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War crimes program without budget boost for 14 years

Four-year-old government report called for more money to beef up RCMP investigative capacity. Its funding remains unchanged today.

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A federal government program that works to keep war criminals out of Canada has had a flat-lined budget since its inception, despite a government report four years ago that recommended the government devote more resources to it, particularly to its RCMP branch.

The program encompasses work from four government agencies or departments, with the RCMP receiving the smallest portion.

The 2008 Department of Justice evaluation of the Crimes Against Humanity and War Crimes Program noted that to effectively address the program's goals, more resources would be needed in specific areas, namely the RCMP's investigative capacity. But the RCMP's funding portion has not changed since then.

The war crimes program started in 1998 and has always had an annual budget of \$15.6 million. The Canada Border Services Agency, Citizenship and Immigration Canada, the Department of Justice and the RCMP work together to try to "deny safe haven in Canada to war criminals or those suspected of being directly involved or complicit in the commission of war crimes, crimes against humanity or genocide."

Of the program's total funding, \$7.2 million goes to CBSA, \$5.7 million to the justice department, \$1.9 million to CIC, and \$682,000 to the RCMP, according to CBSA spokesperson Travis O'Brien.

The program's flat budget, including the small amount for the RCMP, along with the government's ongoing deportation attempt of a suspected Rwandan war criminal is raising debate about Canada's war crimes program and its supposed focus. Human rights and justice advocates and analysts say that Canada isn't living up to its international obligations and that there needs to be more focus on criminal prosecution of possible war criminals rather than on deporting them.

To deport or prosecute?

Budgets follow policy priorities, said Janet Dench, executive director of the Canadian Council for Refugees.

"The priority that we see, which seems to be reflected in the budget allocation, is that Canada continues to give priority to the 'deport them' solution," she said, "without looking at the issue of how best to make sure that people are brought to justice and also how best to make sure that they are tried fairly."

"Canada's doors are not open to those who break the law or endanger the safety of our citizens," wrote Julie Carmichael, press secretary for Public Safety Minister Vic Toews, in an email to *Embassy*. "We will not apologize for removing individuals accused of war crimes as quickly as possible within Canadian law."

Mr. O'Brien said the RCMP's role is to conduct investigations of those alleged to have committed war crimes, crimes against humanity, or genocide under the Crimes Against Humanity and War Crimes Act, which came into force in 2000. It outlines Canada's jurisdiction to try individuals here who have committed war crimes, crimes against humanity, or genocide elsewhere.

Matt Eisenbrandt, legal director for the Canadian Centre for International Justice, said he has not seen any big change in the RCMP's capacity to investigate cases. While the public doesn't see details of RCMP investigations, one way to judge this is by how many cases have resulted in indictments or have been brought to court.

"In that, we haven't seen any increase at all," Mr. Eisenbrandt said. "There was the Désiré Munyaneza case that finally wrapped up in 2009...then the Jacques Mungwarere prosecution started, but that's it."

Mr. Munyaneza was convicted for his involvement in the Rwandan genocide. His was the first conviction under Canada's 2000 legislation.

Michael Byers, a professor and Canada research chair in global politics and international law in the University of British Columbia's political science department, said this is one of the most striking aspects of the program: "the almost complete absence of prosecutions in Canada."

There needs to be a big boost in resources as well as a realignment of the government's priorities away from deportations and more on criminal investigations and prosecutions, said Mr. Eisenbrandt.

"Investigations of this kind are very complex. And the fact that the RCMP receives significantly less than the other departments shows that there's not nearly enough emphasis being given to criminal investigations," he added. "[Having] \$682,000 to conduct investigations overseas, sometimes in several different countries in difficult circumstances, doesn't strike me as being nearly enough."

In an email to *Embassy*, RCMP media relations officer Sergeant Julie Gagnon wrote that the RCMP, like any agency, would welcome more resources.

"However, the RCMP continuously reviews and assesses its operational requirements and places resources where they are most needed in order to maximize funding and resources," she said.

As of March 31, 2008, there were 55 cases in the Department of Justice and RCMP file inventory for war crimes committed after the Second World War. This means the cases have come to the attention of the RCMP because they have a connection to genocide, war crimes, and/or crimes against humanity, said Sgt. Gagnon.

She said cases are at one of three stages: sitting in line, being investigated, or being referred to a partner agency after the RCMP has wrapped up its own investigation.

The Mugesera case

Meanwhile, the media has turned its attention in the last two weeks to the Léon Mugesera case.

Mr. Mugesera, who was about to be deported back to Rwanda last week after almost 20 years in Canada, is waiting to hear from the United Nations Committee Against Torture, which has asked the government to hold off on the deportation until it reviews the case.

Mr. Mugesera is alleged to have incited hate and murder through an anti-Tutsi speech he made before the Rwandan genocide that killed more than 800,000 Tutsis and moderate Hutus in 1994.

For Carleton University associate law professor Doris Buss, his case raises the question of Canada's commitment to prosecuting war crimes and war criminals in Canada.

"For all kinds of reasons, that can often be the best way to proceed. And given the levels of funding for both the RCMP and the Department of Justice, you can see how that's almost impossible to do with those funding levels," Ms. Buss said.

"Unequivocally, I think it's a major failure we didn't [prosecute him]," said Jillian Siskind, president of Canadian Lawyers for International Human Rights.

Meanwhile, Errol Mendes, former director of the University of Ottawa's Human Rights Research and Education Centre and still a law professor at the university, said an open dialogue needs to take place between the government and other stakeholders, such as diaspora groups, about how Canada should deal with potential war criminals and whether the government should focus on mostly deportation or prosecution.

While the deportation route is quicker and cheaper, Mr. Mendes said the government needs to question whether that really fulfills the spirit of Canada's commitment under the Crimes Against Humanity and War Crimes Act to prosecute in Canada.

The war crimes program's 2007-8 annual report estimated that a prosecution could cost more than \$4 million.

Frank Chalk, professor of history and director of the Montreal Institute for Genocide and Human Rights Studies at Concordia University, said that often prosecutions are complex with issues such as whether translations are accurate or juries not knowing the languages of defendants.

Sgt. Gagnon said the program's partners continue to target their efforts on the most crucial and cost-effective activities to support program objectives.

Alex Neve, secretary general of Amnesty International Canada, said Canada has an international obligation to ensure that individuals in Canada against whom there are credible allegations of war crimes, genocide, or other allegations, are investigated and, if substantiated, brought to justice. But often this approach isn't taken, he said.

Joanna Quinn, political science professor and director of the University of Western Ontario's Centre for Transitional Justice and Post-Conflict Reconstruction, said Canada has a particular onus to do these kinds of things, especially because of its enabling legislation.

"We also have institutions that are able to do this kind of stuff," she said.

Mr. Eisenbrandt said there needs to be more emphasis on criminal investigations and prosecutions because it can provide accountability.

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