

XXXII

TECMUN

International Criminal
Court

Outline of the International Criminal Court

The International Criminal Court - hereinafter referred to as ICC - is a permanent institution created to substitute the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda, both created by the Security Council. The ICC was created under the Statute of Rome established in 1998, voted and adopted by 120 states, with the objective of conducting fair trials against individuals accused of committing crimes against humanity, war crimes, the crime of genocide and crimes against the administration of justice. The ICC is not a substitute for National Courts and may only intervene when a State is unable to proceed with the investigation. The ICC may conduct all crimes presented to it under the Statute of Rome committed after the 1st of July, 2002. Date when the Statute of Rome entered into force.

Topic A

The prosecution of Bosco Ntaganda for crimes against humanity and war crimes committed in the Democratic Republic of Congo's Ituri region

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Outline

Between 6 August 2002 and on to 27 May 2003, in the Ituri Province of the Democratic Republic of the Congo, there was a widespread and systematic attack against the civilian population pursuant to an organisational policy adopted by the Union des Patriotes Congolais/Forces Patriotiques pour la Libération du Congo (hereby referred as UPC/FPLC) to attack civilians perceived to be non-Hema¹, referring to those not belonging to the ethnic group Hema, such as Lendu, Bira and Nande people, belonging to their respective ethnic communities based on the Ituri district in the orientale province of the Democratic Republic of Congo, hence sharing living place.

The Ituri district is known to be rich in gold mines, hence stimulating the economical interest for different organizations that supported the conflict and the continuous assaults on civilian population creating a continuous state of insecurity and illegitimate war.

The conflict was stimulated in part out of the interest various parties had over the riches that the gold mines in the Ituri district presumed, for lucrative purposes and other forms of exploitation of other natural resources located in the region.

The conflict began within civilians of the ethnic groups, when tensions were formed over defining who the righteous owners of the land they shared should be. Even though relationships among aforementioned groups were amicable, once the Belgian colonials took the Hema only as allies, conflict grew when Lendu, Bira and Nande people were relegated. The power the Hema people already had over the rest of the minorities only grew, and caused discrepancies.

Said conflict was originally only about land and strive for equality among ethnic groups, but the valuable natural resources located there brought along outer parties, also interested in seizing the vast quantity of gold, diamonds, coltan, timber and coffee.

Hema landowners called upon Ugandan army to help them in the protection of their land. In 1998, they officially entered the Ituri district, claiming to be working in the ensurance of safety, but soon after began only controlling the the region with the support of Hema people.

Brief introduction to the case

¹ Hema: Indigenous ethnic group based on the Orientale Province of the Democratic Republic of Congo.

Bosco Ntaganda is an ethnic Tutsi², born in Rwanda on the year 1973. He fled the country in the 90's in an attempt to escape the violence directed toward the Tutsi ethnic group. Starting the year 1990, Ntaganda formed part of various rebel leader armed groups before joining the UPC in 2002 under the lead of Thomas Lubanga.

From 2002 to 2005 as chief of military operations, the forces under Ntaganda's command were involved in various accusations of human rights abuses, including the massacres, torture, rape and other violent acts against civilian population.

In 2006, the International Criminal Court issued an arrest warrant against Bosco Ntaganda, accused of 13 counts of crimes against humanity and 5 counts of war crimes for the perpetrations committed in the Ituri region in the years 2002 to 2003. From the time an arrest warrant was issued, to 2013 when Ntaganda turned himself in, he continued to lead troops into committing grave abuses. He turned himself in at the United States embassy of Rwanda and requested transfer to the International Criminal Court's custody. The accused pleads innocent to the 17 charges of crimes against humanity and crimes of war.

Democratic Republic of Congo situation

In a similar manner to other African nations the Democratic Republic of Congo (hereby referred as DRC) has been involved in turmoil for most of the twentieth and twenty-first centuries, in this particular case them being deeply rooted in its independence from the Kingdom of Belgium in 1960. Upon achieving independence, the country became the Republic of the Congo, led by Prime Minister Patrice Lumumba, who only weeks after starting his government was dismissed, marking the beginning of instability between more short-term governors until Mobutu Sese Seko took advantage of the political volatility took control of 1965 and renamed the country "Zaire". He became a dictator for 30 years, with kleptocracy as a main practice. His government was highly backed up by the United States during the Cold War, but as the end of it came so did that support. The last days of his regime were related to the aftermath the Rwandan Genocide, where around 800,000 Tutsis and Hutu civilians were slaughtered by Hutu³ extremists. Rwandan and Ugandan forces invaded Zaire, arguing to be fighting off Hutu rebels, but wended up overthrowing Mobutu's regime, led by Laurent-

² Tutsi: Also denominated Batusi, Tussi, Watusi or Watutsi. Ethnic group constituting 9% of the population in Rwanda and 14% in Burundi.

³ Hutu: Also called Bahutu or Wahutu. Bantu-speaking ethnic group based on Rwanda and Burundi, who make up the vast majority of the population of said countries.

Désiré Kabila. He was then installed as president, and renamed the country to the one it holds nowadays.

Another problem the country has faced include the named African World War (Second Congo War), which took place from August 1998 to July 2003. This war is considered to be the deadliest war in Africa's history, leaving 5.4 million deaths and including over 20 armed groups and nine african countries. One recalled cause was the new independence policy Kabila, according to which some of the benefits granted to Rwanda and Uganda would be lessened. This sparked a new rebellion that had two sides: Rwandan, Ugandan, and Burundian forces, against those of Chad, Namibia and Zimbabwe, who supported Kabila's mandate. He also called for the help of Hutu extremists, marking the beginning of the war.

Notwithstanding a peace agreement was signed in 2002, bellicosity has not ceased. This war lead to other conflicts within the country, such as the Kivu conflict and the forgather of armed groups such as the Union des Patriotes Congolais, related to the Ituri conflict.

The Democratic Republic of Congo ratified the Rome Statute of the International Criminal Court on April 2002. According to said Statute, the Prosecution only has jurisdiction against crimes committed on and after the year 2002, meaning those tried by the ICC may only be accused by acts taken place from that year on, despite having evidence for those committed priorly.

Union des Patriotes Congolais/Forces Patriotiques pour la Libération du Congo

The Union of Congolese Patriots (hereby referred UPC) is an armed group based on the main town of the Ituri province, Bunia, dedicated to promoting the ideals and interest of the ethnic group Hema. The Patriotic Forces for the Liberation of Congo (hereby referred FPLC) is the military wing of the UPC. Lubanga was also recognized as their leader, Ntaganda being their deputy chief.

This armed group was founded by Thomas Lubanga in 2001, and began gaining importance a year later. Causes of the formation of this rebel group include the split of Lubanga from Congolese Rally for Democracy-Liberation Movement (hereby referred RCD-ML).

In 2003, the UPC split into two factions, the UPC-K and the UPC-L led by Kisembo Bahemuka and Thomas Lubanga, respectively. Militarily speaking, the UPC-L was stronger than the UPC-K.

In 2006, Lubanga was arrested under an International Criminal Court's arrest warrant, and Bosco Ntaganda assumed the leadership of the rebel group during his absence, as well as becoming the commander of the military wing of it.

Ntaganda faced multiple allegations of human rights abuses carried out by his troops in the Ituri province, but nevertheless was offered a position as general in the Forces Armées de la République Démocratique du Congo (hereby referred as FARDC.)

International Criminal Court on the Case

On November, 2003 the Chief Prosecutor, Luis Moreno Ocampo, received a letter signed by Joseph Kabila, president of the Democratic Republic of Congo, in which the government welcomed the International Criminal Court involvement. And afterwards on 19 April, 2004 the DRC referred the issues of the country to the ICC. The government asked the Prosecutor to investigate the situation in order to determine which individuals were blameworthy, as well, DRC's government accepted to collaborate straightly with the Court.

On July, 2003 the Office of the Prosecutor started to investigate the allegedly committed crimes in the DRC since 1 of July 2002 with an special focus on Ituri⁴ Province. And in September, 2004 the Prosecutor requested permission to the Pre-Trial Chamber to start an investigation, then subsequently in 12 January 2006, the Office of the Prosecutor submitted an application to the Pre-Trial Judges in order to request a warrant of arrest for Bosco Ntaganda, finally in 22 March 2013 the suspect voluntarily surrendered to International Criminal Court.

The Chamber found that there was a widespread and systematic attacks against the civilian population pursuant to an organisational policy adopted by the Union des Patriotes Congolais/Forces Patriotiques pour la Libération du Congo (hereby referred as UPC/FPLC) to attack civilians perceived to be non-Hema.

The attack took place between on or about 6 August 2002 and on or about 27 May 2003, in Ituri Province, DRC. In addition, the Chamber found that a non-international armed conflict between the UPC/FPLC and other organized armed groups took place between on or about 6 August 2002 and on or about 31 December 2003 in Ituri Province, DRC.

As part of the widespread and systematic attack against the non-Hema civilian population and in the context of the non-international armed conflict, the crimes with which

⁴ Ituri is one of the 26 provinces of the DRC, it is situated on the northern region of the country.

Bosco Ntaganda is charged were committed during two specific attacks, in addition to war crimes committed by the UPC/FPLC throughout the conflict.

Currently Accused

- *Bosco Ntaganda*

Bosco Ntaganda was born in 1973 in Kiningi. At an early age he had to escape to the Democratic Republic of Congo because of the attacks to his ethnicity, the Tutsis. At the age of 17, he joined Rwandan rebels against genocide. Since then he has been fighting with rebel groups until he took the lead in the National Congress for the Defence of the People. Bosco Ntaganda was Part of Rwandan Patriotic Army in the early 1990's. Later he joined The Patriotic Forces for the Liberation of Congo, the military wing of the Union of Congolese Patriots (UPC) and became its chief of military operations. Ntaganda is alleged Deputy Chief of Staff and commander of operations of the Forces Patriotiques pour la Libération du Congo (FPLC).

Bosco Ntaganda bears 13 counts of war crimes which include: murder and attempted murder; attacking civilians; rape; sexual slavery of civilians; pillaging; displacement of civilians; attacking protected objects ; destroying the enemy's property; and rape, sexual slavery, enlistment and conscription of child soldiers under the age of fifteen years and using them to participate actively in hostilities. And 5 counts of crimes against humanity: murder and attempted murder; rape; sexual slavery; persecution; forcible transfer of population. Also the Chamber found out that there was substantial evidence to believe that Ntaganda is criminally responsible for the crimes to be mentioned; direct perpetration, indirect co-perpetrations; ordering, inducing⁶; any other contribution to the commission or attempted commission of crimes⁷; or as a military commander for crimes committed by his subordinates⁸.

Over two-thousand one-hundred forty-nine victims of the attacks have agreed and been granted the right to participate in Mr. Ntaganda trial, they are going to be legally represented by Sarah Pellet and Dmytro Suprun. The Office of the Prosecutor is conformed by Fatou Bensouda (Prosecutor) James Stewart (Deputy Prosecutor), the Defense Counsel for Bosco

⁵ Established in Article 25, (3), (a) of the Rome Statute.

⁶ Established in Article 25, (3), (a) of the Rome Statute.

⁷ Established in Article 25, (3), (d) of the Rome Statute.

⁸ Established in Article 28, (a) of the Rome Statute.

Ntaganda is conformed by Stéphane Bourgon and Luc Boutin. And the Trial Chamber IV is formed by Judge Robert Fremr (Presiding Judge), Judge Kuniko Ozaki and Judge Chang-ho Chung.

Crimes submitted

- *War crimes*
 - Murder - Article 8 (2) (c) (i)-1
 - Attacking civilians - Article 8 (2) (e) (i)
 - Rape - Article 8 (2) (e) (vi)
 - Sexual slavery - Article 8 (2) (e) (vi)
 - Pillaging - Article 8 (2) (e) (v)
 - Displacement of civilians - Article 8 (2) (e) (viii)
 - Attacking protected objects - Article 8 (2) (e) (iv)
 - Destroying enemy's property - Article 8 (2) (e) (xii)
 - Child soldiering - Article 8 (2) (b) (xxiii)

- *Crimes against humanity*
 - Murder - Article 7 (1) (a)
 - Rape - Article 7 (1) (g)
 - Sexual slavery - Article 7 (1) (g)
 - Persecution - Article 7 (1) (h)
 - Forcible transfer of population - Article 7 (1) (d)

Conclusion

More than 5,000 people have been massacred in the Ituri territory between 2002 and 2003, according to reports from the United Nations reports. This war that is not recognized by the Democratic Republic of Congo nor the Ituri population has been strategically blocked by media so the main interest, that would be economic enrichment, is avoided by the international community. Despite the efforts to hide this operations the truth is now undeniable. This war fought over resources and riches has caused nothing but suffering to the Democratic Republic of Congo population including the consequences for a war they are not fighting such as

diseases, malnutrition, and forced displacement in the name of either political interests or economic interests.

Such conflict has been under examination by different non-state organizations and the DCR government. The DCR government has proven to be unable to give its population their proper human rights and in the necessity of external aid and under the pressure of the different non-state organizations that have taken interest in the conflict is that the government recognized the instability and its own failure to secure the title of “state” becoming a fragile state in desperate need for the proper international authorizations to aid them in the conflict.

It’s uncanny for any government with the aspiration to achieve legitimacy or sovereignty for it to allow War crimes and Crimes against humanity to occur in its territory regardless if the state is under a state of warfare, the government must look for its people well being and for the safe keeping of the human rights.

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Glossary

A

Aftermath: Something that results or follows from an event, especially one of a disastrous nature.

Alleged: Declared or stated to be as described.

B

Bellicose: inclined or eager to fight; aggressively hostile.

Blameworthy: Deserving blame.

D

Discrepancy: state or quality of being discrepant, or in disagreement; inconsistency.

F

Faction: a group within a larger group, party, government, organization or the like.

Forgather: to gather together; convene; assemble.

I

Illegitimate: not legitimate; unlawful.

N

Notwithstanding: in spite of; without being opposed or prevented by.

P

Plead: to put forward an answer on the part of a defendant to a legal declaration or charge.

R

Ratify: to confirm by expressing consent, approval, or formal sanction.

Relegate: to send or consign to an inferior position, place or condition.

Righteous: morally right or justifiable.

S

Seize: to take possessions of by force or at will.

T

Turmoil: state of great commotion, confusion or disturbance.

W

Widespread: distributed over a wide region, or occurring in many places or among many persons or individuals.

U

Uncanny: having an inexplicable basis.

V

Volatility: state of having a tendency or threat to break out into open violence.

Topic B

The prosecution of Saif Al-Islam Gaddafi for crimes against humanity committed during the Libyan Civil War (2011)

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Outline

In January, 2011 protests against the dictatorship of Muammar Gaddafi began. The event that started the revolts was the arrest of Fathi Terbil, a human rights activist, on defence lawyer for political prisoners and coordinator of an independent organisation in Libya of families of victims of the Abu Salim prison massacre February 15, 2011 . However, there are several factors that influenced the uprising of unconformity that led to the war such as the political corruption inside the government, the revolts that had been uprising across the Middle East, the 42-year regime of Muammar Gaddafi, among others. The onset of the protests took place in Benghazi, where the government responded with violence. Most of the civilians were arrested, tortured and executed. On March of the same year an investigation opened in the International Criminal Court, focussing on three suspects. The charges against two of them were withdrawn due to different causes.

The International Criminal Court is taking care of the case that is left. This one belongs to Saif Al-Islam Gaddafi, the third suspect. A warrant of arrest has already been issued the 27 June 2011. He is not under the International Criminal Court's custody. He is accused of indirect co-perpetration of crimes against humanity such as killing, imprisoning, injuring and arresting any civilian population taking part in any demonstrations against Gaddafi's regime, from 15 until at least 28 February 2011, through the State apparatus and Security Forces. These crimes against humanity were committed throughout the country of Libya, more specifically in Tripoli, Benghazi, and Misrata. He is also accused of making an essential contribution to a plan made by Muammar Gaddafi and his inner circle that consisted in deter and quelling by all means any demonstrations against the regime. Besides, he exercised control over crucial parts of the State apparatus, including finances and logistics. This case remains in Pre-Trial stage awaiting Saif Al-Islam Gaddafi's transfer to the seat of the Court in The Hague.

Libyan Arab Jamahiriya, Libya under Gaddafi's government

On 1st September 1969 the "Free Officers Movement" -hereby referred as FOM-, a group of about seventy young army officers, seized control of the government throughout a coup d'état against King Idris I and the monarchy. The coup was launched at Benghazi, but within a couple of days they firmly established military control in Tripoli (Tripoli is the capital of Libya) and finally elsewhere in the country.

The FOM formed a directorate, called the Revolutionary Command Council -hereby referred as RCC-, the body, led by Muammar Gaddafi, constituted the libyan government they declared the country to be “*a free and sovereign state called the Libyan Arab Republic, which would proceed in the path of freedom, unity, and social justice, guaranteeing the right of equality to its citizens, and opening before them the doors of honorable work*” (Revolutionary Command Council, 1969). Even though, Gaddafi was the chairman of the RCC, Major Abdel Salam Jalloud in 1972 replaced Gaddafi as prime minister, but Gaddafi retained the positions of commander in chief of the armed forces, and president of the mass political organization, and he personally administered the oath of office to Jalloud.

The assumption of Jalloud to the charge of prime minister, let Gaddafi work on his project for the new Libyan Republic which he embodied in the Green Book, his ideals were swayed by Arab Nationalist, Pan-Africanist theories and Socialist principles.

The government of Gaddafi implemented literacy programs, free education for all levels, national health care, free water and electricity programs, which gave him support among the country's population. The income per capita raised to eleven thousand dollars, which made it the fifth highest in Africa.

Gaddafi followed the steps of Egypt's governmental system, by creating the Arab Socialist Union and banning all the other political parties. The state took over the press, agriculture, transportation, housing and all trade unions, this involved nationalizing erstwhile foreign-owned or managed petroleum companies. This did little to endear the new Libyan regime to the United States of America and the North Atlantic Treaty Organization -hereby referred as NATO-, or to Libyan elites.

During the 1970's Gaddafi commence invasions to Chad and Uganda and openly supported movements such as the Palestine Liberation Organisation and Irish Republican Army, which is why Gaddafi was suspected to aid terrorist acts. All of these had a great impact in Libya's foreign relation with several countries including most NATO state members as a consequence of this in 1986 the United States of America bombed the libyan territory.

The opposition to the Gaddafi's regime was not surprising since he implemented radical changes to policies, the wealthy, the privileged and foreign companies resented their postrevolutionary loss of power. Later, university students, polymaths, teachers and civilians

joined to the opposition; however, the Gaddafi's government viewed these groups as a threat to national unity.

Anti-Gaddafi movement

The Anti-Gaddafi movement comprehends the totality of the protests carried out during the Muammar Gaddafi's 42 years dictatorship.

Throughout Gaddafi's regimentation, Benghazi was the location to multiple dissents and attempts of insurrection. The most recent (prior to the 2011 revolt) was series of popular manifestations in 2009, in memorial of the Abu Salim Prison conflagration (1996) in which about one thousand two hundred seventy prisoners passed away.

Two years later, in early January 2011 protests were carried out mainly in the cities of Benghazi, Derna and Bayda the manifestants broke into government property and protested against local governments claiming for political and economical reforms, these protests were convened by the National Front for the Salvation of Libya⁹ throughout Internet under the motto "17 February Revolution, Day of Rage in Libya", notwithstanding, the spark that fired up the Civil War was the arrest of Fathi Terbil on 15th February 2011.

Subsequently, protests began to grow, the Anti-Gaddafi forces were primarily composed of civilians, to which some police officers and professional soldiers adhered, as well as, international organizations such as the NATO, among others, and on the other hand, Pro-Gaddafi forces were composed by the state military forces. Media reported that the confrontations left up to 40 lifeless daily. In mid February 2011 the Anti-Gaddafi forces formed a council named the National Transitional Council which later became the

Libya Second Civil War, the prevailing situation

Muammar al-Gaddafi was born in 1942. He joined the military and ruled an authoritarian dictatorship in 1969. Even though his socialist-style policies gave him support the first years of his dictatorship, the corruption, the military attacks in Africa against civilian population and protestors, and a record of human rights abuses made the Libyan population turn against him.

⁹ The NFSL (by its acronym in english) is an insurgence group against Gaddafi's government.

His government corruption was based on giving the most powerful political positions only to members of his family and friends (all in order to maintain the dictatorship). Which were the ones who received amazing amounts of the Libyan fortune meanwhile most of the civilians were living in poverty and in degrading conditions. His international image was not good either. He was implicated in many anti-Western groups and was linked to many terrorist groups, like the Irish ones. That is why England cut off the diplomatic relations with Libya for more than a decade.

“In January 2011, the Tunisian revolution forced out longtime dictator Zine al-Abidine Ben Ali and set off the Arab Spring. The next month, Egyptian ruler Hosni Mubarak was forced out, providing a morale boost to protesters in several Arab capitals. Despite the atmosphere of severe repression, demonstrations broke out in the city of Benghazi and spread throughout Libya. Gaddafi used aggressive force to try to suppress the protests, and the violence quickly escalated.” Biography.com Editors (2014).

Since February 15, 2011 Libya has been in a state of civil war between the anti-Gaddafi forces, which later on would form the National Transitional Council, seeking to overthrow the dictator Muammar Gaddafi, the governmental forces, and the regime; having as main objective to recover the control of Libya. The battle centered in gaining the control of the capital, Tripoli. Before becoming a civil war, the situation in Libya wasn't violent at all. However there was considerable tension between the citizens and the government. This tension ignited the spark in the people to start the protests. The conflict became a full-scale-war when the rebels began a protest and it was quelled by the government using lethal force.

Since this event, the tension between the anti-Gaddafi forces and the government forces increased greatly as well as the crimes against humanity committed by the government forces while deterring and quelling by all means the rebel protests that took place in different parts of the country like Benghazi and Al-Bayda. Indiscriminate attack to people, airstrikes directly targeting civilians, ill-treating, killing, and enforced disappearances are some of the crimes that have been committed by the government forces. The main perpetrators of these crimes are the dictator Muammar Gaddafi, his second son and successor Saif Al-Islam Gaddafi and the intelligence chief Abdullah Al-Senussi.

International Criminal Court on the case

Even though Libya is not a State Party to the Rome Statute, it has some cases which involve crimes against humanity that are in the scope of the International Criminal Court. The case of Libya was given unanimously by the United Nations Security Council on February 15, 2011. Due to the fact that “The UN Security Council's power to refer potential prosecutions to the International Criminal Court in situations outside the Court's treaty-based territorial and nationality jurisdiction helps deter the perpetration of genocide, war crimes and crimes against humanity everywhere in the world” (Moss, 2012) the ICC can have jurisdiction over Libya. Since there are crimes against humanity, it is an UNSC referral, and based in the Rome Statute of the International Criminal Court¹⁰; the International Criminal Court may exercise its jurisdiction over the territory. This states that the country involved in the UNSC referral, in this case Libya, is duty-bound to abide any arrest warrant, summons to appear, or any other matter requested by the ICC to ease the process of the trial or investigation.

“The Libyan authorities shall cooperate fully with and provide any necessary assistance to the Court and the Prosecutor pursuant to this resolution and, while recognizing that States not party to the Rome Statute have no obligation under the Statute, urges all States and concerned regional and other international organizations to cooperate fully with the Court and the Prosecutor¹¹.”(United Nations Security Council [UNSC] 2011).

Arrest warrants

The Office of the Prosecutor has requested three different warrants of arrest. The first one requested was for Abdullah Al-Senussi, who was Libya's Military intelligence chief. He is accused of committing the crimes against humanity of murder and persecution, that took place in Benghazi. He is mainly arraigned for allegedly ordering a violent response against the demonstrators who gathered in front of the police headquarters to protest against the arrest of Fathi Terbil. Hundreds of people were injured, other were killed or arrested and imprisoned during this protest. The proceedings against him finished on 11 October 2013 due to the decision made by the Pre-Trial Chamber I, that stated the case was inadmissible before the Court as it was currently subject to domestic proceedings conducted by the Libyan authorities and it was decided that Libya was completely capable of taking care of this case. The Appeals Chamber unanimously confirmed the decision made by the Pre-Trial Chamber on 24 July 2014.

¹⁰ Established in Article 1 of the Rome Statute.

¹¹ Stressed in the Security Council Resolution 1970(2011) Paragraph 5

The second warrant of arrest was for Muammar Gaddafi, who was the dictator of Libya for more than forty years. He is accused of hiring mercenaries and releasing dozens of prisoners to supplement his security forces to quell, by any means, the demonstrations against his regime. He also threatened to hunt down and capture the protesters. These actions are considered as crimes against humanity by the Rome Statute of the International Criminal Court. The proceedings against him ended on 22 November 2011 due to his death.

Finally, the third warrant of arrest was for Saif Al-Islam Gaddafi issued on 27 June 2011, who was Libyan *de facto* Prime Minister and the successor of Muammar Gaddafi. He is accused of the co-perpetration of crimes against humanity such as murder, imprisonment and persecution. He was a crucial part in Muammar Gaddafi's inner circle and took part in a plan that implied deterring and quelling by any means the protests of the people. This case remains in Pre-Trial stage and waiting for the suspect to be under the ICC custody for the trial to begin.

Currently accused

Saif Al-Islam Gaddafi

Currently the only suspect in this case is Saif Al-Islam Gaddafi, who is the second son of Muammar Gaddafi and Safia Farkash. He was president of the Gaddafi foundation for the development and direct a reformist current. Saif Al-Islam was also the next successor of Libya's government. Countries like United States and France were excited about his rise to power for he presented the same ideals as his father and some other that would prove to be of benefit to the two nations that encouraged him. He spoke as a representative of his father in some official events. He was an influential member of the inner circle of Muammar Gaddafi as well as the *de facto* Prime Minister. Although he did not have any official position in the Libyan government, he was seen as the second most influential person in the country after his father. Before the Libyan civil war, Saif Al-Islam Gaddafi was seen as the reformist face of the Libyan government. He also played a key role in Libya's rapprochement with the West between 2000 and 2011. Besides, he was involved in the negotiations that led his father to abandon programs to develop nuclear weapons of mass destruction. Furthermore, he compensated the families of those killed in the 1986 Berlin nightclub attack, the 1988 Lockerbie bombing, and the 1989 downing of UTA flight 772. He also played a key role in the HIV trial denying on television that Libya tortured the suspected criminals of this case in order to get the confessions that confirmed that some of the children that were involved had been infected with HIV. He also introduced the Isratine proposal to resolve the Israeli-palestinian conflict through making a

one-state solution “that would allow the people in each party to feel that they live in all of the disputed land and they are not deprived of any one part of it.” (Gaddafi, 2009)

He is accused of indirect co-perpetration of crimes against humanity during the Libyan civil war of 2011 such as injuring, arresting, killing and imprisoning civilians taking part in any demonstration against Gaddafi’s regime. There are also grounds to believe that he was an essential part of a plan being made by him and Muammar Gaddafi that consisted in deter and quell by all means any civilian demonstrations against the regime.

Crimes submitted

The accused, Saif Al-Islam Gaddafi is suspected of being criminally responsible as indirect co-perpetrator of two counts of crimes against humanity committed during the Libyan Civil War between 15 and 28 February 2011. All the crimes revised on the Elements of Crime.

Crimes against humanity

- Murder, within the meaning of article 7(1)(a) of the Rome Statute
- Persecution, within the meaning of article 7(1)(h) of the Rome Statute.

Conclusion

During the Gaddafi family regime the constant abuse of power was a constant that the civilian population had to put up with. Not only did the civilian population was unable to stand up to their government but whenever they tried to raise a complaint they were silenced by military force. The constant abuse of power drove the population to a breaking point that escalated to a civil war. Saif Al-Islam Gaddafi is the currently accused for the crimes committed by his family’s regime, such crimes and inhumane acts are persecution, murder, imprisonment, torture and use of force against civilian population that dared to rise against the regime.

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Glossary

A

Airstrike: bombing or strafing of a city, enemy force, etc., by military aircraft.

Abide: To remain; continue; stay.

Arraign: To call or bring before a court to answer to an indictment.

D

Deter: Discourage or restrain from acting or proceeding.

De facto: in fact; in reality.

E

Enforced disappearances: Situation where a person is taken by alleged authorities with no arrest warrants, using violence in the process, and is not liberated or seen again.

I

Ill-treating: Maltreat; abuse.

Implicate: Show to be also involved, usually in an incriminating manner.

Incite: To stir, encourage, or urge on; stimulate or prompt to action.

Inflict: To impose as something that must be borne or suffered.

J

Jurisdiction: the right, power or authority to administer justice by hearing and determining controversies.

O

Onset: The beginning or start.

Overthrow: To depose, as from a position of power; overcome, defeat or vanquish.

P

Perpetration: To commit.

Persecution: The act or state of being persecuted.

Pursuant: Proceeding after; following.

Q

Quell: To suppress; put an end to; extinguish.

R

Revolt: to break away from or rise against constituted authority, as by open rebellion cast off allegiance or subjection to those in authority rebel; mutiny.

S

State Party to the Rome Statute: Condition where a country is adhered, and has ratified or acceded to the International Criminal Court's Rome Statute and is therefore legally bound to its provisions.

Summons: A call or citation by authority to appear before a court or judicial officer.

W

Withdraw: To retract or recall.