

AUSTRALIA'S five-year excursion into the investigation and prosecution of people alleged to have committed genocidal crimes in Eastern Europe half a century ago is almost certainly finished.

The cost of the process - more than \$20 million between 1978 and 1992 and still counting - and the fact that just three prosecutions have been taken to the courts after more than 600 individuals have been investigated, and the further fact that not one conviction has yet been gained, have combined to strip official enthusiasm for the exercise.

The Special Investigations Unit established in 1987 to inquire into alleged war criminals living in Australia was disbanded last year. The Australian Federal Police can still carry out such investigations as part of the normal process of law enforcement, but it simply doesn't have the budget or the resources for the task.

That makes Mr Efraim Zuroff mad. Mr Zuroff, of Jerusalem, co-ordinates the Simon Wiesenthal Centre's Nazi war crimes investigations worldwide.

What makes Mr Zuroff mad is that he has given Australia 271 names of people he believes are responsible for crimes against humanity, and he knows that those still living are freely walking Australian streets today. He has another 90 such names, and is getting more all the time as secrets are disgorged from the vaults of what used to be the Soviet Union.

But he won't give those 90 names to the Australian Federal Police. There's no point, he said yesterday by phone from Israel.

"We are basically now in a situation where nothing will be done about Nazi war criminals in Australia," Mr Zuroff said.

Instead, he wants to come to Australia in the next few months and try to harness sufficient public opinion to force the Government to reopen the Special Investigations Unit.

"The minute the Special Investigations Unit was closed down last year all these people (alleged war criminals) knew they were off the hook," he said.

All the indications are that the Australian Government won't accede to pressure from Mr Zuroff or anyone else to restart a saga that has left a lot of people hurt, angry, disappointed or just plain bemused.

Genocide and crimes against humanity are words that stain the 20th century. Indeed, they are words created this century, and Australia played a significant part in placing them in the international lexicon.

In the wake of World War II, with the world horrified at genocidal crimes against Jews, Gypsies and other groups deemed suitable for extermination by Nazi madness, Australia was among the first nations to begin drafting what would become known as the Geneva Convention on Genocide.

In October 1958 the Menzies Government signed the convention. It set out a wide range of offences under the term genocide: wilful killing, torture, inhuman treatment, wilfully causing serious injury.

The convention obliged signatories to "search for persons, alleged to have committed (or ordered) such grave breaches and bring such persons, regardless of their nationality, before its own courts". Otherwise, signatories are obliged to extradite alleged genocidal criminals to nations seeking them.

You might imagine, then, that Australia was a leader in searching out and prosecuting war criminals, and that Australia's \$20 million attempt over the past five years to investigate and prosecute war-crime suspects is evidence of meeting its obligation. You would be wrong - at least, partly wrong.

In fact, Australia has never enacted a law that could be used to prosecute the broad sweep of those alleged to have been involved in genocidal activities. The closest it has come was in 1987 when the Hawke Government introduced the War Crimes (Amendment) Bill. It allowed war crimes trials to be held, but it limited its scope to the World War II period from 1939 to 1945.

The legislation, and the establishment of the Special Investigations Unit, followed the extraordinary ABC radio series *Nazis in Australia* by broadcaster and author Mark Aarons. Pressured by Mr Aarons' allegations that Nazi war criminals were not only living in Australia, but had been protected at high levels, the Government first established a review board headed by a retired deputy head of the Attorney-General's Department, Mr Andrew Menzies. He reported that it was more than likely that war criminals had entered Australia and were still living here, though he found no evidence of official protection.

Mr Hawke remains proud of the fact that his Government enacted the War Crimes (Amendment) Bill, despite it resulting so far in no successful prosecutions.

"You don't judge principles by the outcomes of trials," Mr Hawke told the Herald.

What the legislation did not do, though, was to allow the investigation and prosecution of those suspected of genocidal activity beyond World War II.

There are those who detect black irony in Australia's recent pursuit of WWII war criminals at a time when Australia was trying to woo the Khmer Rouge into the Cambodian peace process and the world was standing by as a whole new outbreak of genocide was occurring in the former Yugoslavia.

Mr Aarons, who retains a fierce interest in the subject, believes it is likely a new crop of people guilty of crimes against humanity is living in Australia, free from any Australian law.

He points to a recent SBS TV report that Cambodians had recognised a former Khmer Rouge mass murderer in Australia; to a Herald report of a victim of torture in 1950s Hungary recognising her torturer in Sydney; and to the likelihood that Australians were involved in genocidal activity in Bosnia and would return.

Mr Aarons said that whether genocidal crimes had occurred many years ago or more recently should not have anything to do with the argument about whether investigations and prosecutions should continue.

He recalls meeting two brothers in Ukraine in the winter of 1986. As children, they had seen their entire families wiped out by a murder squad.

The brothers bulldozed a track through the snow to show Mr Aarons the spot where their families had been slaughtered more than 40 years previously.

"They were weeping, the tears were frozen to their faces," Mr Aarons said.

"For people like these, it didn't happen 40 years ago - it happened yesterday and the consequences are still with them."

Others disagree.

A former Lieutenant Governor of South Australia, Sir Walter Crocker, said he was relieved that the jury had taken just an hour to acquit Mr Ivan Polyukhovich of war crimes charges in Adelaide on Tuesday. Mr Polyukhovich is the second person to have faced an Australian court on such charges and to be acquitted.

Sir Walter, 92, blasted the whole war crimes investigation as "futile idiocy".

He said those investigated or charged had committed no crimes in Australia and, 50 years after World War II, there was never any hope of gathering enough evidence to meet the requirements of an Australian court. Nothing was achieved but "a field day for lawyers", he said.

Another Adelaide pensioner, Heinrich Wagner, is still to face trial on charges that he murdered 19 part-Jewish children and a railway construction worker and was involved in the murder of 104 Jews in German-occupied

Ukraine during World War II.

The trial is scheduled for later this year, but Wagner's lawyers have lodged an application for a permanent stay of proceedings.

Copyright © 1993 John Fairfax Publications Pty Limited. www.smh.com.au. Not available for re-distribution.