

Indict Kurdish General Bekir Sidqi, Posthumously

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In recent years, not only state leaders but also military leaders, have been put on trial for crimes against humanity. Larry May argues that military and political leaders must be the primary targets of International prosecution for war crimes. Read the case Yugoslavia Trial Chamber's Conviction of General Tihomir Blaskic.¹

Other examples of holding military leaders responsible for crimes against humanity include the case by the US military commission in Manila, which put Japanese General Yamashita Tomoyuki on trial for war crimes committed against prisoners of war and civilians in the Philippines in 1945.² The International Criminal Court's trial of January 27, 2021 of the Lord's Resistance Army (LRA) leader Dominic Ongwen was seen as a significant step toward justice for atrocities committed by the group in northern Uganda.³

In 1998, 139 states convened a multilateral conference in Rome to address the issue of crimes against humanity. The US tried to insulate its military and political leaders from prosecution and was only partially successful, leaving avenues open for the prosecution of US leaders who commit genocide, crimes against humanity or war crimes on the territory of ICC states. The Rome Statute was ratified by more than sixty countries, which formed the International Criminal Court (ICC). The ICC, based in The Hague, Netherlands, is the first international permanent tribunal for the gravest violations of international law, including war crimes, genocide, and crimes against humanity. But, this international justice is in so many ways self-defeating. Certainly, it has proven to be frustratingly difficult to prosecute leaders of powerful North American and few European states suspected of international crimes, such as US leaders implicated in the deliberate, systematic torture of detainees in Afghanistan.⁴ Other examples include the illegal involvement of the US and England leaders in the war on Iraq.⁵

The Rome Statute, grants the ICC jurisdiction over four main crimes.

1. Crime of genocide is characterized by the specific intent to destroy in whole or in part a national, ethnic, racial or religious group by killing its members or by other means: causing serious bodily or mental harm to members of the group; deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; imposing measures intended to prevent births within the group; or forcibly transferring children of the group to another group.
2. The ICC can prosecute crimes against humanity, which are serious violations committed as part of a large-scale attack against any civilian population to commit murder, rape, imprisonment, enforced disappearances, enslavement – particularly of women and children, sexual slavery, torture, apartheid and deportation.
3. War crimes which are grave breaches of the Geneva conventions in the context of armed conflict and include, for instance, the use of child soldiers; the killing or torture of persons such as civilians or prisoners of war; intentionally directing attacks against hospitals, historic monuments, or buildings dedicated to religion, education, art, science or charitable purposes.

1 May, Larry. *Prosecuting Military Leaders for War Crimes*. Metaphilosophy LLC and Blackwell Publishing Ltd, 2006.

2 <https://www.cfr.org/timeline/leaders-facing-justice>

3 <https://www.hrw.org/news/2021/01/27/icc-rule-lords-resistance-army-leader>

4 <https://www.globalpolicyjournal.com/blog/31/07/2019/us-leaders-can-now-be-prosecuted-illegal-war>

5 <https://www.ecchr.eu/en/publication/the-iraq-invasion-is-a-crime/>

4. Crime of aggression. It is the use of armed force by a State against the sovereignty, integrity or independence of another State.⁶

Between 1993 and 2019, the tribunal indicted 161 people, the majority of them ethnic Serbs, and sentences ninety. Radovan Karadzic and Ratko Mladic, the two Bosnian Serbs most responsible for the Srebrenica massacre were arrested in 2008 and 2011, respectively. In 2016, Karadzic was sentenced to forty years in prison, and the following year Mladic was handed a life sentence. Also in 2017, former Bosnian Croat General Slobodan Praljak fatally poisoned himself in court upon hearing his guilty verdict.⁷

The trials of the above military leaders are good examples that not only state leaders should and have been tried for crimes against humanity, but also military leaders.

In 1933, Kurdish General Bekir Sidqi led the Iraqi army in the Mosul Liwa (province) and committed a massacre against 3000 innocent and unarmed Assyrians, including women, elderly and children. Certain Kurdish and Arab tribes participated in the 1933 massacre by looting the Assyrians' properties and illegally seizing Assyrian homes and villages. Both actions by Bekir Sidqi and the Kurdish tribes fall under the Rome Statute and the ICC should consider the case as a crime against humanity. Bekir Sidqi not only committed the killing, but also did not take any measures to stop the tribes from looting and seizing the victims properties. Worth mentioning that after his return to the Iraqi capital, Bekir Sidqi was paraded as a national hero in the streets of Baghdad.

General Bekir Sidqi must be tried posthumously. We have precedence. In March 1969, historian Pyotr Yakir wrote an open letter to the party journal *Kommunist* detailing Stalin's crimes and asked that he be tried posthumously. There were many of such trials against Hirohito of Japan in 2001, against Stalin in 2010 in Ukraine, and against Kaiser Wilhelm II in 2016. There were also calls for posthumously trials against leaders such as Pol Pot in Cambodia (1998), Jomo Kenyatta in Kenya (2000) and Chiang Kai-Shek in Taiwan (2007).⁸

The ICC must honor the integrity of the Rome Statute and with the presence of numerous detailed records in regards to the 1933 Assyrian massacre in Simele by the Iraqi Army under Kurdish General Bekir Sidqi, the ICC has the moral obligation to set the records straight and allow the souls of the 3000 innocent Assyrian victims to rest in peace finally.

The following steps must be taken:

1. Bring Sidqi to trial and indict him posthumously,
2. Erect a memorial by the Iraqi Government in Simele, and
3. Compensate all the Assyrians that fled Iraq to the Kahbor region in 1933 and their future families appropriately, grant them Iraqi citizenship and make available to them homes and lands as needed if they needed to return.

6 <https://www.icc-cpi.int/about/how-the-court-works>

7 <https://www.cfr.org/timeline/leaders-facing-justice>

8 https://books.google.com/books?id=NHx_DwAAQBAJ&pg=PT144&lpg=PT144&dq=do+you+put+on+trial+dead+leaders&source=bl&ots=rUIxb1YgNN&sig=ACfU3U09m3GtcTB2p-Okfeli2_xbbuYXIg&hl=en&sa=X&ved=2ahUKEwjppPL27bL_AhXrJkQIHbt0BGI4FBDoAXoECAIQAw#v=onepage&q=do%20you%20put%20on%20trial%20dead%20leaders&f=false