

Dutch Lawsuit Charges Crimes Against Humanity During Egyptian Massacres

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On July 3, 2013, the Egyptian military staged a coup d'état and deposed the democratically elected government of President Mohamed Morsi of the Muslim Brotherhood. Thousands of Egyptians staged demonstrations throughout Egypt to show support for Morsi.

One month later, the Egyptian army and police carried out several massacres in Cairo, killing hundreds of unarmed protesters. Authorities mounted a military response to largely peaceful protests by supporters of the Brotherhood against the illegitimate Egyptian government. Although aimed primarily at the Brotherhood, the crackdown included other political opposition groups and individuals.

Four Dutch citizens of Egyptian origin, who were present during three of the most brutal massacres in summer 2013, filed a petition in the Netherlands that charged Egyptian Interior Minister Mohamed Ibrahim with crimes against humanity. In September 2014, the Dutch law firm of Seebregts & Saey submitted a formal request to the Dutch prosecutor to prosecute Ibrahim. Dutch criminal courts have jurisdiction under the International Crimes Act when a Dutch national has been the victim of a crime. Due to head of state immunity, the lawsuit did not name Egyptian President Abdel Fattah el-Sisi, who ordered the Rab'a massacre when he was Defense Minister.

Human Rights Watch (HRW) undertook a one-year investigation into the conduct of security forces responding to the demonstrations. In its report titled "All According to Plan: The Rab'a Massacre and Mass Killings of Protesters in Egypt," HRW concluded, "police and army forces systematically and intentionally used excessive lethal force in their policing, resulting in killings of protesters on a scale unprecedented in Egypt." HRW also determined

"the killings not only constituted serious violations of international human rights law, but likely amounted to crimes against humanity, given both their widespread and systematic nature and the evidence suggesting the killings were part of a policy to attack unarmed persons on political grounds."

Although HRW was able to confirm that some protesters used firearms in a few instances, they did not justify "the grossly disproportionate and premeditated lethal attacks on overwhelmingly peaceful protesters."

The Rab'a Massacre

There were over 20,000 protesters in Rab'a Square. In what HRW called "the gravest incident of mass protester killings," Egyptian police, snipers and military personnel opened fire on unarmed demonstrators on August 14, 2013, "killing at least 817 and likely more than 1,000." Security forces used live ammunition "with hundreds killed by bullets to their heads, necks, and chests." Snipers fired from helicopters over Rab'a Square.

"Much of the shooting by police appears to have been indiscriminate," HRW found, "openly firing in the general direction of crowds of demonstrators instead of targeting armed protester gunmen who may have posed a serious threat."

The Rab'a mosque, which served as a refuge, particularly for women and children, "held so many corpses that it felt like it 'had turned into a cemetery,'" one protester told HRW. An 18-year-old boy came into the hospital and said his stomach hurt. A doctor noted, "I looked down and his intestines were all out. He had taken several bullets and [later] died." The doctor also reported that another person "took a bullet in the face, causing his face to open and tongue to fall out . . . He spent 40 minutes looking at me and gesturing for help, but I couldn't do anything. Surgery was not possible."

The deaths "amounted to collective punishment of the overwhelming majority of peaceful protesters," HRW concluded.

One of the petitioners, who was present at the demonstration, was not wounded but people on his left and right were being shot. He was also present when the authorities set fire to the hospital on Rab'a Square, killing about 300 patients who were not able to leave.

Republican Guard Square

On July 7, 2013, about 2,000 Brotherhood supporters began a peaceful sit-in. Shortly before dawn on July 8, police and army units opened fire, targeting those in the protest and others emerging from prayers at the mosque. Authorities killed 61 protesters with live ammunition and injured 435. Most suffered gunshots to the head, neck and chest.

One of the petitioners was hit by a bullet, but survived.

Manassa Memorial

At least 95 protesters were killed on July 27, 2013. A field hospital doctor reported, "From 2 a.m. until 8:30 a.m. it was a steady stream; the bodies kept coming. Most had gunshot wounds in the head, neck or chest. The hospital was overflowing; we were completely over capacity." Another field house doctor told HRW: "All of the dead were either dead on arrival or died immediately after they arrived, because of where they were hit; if you're hit in the head or chest, you won't last very long. The entire hospital floor was covered with injured people. It was beyond imagination."

The two petitioners who were present at this demonstration were not wounded but were in danger of being hit. Others a short distance away were hit by bullets.

Crimes Against Humanity

Dutch law provides for sentences up to life in prison for convictions of crimes against humanity. The crime is defined as intentional killing or other inhumane acts of a comparable

nature which intentionally cause severe suffering or severe physical or psychological damage, when committed as part of a widespread or systematic attack against a civilian population pursuant to State policy.

HRW found that “security forces systematically and deliberately killed largely unarmed protesters on political grounds . . . in a widespread manner, resulting in the deaths of over 1,150 protesters, in July and August of 2013.”

HRW further concluded, “[t]he manner in which security forces used force to disperse protests appears to reflect policies set by the Egyptian government.” In fact, “the government anticipated and planned for the deaths of several thousand protesters.”

The Rab’a massacre was “executed pursuant to a plan formulated by the Interior Ministry and approved by the Cabinet and National Defense Council after three weeks of preparation,” HRW determined, citing statements of Ibrahim that he anticipated the dispersal would kill large numbers of demonstrators.

Ibrahim made public statements revealing he knew beforehand that many people would die during the police and military actions to end the demonstrations. The day after the Rab’a massacre, Ibrahim said “the dispersal plan succeeded 100 percent,” indicating that it adhered to a plan that had been put in place.

In a televised interview on August 31, 2013, Ibrahim confirmed that the Interior Ministry expected losses of “10 percent of the people,” adding, “you will find thousands lost from their side.”

“Abject politicization of justice’

HRW learned that “[s]ecurity forces detained over 800 protesters on August 14, 2013, some of whom they beat, tortured and in some cases summarily executed.”

On April 11, 2015, 51 Brotherhood supporters were convicted in a mass trial, based on the testimony of a single police officer. HRW said the evidence presented at the trial demonstrated that the men were disseminating news about and organizing peaceful protests in opposition to the military coup and removal of Morsi. Fourteen of the defendants were sentenced to death and the other 37 were given life sentences. According to Joe Stork, deputy Middle East and North Africa director of HRW, “The fact that people who covered and publicized the mass killings in 2013 could go to prison for life or be executed while the killers walk free captures the abject politicization of justice in Egypt.”

Morsi was convicted of charges including incitement to violence and torture from 2012 demonstrations that resulted in the deaths of 10 people outside the presidential palace. He was sentenced to 20 years in prison.

The Dutch lawsuit

The case against Ibrahim is under consideration by the Dutch prosecutor’s office. Should the prosecutor refuse to prosecute Ibrahim, the petitioners can request that the superior court in The Hague order the prosecutor to prosecute.

There has been no legal accountability for the massacres conducted by the Egyptian military government against the largely peaceful protesters. If high government officials in Egypt are

permitted to commit crimes against humanity with impunity, it will encourage similar actions in the future – both in Egypt and elsewhere. Since there is little prospect for justice in Egypt itself, the Dutch lawsuit may be the only vehicle for accountability for these most serious crimes.

Marjorie Cohn is a professor at Thomas Jefferson School of Law and former president of the National Lawyers Guild. Her most recent book is “Drones and Targeted Killing: Legal, Moral, and Geopolitical Issues.”

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