

13 September 2006

Groups Gather Evidence of Possible Israeli War Crimes in Lebanon

By Mike Corder
Associated Press Writer

THE HAGUE, Netherlands — Israel's war with Hezbollah guerrillas opened the door to accusations on both sides of war crimes. But can anyone be prosecuted?

Israeli aircraft and artillery killed more than 850 Lebanese during the 34-day conflict, most of them civilians, and left a moonscape of ruin. Hezbollah pummeled northern Israel with thousands of rockets that killed 39 civilians among the total Israeli war dead of 159.

Now human rights groups in Lebanon are collecting evidence that could be used in cases filed under a legal principle known as universal jurisdiction, which says that war crimes are so serious they can be prosecuted anywhere—not just where they were committed.

Rights groups and the U.N. condemned Israel's overwhelming use of force in the aftermath of a cross-border raid July 12 in which Hezbollah seized two Israeli soldiers as prisoners, saying it caused far too many civilian casualties.

The U.N. also has harshly criticized Israel's use of cluster bombs in the last days of the conflict. The world body's humanitarian chief Jan Egeland last month called the cluster bomb attacks "completely immoral."

At the request of Islamic nations, the United Nations Human Rights Council in August established a commission of experts to investigate alleged Israeli war Crimes—a move that was denounced by human rights groups and voted against by European nations, Japan and Canada because it failed to set up a similar probe into Hezbollah's deadly hail of rockets.

However, the council has no power to punish countries. And despite the international investigation, prosecution by the International Criminal Court in The Hague is considered unlikely because neither Israel nor Lebanon accepts its jurisdiction.

Israeli officials, including former Prime Minister Ariel Sharon, have faced prosecution under universal jurisdiction. While it remains unclear if or when cases could be filed in the Lebanon conflict, the Foreign Ministry already has lawyers preparing to defend government officials or military officers, should they be indicted again.

Hezbollah also is open to war crimes allegations for deliberately targeting Israeli civilians with their rocket barrages, but no one is known to be preparing a dossier to prosecute leaders of the Shiite militia. Israelis also are more likely to be caught in other countries where they could be tried because they travel overseas far more than Hezbollah representatives.

Israeli Foreign Ministry spokesman Mark Regev accused groups of "trying to exploit the legal system in some countries for an anti-Israel agenda."

He confirmed that Israel has a team working on how to deal with the possibility of overseas prosecutions.

"It is unfortunately an ongoing problem," he said. "We spoke to several governments in Europe. We see this as a cynical exploitation of the legal system and we hear from many governments that they agree with our assessment."

Kate Maynard, of the London law firm Hickman and Rose which has in the past represented Palestinians in cases against Israel, said groups already are compiling evidence in Lebanon of alleged Israeli war crimes because it is the only way such offenses will be prosecuted.

"There is impunity in Israel," she said. "The only place they will be tried is outside Israel."

She declined to give any details of the groups or the cases they were working on and would not say if her firm was involved.

"It is not going to be quick," she said. "Any credible legal work is going to have to be put together slowly and carefully."

The most likely course of action for groups seeking to have people prosecuted is for them to gather evidence and prepare it in a dossier that could then be translated and tailored for several different countries' legal systems, experts say.

That way, if a military officer or government official were found traveling overseas, the groups could rush the dossier to local prosecutors and urge them to file charges.

"You have to get somebody while they are traveling or rely on (the) complicated and difficult ... process of extradition," Maynard said.

Since 2000, several European countries including Britain and Belgium have given war crimes cases "momentum across the continent," Human Rights Watch said in a recent report on universal jurisdiction.

Last year, Doron Almog, a retired Israeli general, refused to get off a plane in London after he was tipped off he was about to be arrested by British authorities over a 2002 air strike that killed a Hamas leader and 14 others, nine of them children. He flew straight home.

In 2001, then-Prime Minister Ariel Sharon faced a lawsuit in Belgium over his alleged role in a 1982 massacre in the Sabra and Shatila refugee camps in Beirut. He was not convicted.

As well as the hurdle of getting Israeli suspects in custody, Prof. Terry Gill, an international law expert at Utrecht University, said there likely would be a lack of political will among European countries to launch prosecutions as they begin sending troops to bolster the U.N. peacekeeping force in Lebanon, UNIFIL.

"The success of UNIFIL depends on a number of things, including cooperation from the Israeli army," he said.

Copyright 2006
The Associated Press