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Vanuatu, Sierra Leone and Ghana: Safe havens for war crimes suspects

Legal loopholes in Vanuatu, Sierra Leone and Ghana make all three countries potential safe havens for fugitives suspected of war crime and crimes against humanity, and urgently need to be closed, Amnesty International said.

In three reports released today as part of its No Safe Haven series, Amnesty International examines in detail how these countries have potentially left their doors open to those suspected of crimes under international law.

“There is a real risk that suspected war criminals will find safe haven in these countries and escape prosecution for some of the most serious offences known to humanity,” said Christopher Keith Hall, Senior Legal Adviser for Amnesty International.

“All three countries must take immediate and concrete steps to ensure they do not unwittingly provide refuge to these suspects.”

None of the three countries have provisions in their domestic legislation to enable the authorities, using the rule of universal jurisdiction, to investigate and prosecute persons suspected of committing crimes under international law abroad.

Universal jurisdiction is an essential tool of international justice. It enables national authorities to investigate and prosecute persons suspected of committing grave crimes under international law such as genocide, crimes against humanity, war crimes, torture, enforced disappearances and extrajudicial executions.

“Under international law, every victim of these heinous crimes has the right to justice, truth and full reparation. Victims must be allowed to seek justice including in third countries where the suspects may be hiding,” said Hall.

“Vanuatu, Ghana and Sierra Leone – together with many other countries – must amend their legislation and eliminate obstacles to the exercise of universal jurisdiction.”

Under customary international law, national courts may exercise universal jurisdiction over war crimes, crimes against humanity, genocide, torture, enforced disappearance and extrajudicial executions.

Furthermore, international law requires that every victim of these crimes has the right to justice, truth and full reparation.

Vanuatu, Sierra Leone and Ghana must change their laws so that crimes under international law are defined in their national legislation in accordance with international law and standards.

Each country must also eliminate all obstacles to the exercise of universal jurisdiction.

Background

Vanuatu

Although Vanuatu's ratification of the Rome Statute of the International Criminal Court (the Rome Statute) on 2 December 2011 was a positive step, it is concerning that the country has not yet given the Rome Statute full effect in national law, including by providing universal jurisdiction over genocide, crimes against humanity and war crimes.

Vanuatu's national legislation currently provides for universal jurisdiction over war crimes in limited circumstances and an arguably restricted form of crime against humanity. The definitions of these crimes fall far short of the standard set by international law. Vanuatu's national legislation does not provide for universal jurisdiction over other crimes under international law, including genocide.

Full report on Vanuatu: <http://www.amnesty.org/en/library/info/ASA44/001/2012/en>

Sierra Leone

Although Sierra Leone has defined some crimes under international law as crimes under Sierra Leonean law – including torture, grave breaches of the Geneva Conventions, recruitment of child soldiers, slavery, use of landmines and weapons particularly hazardous to children – it has not defined these crimes in accordance with the strictest requirements of international law. In addition, Sierra Leonean law also provides only a limited form of universal jurisdiction over some crimes, while most crimes under international law including crimes against humanity, many war crimes, genocide, torture, extrajudicial executions and enforced disappearance remain outside the scope of Sierra Leonean courts.

Full report on Sierra Leone: <http://www.amnesty.org/en/library/info/AFR51/007/2012/en>

Ghana

Amnesty International particularly welcomes Ghana's decision to implement the Rome Statute. There are many positive aspects to the Draft International Criminal Court Act 2012, including provisions seeking to implement all of Ghana's complementarity and cooperation obligations under the Rome Statute. However, concerns remain regarding certain aspects of the draft act. Among other shortcomings, the draft does not make clear which law would take precedence in case of a conflict between the draft act (and other Ghanaian law) and the Rome Statute; and under the bill decisions by a political official whether to prosecute a person for a crime under international law are effectively unreviewable..

Full report on Ghana: <http://www.amnesty.org/en/library/info/AFR28/004/2012/en>

- Universal jurisdiction is the ability of domestic courts to try a person suspected of committing a crime outside their territory, regardless of the nationality of the suspect or the victim, or harm to the national interest of the state where the court is located.
- These papers are the latest in the No Safe Haven series. The papers are issued with the aim of ensuring that no safe haven exists for those responsible for the worst imaginable crimes prohibited under international law. Each paper is designed as a tool to assist countries in reforming their legislation in accordance with international law and to help lawyers and victims and their families to identify countries where people suspected of crimes under international law might be effectively prosecuted and required to provide full reparation.
- The other No Safe Haven papers examine Bulgaria, Germany, the Solomon Islands, Spain, Sweden, Venezuela and Burkina Faso. For more information on Amnesty International's Campaign for International Justice see www.demandjusticenow.org.