

Syria

by Karina Hof

Planning ahead for accountability in Syria – with Syrians or not

A justice mechanism to deal with the Syrian conflict has seemed low on the world's agenda. This week brought news of US government funding cuts for a widely commended NGO gathering Syrian war crimes evidence. The Russian and Chinese vetoes of a Syria referral by the UN Security Council to the International Criminal Court keep a trial in The Hague unlikely. And it is hard to focus on accountability when the YouTube horror films of ISIS have all but upstaged Assad regime atrocities and the Syrian opposition seems locked in an endless cycle of reincarnation.

But accountability is not off the table. As put by Michael Scharf, managing director of the Public International Law & Policy Group, a pro bono global law firm: "While events related to ISIS have temporarily eclipsed the issue, there has been a lot of action behind the scenes in the past year related to establishing accountability for Syrian atrocities."

In fact, the groundwork for possible indictments and prosecutions has already been laid out. Meanwhile, the barbarities continue to be documented almost in real time. "A determined push for accountability" is how Balkees Jarrah, a counsel who focuses on the Middle East for Human Rights Watch, summed up the situation.

Justice via New Jersey?

Former prosecutor-turned-academic David Crane, for one, is ready to take Syrian accountability to what he calls "its next logical step". Best-known for indicting Charles Taylor at the Special Court for Sierra Leone, Crane has since become a vocal lobbyist for Syria. He leads the Syrian Accountability Project, which aims to document war crimes and crimes against humanity committed by all sides in the conflict.

Last year, Crane, Scharf and 11 other heavy-hitting legal practitioners drafted a 'Statute for a Syrian Extraordinary Tribunal to Prosecute Atrocity Crimes', outlining possible mechanisms for trying war crimes in Syria.

The Chautauqua Blueprint – as it came to be called, for the lake town in New York where it debuted – was signed on 27 August 2013, six days after the chemical attack in Ghouta that killed hundreds of Syrians and awoke the world's conscience.

Crane expects to see progress at a meeting being chaired by Christian Wenaweser, Liechtenstein's representative to the UN and the former president of the ICC's ruling body, on 17 November in Princeton, New Jersey. "I believe it'll probably result in an agreement to how we're actually going to create these courts," said Crane.

For his part, Wenaweser anticipates more modest outcomes, calling it a preliminary "mapping exercise" carried out by "people who are likeminded only in the sense that we all think accountability in Syria is crucial".

"We want to discuss with each other informally what we think a good way forward is," Wenaweser told IJT. "We will simply go through the different accountability options as they exist and discuss their implications, the pros or cons, what it required to get there and so on."

Filing, piling

Besides Crane's Syrian Accountability Project, a menagerie of other private groups, operating in and out of Syria, have made accountability their business. Two NGOs, both internationally funded and respected, working on documentation-driven accountability are the Syria Justice and Accountability Centre (SJAC) and the Commission for International Justice and Accountability (CIJA). SJAC, directed by exiled Syrian activist Mohammad Al Abdallah, has spearheaded digitally sophisticated methods to collect and catalogue videos, photos and witness testimonies from the conflict.

CIJA is run by William Wiley, a lawyer with plenty of war crimes investigation under his belt. Known for its professional stealth, CIJA works in, literally, hands-on cooperation with the Syrian opposition to document regime atrocities. "With prosecution ready case files

and up to one million pages of documentary evidence analysed by military and command structure specialists – we are the guys to turn to," said Nerma Jelacic, head of CIJA's external relations and former spokesperson of the International Criminal Tribunal for the former Yugoslavia.

However, the US State Department recently suggested it finds otherwise. It is pulling their \$500,000 in yearly support for CIJA, with officials now citing plans to fund documentation of crimes by ISIS. Jelacic said her organization was informed of the decision last month. The cuts mean that for as long as CIJA cannot find a new donor to bridge the gap, they "will not be able to continue the planned document acquisition and operations planned for next year's case files," she explained.

The threat of fragmentation thus looms large over Syria war crimes investigations. No single overseeing authority exists. Concerns arise of spending overlap and duplicated work. "Frankly, when it comes to accountability a little bit of redundancy is actually OK," said Beth van Schaack, former deputy US Ambassador-at-Large for War Crimes Issues.

Still, all groups seem to be waiting in the wings, seeking leadership towards a feasible mechanism. "Momentum hasn't yet been able to build around accountability in part because there's been so many crisis points," Van Schaack said. When IJT spoke with her, she was unaware of this month's gathering in Princeton, but added: "It's certainly worth exploring, right? And especially if there's ... a moving vehicle here we can get behind."

Timing

Despite having organized several meetings that fed into the Chautauqua Blueprint, SJAC decided not to sign off on the statute, said Abdallah, its executive director. Even though Syrian lawyers, jurists and civil society were part of the

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Continued from previous page document's preparatory talks, he ultimately felt underrepresented. "It's not about bringing 10 or 15 or even 100 Syrians to your workshop. We're talking about wide public consultation, and it's public, it's not a closed group," Abdallah said. "You need representation – and ethnic and religious and political representation – of everybody in that tribunal."

The theme returns when asked about a closed-door event at the Netherlands mission to the UN last month. "I'm hopeful something concrete might come out of it," he said with uncharacteristic softness, yet quickly acknowledged that, as with many of the "coordination meetings around Syria" he is invited to, "the donors need to coordinate more than the NGOs" and he was the only Syrian present.

Anyway, as Abdallah asks, is the timing right? "Even if you have basically the best model for the best tribunal for Syria, it's not feasible to start now," he maintained. "Before you stop the daily killing and have the people calm a little bit, it's impossible to create a reasonable and sustainable justice mechanism."

Argentina seeks extradition of Spanish Franco-era officials

A judge in Argentina last week requested that Spain extradite 20 Franco-era officials accused of human rights violations during the Spanish dictatorship who cannot be tried at home because of an amnesty enacted in the late 1970s.

Federal judge María Servini de Cubría is invoking the principle of universal jurisdiction to try human rights violations that occurred abroad. Victims of the Franco regime filed a lawsuit in Argentina in 2010 after attempts to try the suspects in Spain failed because of the amnesty law.

Spain has not officially responded to the request, but is expected to hold an extradition hearing. This past April, in a similar case, where the same Argentinian judge requested extradition of two suspected torturers during the Franco regime, a Spanish court refused to hand over the suspects, ruling the alleged crimes did not amount to crimes against humanity. -SB

Uganda's ex-combatants struggle to reintegrate

Uganda's government programme for the social and economic reintegration of some 27,000 amnesty-granted former armed rebels has stalled, leaving thousands with few options to earn a living.

After ex-Lord's Resistance Army (LRA) fighter Bosko Akena was captured by Ugandan troops in the Central African Republic last December, he was demobilized. He received an amnesty certificate and a reinsertion package of 263,000 shillings (\$120), along with a mattress, blanket, hoe, basin, jerrycan, cups, plates and five kilograms of maize and bean seeds. But almost a year on, his package is proving insufficient to sustain a living. He resides in a slum on the outskirts of Gulu town, doing odd jobs. "We are struggling to fend for ourselves and families with no proper means. We were just reinserted into the community without any basic trainings and funds to start income-generating activities," Akena told IJT.

According to figures recently announced by Uganda's Amnesty Commission, which runs the official reintegration programme, just 7,170 out of 26,932 ex-combatants from 29 armed groups and tribal attackers who renounced their former alliances have been reintegrated in their communities.

The programme, launched in July 2009, has helped some ex-combatants and victims in learning skills like carpentry, bricklaying, motor vehicle and bicycle repair, hairdressing, tailoring, metalwork, planting trees and entrepreneurship, as well as providing them psychosocial and financial support and seeds and seedlings.

"A lot of the ex-combatants are very frustrated with their reintegration process," says Stephen Oola, a transitional justice and governance expert at Makerere University's Refugee Law Project, because they've missed out. "Many have simply been reinserted into the poor communities without alternative livelihoods or skills sets. Psychologically, their minds are still at war and many continue to suffer various forms of PTSD," he told IJT.

Underfunding

The Amnesty Commission cites underfunding. "We are constrained. One of the bottlenecks to the reintegration programme is lack of financial resources," Moses Draku, the commission's principal public relations officer, told IJT. He dismissed the 1.8 billion shillings that the Ugandan finance minister allocated to the commission in her 2013-2014 national budget as "a drop in the ocean". According to Draku, "The commission needs about 16 billion shillings to effectively reintegrate the

remaining [ex-combatants]."

In an interview with IJT, Uganda's minister in charge of political mobilization, Richard Two-dong, said: "The government is aware of the challenges faced by ex-combatants and trying to address them. However, we are currently constrained with the limited resources."

Still, critics charge that not enough is being done. "These people [ex-combatants] have been neglected, abandoned and marginalized. The government hasn't provided them with livelihood programmes to cope up after the bush life," said MP Lilly Adong. She thinks current policies focus on state authority and reconstruction, but "emphasis should be put on social economic transformation, empowerment, peace-building and reconciliation, so that these people can't easily think of re-offending and going back to commit rebellion".

Over half the programme's beneficiaries are from the LRA, the rebel group led by Joseph Kony, indicted for war crimes by the International Criminal Court and still at large. But the former rebels' presence in Acholi sub-region, the epicentre of the two-decade insurgency, is increasingly seen as impeding local recovery and sustainable peace-building and heightening insecurity. Police report of individuals turning to crime to make ends meet. "Some of the former combatants are involved in criminal activities, land wrangles and violence in the region," said Jimmy Patrick Okema of the Acholi regional police.

Problem runs deeper

Makerere University's Oola believes the problem runs deeper. "A combination of factors accounts for the failure of the reintegration in northern Uganda: the failure of the Juba peace process to completely end the LRA rebellion, lack of sufficient resources, improper planning, mistrust of the government by the combatants and uncoordinated strategies," he said.

Kampala human rights lawyer Nicholas Opiyo is sceptical. "From the very start, the government of Uganda viewed amnesty as an end in itself," he said. "The government has never been committed to full reintegration of former combatants. It has focused more on reintegrating the displaced communities over and above ex-combatants."

Meanwhile, Akena, the ex-LRA soldier living in a Gulu slum, said that since surrendering, he feels stigmatized. "The community members use rude language and call us all sorts of names. They still see us as rebels, killers, looters and abductors who tortured and tormented them."