UJAR 2021: The impact of coronavirus on universal jurisdiction

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UJAR**The year 2020 will remain in memories, by and large, as a period unlike any other. The covid-19 pandemic has turned around countless lives, and continues to do so as we write these lines. State institutions worldwide, including judicial bodies, have had to drastically change their functioning and priorities. With so many activities coming to a brutal halt, have cases related to universal jurisdiction also stalled? Luckily, far from it.**

While the pandemic has had an impact on universal jurisdiction cases, it has been more of a reorganization than a complete halt. As the 2021 Universal Jurisdiction Annual Review (UJAR) shows, many cases did move forward and new suspects were brought to justice. Put differently, even a global health crisis did not imperil the use of universal jurisdiction across the world – proof, if ever it was needed, of the solidity of the progress made in the last years (see previous UJARs for details).

"*Past the first few weeks in Spring when the whole world was taken aback, the judicial community has rapidly adapted*" summarizes Valérie Paulet, Legal Consultant at TRIAL International and Editor of the UJAR. "*Prosecutors, judges and NGOs reacted quickly and developed creative ways of carrying out their work. Their agility and the extra effort they put in must be saluted*."

Strengthening remote investigations

Unsurprisingly, field investigations were considerably limited by national lockdowns and movement restrictions. Some ongoing investigations which relied on the capacity of witnesses, victims, investigators and judges to travel abroad either slowed down or stalled. NGOs in particular, whose investigations rely on flexibility and adaptability, had to find new ways of getting in touch with victims and witnesses. "*We relied even more heavily than before on our networks*", explains Bénédict De Moerloose, Head of International Investigations and Litigation at TRIAL International. "*Local partners initiated contact with victims and witnesses and created an initial bond, then we would meet them via secure video calls. A certain level of trust was already there. On the plus side, it brought us even closer to our collaborators in the field*."

Remote meetings presented other advantages: victims and witnesses could talk from their homes, reducing risks of being overheard or followed. Being in a familiar space was also comforting for vulnerable individuals, who could share their experiences in a safe environment. In some instances, the objects or souvenirs surrounding them in their homes prompted memories that helped to establish facts.

On the investigators' side, online interviews meant they could speak to witnesses spread throughout the world in a single day, speeding up their work considerably. This came with a sine qua non: additional efforts were also made to ensure understanding, consent and, of course, the utmost security for interviewees.

Reaping the efforts from previous years

Apart from investigations, 18 new cases went to trial in 2020, bringing the total to 30 ongoing trials. What is perhaps the most prominent trial in recent years opened in Germany against Syrians Anwar R. and Eyad A. It made the international headlines and was unanimously hailed as a significant step against impunity for State crimes. Other high-profile cases include Fabien Neretsé in Belgium, Roger Lumbala in France and Alieu Kosiah in Switzerland.

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Most of the cases opened in 2020 could move forward thanks to fact-finding and evidence-gathering missions conducted beforehand. The pandemic and its consequences have emphasized the need for investigations to be conducted as swiftly and thoroughly as possible so that the cases can move ahead when/if the context evolves. This lesson also applies to investigations in unstable zones, which may become inaccessible within a matter of days.

The year 2020 has been a sobering one. Sanitary considerations have been added to the many difficulties of using universal jurisdiction. Despite all this, the cases presented in this UJAR prove that States have risen to the challenge and that justice will not keel.

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