

Research report

Forum: General Assembly Six - Legal
Issue: “Discussing the accountability of criminal war acts.”
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Introduction

War - one of the most violent atrocities we as humans practice too often. Whether it can be justified under the guise of liberation or 'fighting the greater evil', or whether waging war at all can be justified, has always been up to debate. There are however certain aspects of war which most of the world's nations have agreed on - for example that some acts are so brutal we consider it a crime against humanity, or acts which breach even the laws of war. Acts which cannot be allowed regardless of the circumstances - regardless of the situation. These acts are what we call war crimes. Most countries might agree on what acts we view as war crimes, but whether the criminals actually get prosecuted is a whole different story.

Since we are the Sixth Committee of the General Assembly, we will discuss the legal aspects of our given issues. In this research report you will find information about the topic and its issue, how we will perceive them and from what perspective we will be debating. If you still have any questions about this topic or anything else concerning the conference, please feel free to get into contact with the chairs.

General overview

The Rome Statute, a treaty adopted in 1998 - signed by 139 UN member states and ratified by 60 - established the International Criminal Court. The Rome Statute established four core international crimes: genocide, crimes against humanity, war crimes, and the crime of aggression. These crimes "shall not be subject to any statute of limitations"; under no circumstances will they be tolerated. Under the Rome Statute, the ICC can only investigate and prosecute the four core international crimes in situations where states are "unable" or "unwilling" to do so themselves; the jurisdiction of the court is complementary to jurisdictions of domestic courts, but it operates at a different level. The court has jurisdiction over crimes only if they are committed in the territory of a state who has ratified the treaty or if they are committed by a national of such a state; an exception to this rule is that the ICC may also have jurisdiction over crimes if its jurisdiction is authorized by the United Nations Security Council.

Some of the criminals that the ICC prosecutes are those who have committed war crimes. A war crime is a violation of the laws of war that gives rise to individual criminal responsibility for actions by combatants, such as intentionally killing civilians prisoners of war, torture, taking hostages, unnecessarily destroying civilian property, wartime sexual violence, pillaging, and for any individual that is part of the command structure who orders any attempt to committing mass killings including genocide or ethnic cleansing, the granting of no quarter despite surrender, the conscription of children in the military and flouting the legal distinctions of proportionality and military necessity. In short - one has to go through tremendous effort to break the laws of war. Once a war crime has been identified and a suspect has been found, the prosecution goes to work.

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The Office of the Prosecutor at the ICC must determine whether there is sufficient evidence of crimes of sufficient gravity falling within the ICC's jurisdiction, whether there are genuine national proceedings, and whether opening an investigation would serve the interests of justice and of the victims. After gathering evidence and identifying a suspect, the suspect must either be arrested and brought to court or summoned and voluntarily appear. The trial commences, Judges consider all evidence, then issue a verdict and, when there is a verdict of guilt, issue a sentence.

The Issue

We are discussing this issue in reaction to the lack of action taken against war criminals. For example, in order for individuals to stand trial in the ICC, as mentioned before, they must voluntarily consent to it or be handed over to the court. Russia does not recognize the jurisdiction of the ICC (they have withdrawn from the Rome Statute) and is not required to hand over suspects who are indicted, thus they are not prosecuted for their crimes. Based on international law Domestic courts in Ukraine can prosecute criminals who have committed war crimes since the crimes occurred within their territorial jurisdiction, and Russian courts can prosecute crimes involving their citizens, based on nationality jurisdiction, but gathering evidence to suggest war crimes have been committed can be difficult for both sides, or countries might not want to prosecute war crimes committed by their own people.

We will not be focussing on any particular war in which war crimes are being committed to base our resolution on; our committee will focus on the prosecution of war criminals as a whole. Current legislation makes it so that only the citizens of nations which have ratified the Rome Statute can be prosecuted for war crimes, and even if war criminals are eligible to be put to trial it does not always happen. How we would like to amend current legislation and provide legislation for the future is up to the committee. That is our task.

Major parties involved

International Criminal Court (ICC)

A treaty-based court which came into being for the prosecution of war crimes.

United Nations Security Council

One of the six principal organs of the United Nations which is charged with ensuring international peace and security.

Timeline of Key Events

Hague Convention 1	1899
Hague Convention 2	1907
The First Geneva Convention	1864
The Second Geneva Convention of	1949 (successor of the Hague Convention of 1907)
The Leipzig Trials	1921
The Third Geneva Convention of	1929
The Fourth Geneva Convention of	1949
The Nuremberg Trials of	1945 (based on the London Charter)
The International Military Tribunal for the Far East of	1946
The establishment of the International Criminal Court in	2002

Previous attempts to solve the issue

Other than the establishment of the ICC there have not really been any other attempts to solve the issue. States have tried to use their diplomatic capabilities or soft power to persuade other states to hold their combatants accountable for breaking the laws of war, but about the outcome of these efforts little is known as it often happens behind closed doors.

Possible solutions

Since states cannot be forced to ratify the Rome Statute the options for solving the problem are severely limited. Clauses could be made to for example reinforce the collection of evidence to prosecute war criminals, make court rulings more drastic, add certain benefits to ratifying the treaty or to add putting pineapple on pizza to the list of war crimes. There is only so much we can do, but there is nothing which keeps us from doing so.

Further reading & Bibliography

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