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Environmental Destruction as Crime Against Humanity? Climate Change and its implications on International Criminal Law

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Fokus

Chief Prosecutor Fatou Bensouda has announced that the ICC will also prosecute environmental destruction. Therefore, the impacts of climate change could amount to crimes against humanity according to Article 7 of the Rome Statute.

Quellen:

https://www.icc-cpi.int/itemsDocuments/20160915_OTP-Policy_Case-Selection_Eng.pdf

<https://www.washingtonpost.com/news/worldviews/wp/2016/09/16/is-environmental-destruction-a-crime-against-humanity-the-icc-may-be-about-to-find-out/>

On 15 September 2016, chief prosecutor of the International Criminal Court (ICC) Fatou Bensouda announced that the court will in the future give special consideration to prosecuting environmental destruction. This statement seems to involve an important extension of the ICC's jurisdiction.

The ICC, established by the Rome Statute in 1998 in order to prosecute individuals complementary to national judicial systems, began operations on 1 July 2002. The crimes pursued by the ICC include genocide, crimes against humanity, war crimes, as well as the crime of aggression (although the ICC is not yet able to exercise its jurisdiction over the crime) according to the Rome Statute. The announcement to paying more attention to environmental crimes could have significant effects on the ICC's jurisdiction. It could entail the prosecution of environmental destruction or illegal exploitation of natural resources as crimes against humanity. This shift could further lead to the court's stronger consideration of climate change as an international crime.

Although constituting the greatest ecological and human threat humanity has ever faced, international legal literature has largely remained silent on the criminal implications of climate change. Causing long-term disastrous effects on human health, the impacts of climate change could amount to crimes against humanity.

Recklessly destroying the environment and people's livelihoods by emitting large amounts of greenhouse gases into the atmosphere can undoubtedly be said to constitute murder, extermination or other inhumane acts under Article 7 of the Rome Statute. However, the commission of crimes against humanity further requires a widespread or systematic attack directed against a civilian population. On the one hand, as millions of people around the world, most of them civilians, will suffer from the impacts of climate change, one could subsume this under the criterion of a widespread attack. As DARA, a Spanish non-profit organization conducting evaluations on humanitarian aid, estimates, climate change will contribute to 700.000 deaths per year by 2030. However, the argument that emissions and their consequences target a specified group of civilians is hard to make. It seems further unlikely that "willful blindness" towards the effects of emissions fulfills the requirements of criminal intent. Therefore, attempting to prosecute emitters of greenhouse gases for crimes against humanity involves several challenges.

However, the announcement of the chief prosecutor could entail important developments for international law, reflecting the ICC's recognition of the changing nature of ongoing conflicts around the world. It will further have an important signaling effect: It indicates that the international community as well as the ICC will no longer stand idly by while emissions of greenhouse gases are leading to the deaths of thousands of people and destroying the world's economic, ecological and social systems by damaging crop yields and triggering conflicts over environmental resources and mass movements of people among other negative side-effects. From a moral perspective, there is no difference between an innocent person killed by a gun during an insurgence, and persons dying in an epidemic caused by climate change. In this regard, the announcement serves a symbolic purpose, shifting the attention of the international community to the millions of innocent victims of environmental degradation.

Verantwortung

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