Belgian War Crimes Law Undone by Its Global Reach

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In her last phone call from Rwanda, Claire Beckers told her sister, Martine, that thugs wielding machetes had broken into the house, stolen everything of value and warned that they would return. Claire and her family were about to set out for a U.N. peacekeepers' compound just 500 yards away. It was their only chance.

They never made it. The next day, Martine Beckers, living in Brussels, received a from friends in another part of Kigali, the Rwandan capital. Claire, her Rwandan husband, Isaie, and their 18-year-old daughter, Katia, were dead -- hacked to death by soldiers along with 10 of their neighbors, their bodies dumped in a hastily dug pit in the front garden. They were among 800,000 Rwandans, most of them ethnic Tutsis, slaughtered by Hutus in the spring of 1994.

Shaken and appalled, Martine Beckers said she did what anyone does when a crime occurs. "To me, it was obvious," she recalled. "When something happens in Belgium, you automatically go to the police."

But that simple act nine years ago set off a chain reaction that is still reverberating here. It led to an unprecedented prosecution of Rwandans in Belgium, the first ever under the country's far-reaching war crimes act. The result encouraged others to file cases here against all manner of political leaders, including Palestinian leader Yasser Arafat, Israeli Prime Minister Ariel Sharon, Cuba's Fidel Castro and former president George H.W. Bush. This led, in turn, to diplomatic crises, first with Israel and then with the United States, that have compelled a chastened Belgian government to gut its own landmark law.

The crisis formally ended Wednesday, when the Belgian Supreme Court dismissed the cases against Bush and other U.S. officials, as well as Israelis. U.S. and Israeli officials say they are satisfied. But along the way, human rights activists contend, something of value has been lost. The principle of universal jurisdiction, designed to ensure that war criminals and perpetrators of genocide have no place to hide, has been undermined, if not destroyed. And Europe, which sees itself as a champion of international law and human rights, suffered another setback in its own clash of civilizations with the United States.

"We didn't lose everything, but we lost a lot," said Alain Destexhe, a Belgian senator and an ardent supporter of the original law. "We have to live in the real world. It was an excellent law, but unfortunately it was used in a political way, and at the end of the day, we moved backward rather than forward. It's a setback."

Rwanda Was the Trigger

When it was passed unanimously by Parliament in 1993, Belgium's war crimes law seemed anything but controversial, a mere legislative implementation of the 1949 Geneva Conventions protecting civilians in time of war. Under the principle of universal jurisdiction, neither the complainants nor the accused needed to be Belgian for a case to go forward. And because Belgium follows continental European legal systems, any private person can bring a criminal complaint, which a magistrate is required to investigate and then determine whether further action is warranted.

But no one attempted to use the new law until the slaughter in Rwanda, a former Belgian colony. Then Eric Gillet, one of Belgium's most prominent human rights lawyers, decided to take up Martine Beckers's case and those of about 30 Rwandans living in Belgium. As he recalls, it was an uphill battle. No magistrate was interested in seriously pursuing the Rwanda matter. So in early 1995, he and his associates held a news conference accusing the authorities of serving effectively as accomplices to genocide. He cited Rwandan refugees who had spotted their former tormentors -- now refugees themselves -- on the streets of Brussels.

Within weeks, the Justice Ministry appointed a magistrate who cleared his calendar, gathered a team of as many as eight police investigators and went to Rwanda. It took more than six years of investigation and legal maneuvering, but in 2001, four Rwandans went on trial: two Roman Catholic nuns, accused of encouraging Hutu thugs to butcher several thousand Tutsis who had sought shelter at the nuns' convent, and a government minister and a university professor, both alleged to have incited other killers.

'So Much Worse' for Others

None of the four accused was implicated in Claire Beckers's killing. Nonetheless, Martine Beckers took leave from her job as an energy researcher for the European Commission and went to the gray marble Palace of Justice in central Brussels every day for a month to attend the trial. She says it became a kind of communal event for her and other relatives of victims. "The killing of my family was done inside a huge genocide," she said. "I lost only three people. For others, it was so much worse."

It took the jury 11 hours to find the four defendants guilty on most of the 55 counts, including murder and incitement to genocide. They were sentenced to between 12 and 20 years. Human rights advocates hailed the verdict, predicting it would be a springboard for other cases. Their prediction was all too accurate. One week later, a group of Palestinians living in Lebanon filed a complaint against Sharon for his alleged role, when he was the Israeli defense minister, in the 1982 massacre of hundreds of refugees by Christian militiamen in the Sabra and Shatila camps outside Beirut.

Many Belgians were not unhappy at the prospect of seeing Sharon in the dock. But the case plunged Belgium into a diplomatic crisis when then-Israeli Foreign Minister Binyamin Netanyahu denounced the complaint as an anti-Semitic "blood libel" and recalled Israel's new ambassador before he could take up his post. Sharon canceled an official trip to Brussels to visit the European Union headquarters.

More and More Cases

The case against Sharon was suspended after the International Court of Justice in The Hague ruled in a separate case that leaders of foreign governments had temporary immunity while in office. But the complainants continued to pursue others allegedly involved in the camp massacre, including former Israeli general Amos Yaron. And the cases kept coming. Though several other countries had war crimes laws based on universal jurisdiction, only Belgium seemed prepared to follow up when accusations were made.

Complaints were filed against then-Iraqi President Saddam Hussein; the late Congolese ruler Laurent Kabila and his foreign minister, Abdoulaye Yerodia Ndombasi; Maj. Gen. Paul Kagame, the Rwandan president; former Iranian president Ali Akbar Hashemi Rafsanjani; the former ruling generals of Guatemala; and a group of international oil companies accused of collaborating with the military rulers of Burma. According to the Belgian Justice Ministry, more than 30 complaints are on file. One British citizen arrived at a Belgian embassy abroad demanding that police investigate his claim that the BBC was seeking to assassinate him.

Complaint Filed by Iraqis

"It was an opportunity for every lunatic to have the Belgian government decide their case," said Michael Verhaege, a lawyer for the Sabra and Shatila complainants, who insists that his own case remains justified.

Then the United States became involved. In March, a group of Iraqis, sponsored by an organization reported to have links to Hussein's government, brought a complaint against former president Bush, Vice President Cheney, Secretary of State Colin L. Powell and retired Gen. Norman Schwarzkopf for their alleged roles in the U.S. missile attack on the Amiriya bunker in Baghdad, where at least 200 Iraqi civilians were killed on Feb. 12, 1991. Cheney was then secretary of defense and Powell was chairman of the Joint Chiefs of Staff.

Belgian Foreign Minister Louis Michel immediately denounced the complaint, declaring that the law was "being abused by opportunists." He called for an amendment to filter out complaints in which the accused lived in a country with an independent judiciary, such as the United States. Such cases should be heard there, he argued, and not in Belgium.

"We do not have any lesson to teach," Michel said. "Belgium must not impose itself as the moral conscience of the world."

In April, the government rushed through Parliament a modified statute stipulating that a mandatory investigation could take place only if the complaint had a direct link to Belgium. Otherwise, the justice minister could intervene and order the case sent to the country of origin.

'We Had a Great Week'

That didn't solve the problem. Four days before Belgium's national elections in May, another group of Iraqi plaintiffs filed a complaint against U.S. Gen. Tommy R. Franks, commander of forces in the Iraq war. In addition, a small Flemish nationalist party filed a complaint against Michel for approving arms sales to Nepal.

"We had a great week," recalled a Belgian official, who insisted on anonymity. "The cameras were there, the journalists were there, and suddenly we're in a very difficult international context."

Belgian Prime Minister Guy Verhofstadt, who had defended the law until then, pledged rapid action to repeal it. But the time frame was not fast enough for Donald H. Rumsfeld. When the U.S. defense secretary visited Brussels a month later, he told reporters that he feared U.S. officials would not be able to visit the country for fear of being prosecuted and that the United States would withhold further funding for construction of a new NATO headquarters. This wasn't a threat, he added. "Belgium needs to recognize that there are consequences for its actions," he said. "It's perfectly possible to meet elsewhere."

Rumsfeld's remarks left Belgians feeling "a kind of vertigo," said Destexhe, the Belgian senator and human rights activist. "Suddenly, the law became very unpopular. People like me were saying, 'We've got to get out of this.' "

Although U.S. officials deny it, the Belgians are convinced that their government's stance against military action in Iraq was one of the reasons Rumsfeld decided to unload in public. Human rights activists also believe that the war crimes law hit a nerve with the Bush administration, which has waged a diplomatic campaign against the International Criminal Court, contending that the newly instituted court could issue politically motivated indictments and insisting that Americans be exempt from its jurisdiction. U.S. officials have threatened to withhold foreign aid to countries that refuse to grant U.S. citizens immunity from extradition to the court.

"It seems like the United States is saying that international law is the weapon of the weak and military power is the weapon of the mighty," said Dan Van Raemdonck, president of the Belgian League for Human Rights.

Relieved or Betrayed

In revising the law, the Belgian government sought to ensure this time that there would be no loopholes. The new act repealed the 1993 law and established a formal procedure for nullifying pending complaints. It also limited jurisdiction to complaints in which either the victim or defendant was a Belgian national or resident. Even then, the federal prosecutor could reject a complaint without investigation or the possibility of appeal if he deemed it "manifestly without grounds" or determined that it should be brought in another country. Any official of a NATO or European Union nation gets automatic immunity.

The government rushed through the new law on Aug. 1. It took effect six days later, and was upheld by Wednesday's ruling of the Belgian Supreme Court. Belgium officials pronounced themselves relieved. But Martine Beckers, who is still pursuing the case against her sister's killers, said she feels betrayed.

"It's like David fighting Goliath," she said. "I understand it was not possible to continue this law for political reasons, but justice is something that should be separate from government and politics. You want to have something fair for somebody you love, to restore her humanity, because she was killed like a beast. I wish my government had stood up for her."