society and reliance on civil society information with respect to victim assistance, acting through member States to ensure greater protection for civil society in conflict areas, and enhancing cooperation and the sharing of information between the courts and civil society. Although many of these recommendations are not new and build on previous work, the Report places renewed emphasis on demonstrated successes.

Conclusion

International courts will never be the primary driver in ending wars and probably should not try to take on that role. Politics will continue to remain the most important aspect of the peace process. However, playing second or third fiddle does not mean that international courts cannot and should not play an increased role. In fact, at a time when international peace and security seems ever more at risk, the global community should be working to develop more options rather than fewer to work toward this important goal.

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WORTH READING

‘Discovering What Survives Translation True’: The Defence of Duress at the International Criminal Court (Criminal Law Forum) By Clare Frances Moran
February 18, 2026

Abstract: The question of when an individual ought to be able to plead the defence of duress in respect of serious violations of international criminal law has not been resolved by the decision to include a form of duress in the Rome Statute. The final definition is complex and contains many caveats, raising the question of whether it could ever be pleaded successfully. There is further complication created by the reference to duress in the Rules of Procedure and Evidence attached to the Statute, where it is used as an example of a mitigating circumstance, submitted to lessen the punishment imposed where there are ‘circumstances falling short of constituting grounds for exclusion of criminal responsibility.’ Recent jurisprudence demonstrates that the interpretation of duress as both a defence and a mitigating circumstance has not clarified the doctrine in international criminal law; the rules around duress as a mitigating circumstance are now connected to the threshold set for duress as a defence. This work argues that reform is required to address the lack of clarity around the definition of duress in mitigation, in a bid to resolve the difficulty of applying the rules in complex cases of responsibility.

Introduction: The decision to include defences in the Rome Statute of the International Criminal Court did not create any notable contention for the drafters, despite the making of ‘sensitive compromises’ around the wording of certain defences. The development itself was significant: there had been no evidence of a defence being accepted for war crimes or crimes against humanity previously. Among the defences noted in the Rome Statute, duress represents a particularly interesting inclusion because it was rejected as a defence by the International Criminal Tribunal for the former Yugoslavia less than a

year before the signing of the Rome Statute. In the Erdemovic appeal, the Tribunal held that duress could not be used as a complete defence in cases concerning the killing of innocents. The majority judgement was accompanied by a memorable dissent written by the President of the Tribunal, Judge Antonio Cassese, in which he argued cogently for the application of duress under certain circumstances. His nuanced approach to the issue, including his thesis of inevitability regarding the commission of crimes, was not reflected in the final draft of duress in the Rome Statute. The definition therein sets a high bar for any individual wishing to plead the defence; recent jurisprudence such as *Prosecutor v Ongwen* and *Prosecutor v Al-Hassan* demonstrates the significant difficulties with the current interpretation of duress.

Both Ongwen and Al-Hassan raised claims of duress in respect of distinct circumstances. Ongwen, a former child soldier who became a brigadier in the Lord's Resistance Army, was held not to have acted under duress while committing war crimes and crimes against humanity, in large part because there was no threat of imminent harm issued against him prior to the commission of each crime. The Court concluded that his abduction and upbringing as a child soldier did not fit the criteria of duress under the Rome Statute, nor would it have any relevance as a potentially mitigating circumstance, as noted in the Rules of Procedure and Evidence of the Court. Essentially, he had failed to evidence a lack of agency because there was no evidence of imminent harm. The Trial Chamber then concluded that the failure to prove such a risk negated the possibility of arguing duress in mitigation.

The approach to duress taken by the Trial and Appeal Chambers in Ongwen was mirrored in the more recent case of Al-Hassan, in which the accused was held not to have acted under duress when committing offences as a commissioner for the Islamic Police in Timbuktu. Having joined the organisation willingly and without any evidence of undue pressure or threats to do so, the argument of duress was rejected by the Court. Al-Hassan's situation was markedly different from that of Ongwen; he was an educated man of standing in his local community who submitted that he had joined the organisation in order to exert influence from within for the benefit of his community. However, as in Ongwen, the Court failed to consider whether the pressures to which he argued he was subjected qualified as a 'continuing threat' of physical harm given the nature of the treatment of his community from the Malian army and other factions. Moreover, there was only a mention of the existence of rule 145 in mitigation of sentence in the judgement, rather than any application of the rule. The sentencing judgement did not really engage with what would be meant by 'falling short' in the context of duress, meaning that the rejection of rule 145 in mitigation was based on evidentiary grounds, without much regard for how the test might be met.

In the Rules, a situation of duress can be considered in mitigation of punishment where there are 'circumstances falling short of constituting grounds for exclusion of criminal responsibility.' However, there is no elaboration on what 'falling short' might mean in the context of duress, which leaves much to the discretion of the Court. Moreover, the focus on imminence as opposed to what might be meant by a 'continuing' risk of harm has meant that situations without an imminent risk of death or serious harm are unable to meet the threshold of duress. The Court appears to have narrowed the definition of duress in the Rome Statute, making it almost impossible to plead. This has a connected impact on duress as a mitigating circumstance, since the question of what is meant by falling short remains undefined and unconsidered.

The work begins by setting out a comparative overview of duress, exploring the limits of the definition and how it has been interpreted at the domestic level. The definition in the Rome Statute is then examined, using the recent jurisprudence to appreciate how the defence has been applied in a manner that prioritises the criterion of imminent harm. This includes an understanding of how this has affected the Court's acceptance of duress as a mitigating circumstance. The final part to the work uses this evidence to demonstrate the importance of reform in this area: the difficulty of pleading duress, even when an individual acts under pressure, and the connected difficulty of accepting duress, when the circumstances do fall short of 'constituting a ground excluding criminal responsibility,' as a mitigating circumstance if the definitions remain connected in their current form. [Full article available via link]

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