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Kosovo (Serbia): Lessons to be learned

As the European Union (EU) prepares to make a decision over its responsibilities with regard to Kosovo, Amnesty International warns that war crimes and crimes against humanity from the conflict in the late 1990s must not be left unpunished.

The organization calls on the international and Kosovo authorities to conclude and make public the results of a review of the work of the international and local judiciary in bringing those responsible for war crimes, crimes against humanity and inter-ethnic crimes to justice and to make public all judgments and court documents concerning such crimes.

"Hundreds of cases of war crimes, crimes against humanity (including rapes and enforced disappearances), as well as other inter-ethnic crimes remain unresolved seven years after the UN began its efforts to rebuild the Kosovo judicial system. Hundreds of cases have been closed, for want of evidence that was neither promptly nor effectively gathered. Relatives of missing people report that they have been interviewed too many times by international police and prosecutors new to their case, yet no progress is ever made," said Sian Jones, Amnesty International's researcher on Kosovo.

Amnesty International delegates visited Kosovo in between November and December 2007 and talked with members of the EU Planning Team, officials from the UN Interim Administration Mission in Kosovo -- including those responsible for the police and judiciary -- and with local and international non-governmental organizations monitoring the international prosecutors and judiciary. The delegates ascertained that trials continue to be delayed due to the lack of international judges and prosecutors, a massive backlog of prosecutions, and the failure to protect witnesses effectively and to provide the necessary support to victims of rape and other crimes of sexual violence which continues to prevent prosecutions coming before the courts.

After the 1999 conflict in the Kosovo province of what was then the Federal Republic of Yugoslavia, the criminal and civil justice system collapsed. Although the International Criminal Tribunal for the former Yugoslavia had jurisdiction over Kosovo, it was clear that it would only be able to try a very limited number of cases. Therefore, the UN established the International Judges and Prosecutors Programme to incorporate a limited number of foreign judges and prosecutors into the local criminal justice system.

Amnesty International's report, [*Kosovo \(Serbia\): The challenge to fix a failed UN justice mission*](#), examines and compares the performance of the programme with international law and standards concerning the right to fair trial and the rights of victims to justice and full reparations. It draws lessons to be learned when developing and implementing future initiatives, including recommending the incorporation of an international component into collapsed national judicial systems.

"Regrettably, the performance over more than seven years of the International Judges and Prosecutors Programme has failed to meet expectations. Local prosecutors and judges are still not prepared for cases involving crimes under international law. Legal reforms essential for such cases still have not been enacted into law. No date has been set for completing the rebuilding of the justice system so that it can operate without a continuing international component," said Sian Jones.

Amnesty International said that the model of internationalizing national courts by importing, on a temporary basis, experienced international staff to work alongside national staff in all parts of the collapsed or damaged national justice system is still one that could prove effective in the long-term to investigate and prosecute large numbers of crimes under international law, provide reparations to victims and re-establish the rule of law through a reconstituted judicial system.

Sadly however, the structure and operation of the International Judges and Prosecutors Programme have been so flawed from its inception that the example in Kosovo cannot serve as a model for internationalizing national judicial systems without major changes.

Amnesty International's report makes a series of comprehensive recommendations for immediately pressing essential reforms which aim to assist both the EU, in their planning to ensure international judges and prosecutors deliver the benefits they promised to bring to the Kosovo justice system, and the UN, in planning any future transitional justice assistance.

Unless these recommendations are implemented as expeditiously as possible, the prospects for a durable peace in Kosovo in which the human rights of all are fully respected will be seriously endangered.

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