

Rwandan spy chief's arrest exposes the intricacies of international justice

Emmanuel Karenzi Karake's Heathrow airport detention may be justified but will be used to confirm claims that African leaders are unfairly targeted,

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What links the president of Sudan, an Egyptian journalist and a Rwandan spy chief? The delicate case of international law, it seems.

In the last week, the international community has seen three high-profile arrests, and three explosive debates about jurisdiction. First came the arrival of Sudanese president Omar al-Bashir on South African soil, and the country's failure to arrest him for alleged crimes of genocide in Darfur - defying both the international criminal court and domestic law.

Then followed the arrest of Al-Jazeera journalist Ahmed Mansour, detained at an airport in Berlin at the request of the Egyptian government - who had convicted the reporter in absentia for allegedly torturing a lawyer during the Tahrir Square protests in 2011.

And finally, news broke on Tuesday that Rwandan spy chief Lieutenant-General Emmanuel Karenzi Karake, head of the country's notorious National Intelligence and Security Services, had been arrested while trying to depart from London's Heathrow airport.

So what do these three cases tell us about international justice?

Where Bashir's is an example of the top-down approach - where an international body investigates and prosecutes crimes anywhere in the world - Mansour's shows national agreements and organisations such as Interpol helping countries enforce their national laws in other jurisdictions.

The arrest of Karake - one of 40 Rwandans indicted by a Spanish judge in 2008 for allegedly ordering revenge massacres in the wake of the Rwandan genocide in 1994 - is a good example of universal jurisdiction in action.

"The term refers to the idea that a national court may prosecute individuals for any serious crime against international law - such as crimes against humanity, war crimes, genocide, and torture - based on the principle that such crimes harm the international community or international order itself," explains the International Justice Resource Centre.

The majority of states - 163 of the 193 UN's member , according to Amnesty

International (pdf) - provide for some kind of universal jurisdiction, but few exercise it.

Spain is a notable exception: it has actively prosecuted international crimes committed in faraway places including Argentina, El Salvador and Guatemala - and now Rwanda.

Karake's arrest is a major test of universal jurisdiction in action. In addition to accusations relating to the post-Rwandan genocide massacres, Karake is implicated in the killing of hundreds of civilians in the Democratic Republic of Congo during fighting between Rwandan and Ugandan forces in 2000, according to Human Rights Watch.

In 2009 a Finnish court tried Francois Bazaramba, a former Rwandan preacher, with genocide and 15 counts of murder for his role in the 1994 atrocity, exercising its law which allows prosecutions for crimes against humanity wherever they are committed.

Selective justice?

But although the legal case for Britain to extradite Karake to Spain is strong, there are political considerations that will impact on the process.

Britain and the Rwandan government have a close relationship: the east African country is a major destination for British aid, and president Paul Kagame has a "close working relationship" with former British prime minister Tony Blair.

Already, Rwanda is putting on heavy diplomatic pressure to secure Karake's release, with its ambassador to the UK describing the arrest as "an insult".

Williams Nkurunziza, the Rwandan high commissioner to the UK, told the BBC World Service: "We take strong exception to the suggestion that he's being arrested on war crimes. Any suggestion that any of our 40 leaders are guilty of crimes against humanity is an insult to our collective conscience."

But the British government won't be able to ignore its courts - like South Africa did over Bashir.

Which begs the question: why was Karake detained in the first place? According to media reports, Karake has made several trips to Britain since 2008 but has been permitted to leave each time. This implies either that something has changed - perhaps the furore around Bashir's non-arrest forced Britain's hand - or that some border official was a little over-zealous in the execution of his duties.

Another factor that politicians will be considering is the ramifications that extraditing Karake will have on the already strained relations between the African continent and organs of international justice.

Karake's arrest is a public relations coup for African leaders looking for further justification that they are being unfairly targeted by the western justice.

In December Ugandan president Yoweri Museveni, who has been in power since 1986, said the international criminal court is a "tool to target" Africa, while Rwanda's own president Paul Kagame accused the court of "selective" justice. This is in some sense true: since its establishment in 2002, the ICC has heard 22 cases and indicted 32 individuals. All of them are African.

While there are sound reasons for the German court to have released Mansour - and for Britain to extradite Karake - these decisions could easily be portrayed by disgruntled African states as western judiciaries unfairly choosing to enforce only western arrest warrants (in the case of Spain and Karake) while neglecting African cases (in the case of Egypt and Mansour).

Britain is now in a delicate position. If it does go ahead with extradition proceedings it risks angering an important ally on the African continent and alienating their supporters - while giving self-interested leaders more fuel for their claims of western bias in international justice.

If it doesn't uphold the case, it will have to defy its own rule of law, potentially dealing a crippling blow to the concept of universal jurisdiction in the process. It's a legal and political minefield.

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