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The Hague, Netherlands

Srebrenica survivors challenge UN immunity

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An appeals court in The Hague heard a challenge Thursday to the immunity of the United Nations by survivors of the 1995 genocide in Srebrenica.

"Immunity is never absolute," said Axel Hagedorn, a lawyer for the survivors group "Mothers of Srebrenica," which represents some 6,000 survivors and next-of-kin of victims of the massacre.

"It cannot be that the UN is above the law and may itself violate human rights," he said, adding there was an obligation on the UN "to employ all means to prevent genocide."

The rights of victims for access to justice were guaranteed by the European Convention on Human rights and should prevail over the immunity claimed by the UN, Hagedorn argued.

"The essential functioning of the UN would not be affected by not granting immunity in this case."

Responsibility

The survivors are seeking a trial of the UN and the Dutch state over peacekeeping troops' alleged failure to protect the enclave. They also want compensation.

Srebrenica was a UN-protected Muslim enclave until July 11, 1995, when it was overrun by Bosnian Serb forces who loaded thousands of men and boys onto trucks, executed them and threw their bodies into mass graves.

The Serbs brushed aside lightly-armed Dutch UN peacekeepers in the "safe area" where thousands of Muslims from surrounding villages had gathered for protection.

In July 2008, a district court in The Hague found that the Mothers of Srebrenica could not sue the UN on the grounds that "in international law practice the absolute immunity of the UN is the norm and is respected."

The UN has admitted it failed to protect the Muslims of Srebrenica from mass murder, but none of its officials were held responsible.

"The (district) court correctly upheld the immunity of the UN and declared that it had no jurisdiction to hear the case," a lawyer for the Dutch state, Bert-Jan Houtzagers, told appeals judges on Thursday.

"To subject the actions or failures of a UN mission to the evaluation of national judges would have far-reaching consequences for the functioning of other, existing and future, UN peace missions," he argued.

There was no UN representative at court on Thursday.

The Mothers of Srebrenica's case against the Dutch state remains suspended pending judgement on UN immunity by the appeals court, scheduled to be delivered on March 30.