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The Prosecutor v Ahmad Al Faqi Al Mahdi:

The first case to be brought before the ICC concerning alleged war crimes regarding the destruction of historical and religious monuments

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Fokus

Quellen

Rome Statute of the ICC;

Statement: 16/01/2013: ICC Prosecutor opens investigation into war crimes in Mali: "The legal requirements have been met. We will investigate";

Press Release: 26/09/2015: ICC Prosecutor opens investigation into war crimes in Mali: "The legal requirements have been met. We will investigate";

Statement: 26/09/2015: Statement of the Prosecutor of the International Criminal Court, Fatou Bensouda, following the transfer of the first suspect in the Mali investigation: "Intentional attacks against historic monuments and buildings dedicated to religion are grave crimes"

Ahmad Al Faqi Al Mahdi is accused of having committed, facilitated, or otherwise contributed to the intentional direct attack against nine mausoleums and the Sidi Yahia mosque in the ancient city of Timbuktu. He was a member of the self-proclaimed "Ansar Dine", a mainly Tuareg movement associated with Al Qaeda in the Maghreb. Furthermore, he is said to have worked closely with the leaders of both armed groups, the Islamic Court of Timbuktu, and to have been the head of the "Hesbah", the "Manner's Brigade", until September 2012.

In January 2012, a non-international armed conflict between different armed groups broke out, resulting in deliberate attacks against religious buildings and historic monuments in Timbuktu. Timbuktu, home to the historic Koranic Sankore University, is listed as a UNESCO World Heritage site and was a prominent centre of Islamic scholarship in the 15th and 16th century. The recent destruction of parts of the ancient city of Palmyra and the Temple of Baal by the self-proclaimed Islamic State (IS) are a further indication of an increase in intentional attacks targeting cultural heritage, as well as in the organised looting and illicit trafficking of cultural property. Deliberate attacks against cultural heritage have become emblematic for IS and have gained exceptional international attention.

On Saturday, 26 September 2015, Fatou Bensouda, Prosecutor of the International Criminal Court (ICC), announced "no longer should such reprehensible conduct go unpunished." Approximately two and a half years after the ICC formally opened the investigation into alleged war crimes committed in Mali since January 2012, the authorities of Niger surrendered Ahmad Al Faqi Al Mahdi to the ICC. According to the warrant of arrest issued only eight days earlier, Ahmad Al Faqi Al Mahdi is suspected of war crimes allegedly committed in Timbuktu during the non-international armed conflict in June and July 2012.

The case *The Prosecutor v Ahmad Al Faqi Al Mahdi* is one of firsts. It marks the first investigation of the ICC into the situation in Mali. Yet, the more salient first is, perhaps, that Ahmad Al Faqi Al Mahdi is under accusation for the war crime set forth in Article 8(2)(e)(iv) of the Rome Statute of the ICC. Article 8(2)(e)(iv) refers to intentionally directing attacks against buildings dedicated to religion and against historic monuments as war crimes. The case is, therefore, the first to be brought before the ICC concerning alleged war crimes regarding the destruction of historical and religious monuments.

The reconstruction of the destroyed sites in Timbuktu began in 2014, led by UNESCO and the Malian government. The charges brought against Ahmad Al Faqi Al Mahdi are an essential step for the Malian population to see accountability for the attacks against their cities and their historical, cultural, and religious roots. Beyond the regional impact of the charges, *The Prosecutor v Ahmad Al Faqi Al Mahdi* signals an important step in ending impunity for the destruction and defacing of common, shared cultural heritage at the international level. This case might break ground for the protection of cultural heritage in armed conflict and set a precedent for the increased intentional attacks on cultural heritage. Spotlighting the protection of cultural heritage at the international level may finally bring life to the, up to now, rather symbolic notion that "damage to cultural property belonging to any people [...] means damage to the cultural heritage of all mankind" (Preamble, Convention for the Protection of Cultural Property in the Event of Armed Conflict). Similarly, the international profile of the case may prompt a more proactive role and responsibility of intergovernmental organisations and (individual) States alike, in confirming that attacks against cultural heritage affect humanity as a whole.

Verantwortung

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