

**Forum:** Legal Committee (GA6)

**Issue:** Creating legal guidelines on the definition of war crime

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## INTRODUCTION

The international community has worked to create legal frameworks to hold people accountable for their conduct during war in the wake of human conflicts that have decimated nations throughout history. At the core of these efforts lies the imperative to define and categorize war crimes, which according to the International Humanitarian Law Databases are universally serious violations of international humanitarian law constitute war crimes.<sup>1</sup> State practice establishes this rule as a norm of customary international law applicable in both international and non-international armed conflicts.<sup>2</sup>

The development of precise and thorough definitions of war crimes is of the utmost importance, as it enables the recognition and identification of deeds that are regarded as morally repugnant and illegal under international law. Nations can promote international agreement on what defines unacceptable conduct during armed conflicts by defining war crimes, which will encourage accountability and dissuade future offenders. Additionally, it gives victims and impacted communities the means to demand justice and recompense for the crimes they have suffered.

Nevertheless, defining war crimes is a challenging task, taking into consideration that finding a balance between exclusivity and specificity is quite demanding. The term ought to be broad enough to encompass a variety of heinous crimes, including genocide, torture, indiscriminate attacks on civilians, and the use of prohibited weapons, among many more. The various views of nations and legal systems present another difficulty. The definition of what constitutes a war crime might be interpreted differently depending on various cultural, historical, and political settings. It is therefore difficult to get to an agreement among several nations with various legal backgrounds. To avoid manipulation or the avoidance of justice, it is essential to make sure that the terms are widely recognized.

In conclusion, the development of legal standards for the classification of war crimes is an ongoing project with significant ramifications for human rights and international justice. Clear and thorough definitions provide countries with the ability to hold people accountable for their

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<sup>1</sup> "International Humanitarian Law." [www.jep.gov.co/Sala-de-Prensa/Documents/4231\\_002-IHL\\_WEB\\_13.pdf](http://www.jep.gov.co/Sala-de-Prensa/Documents/4231_002-IHL_WEB_13.pdf).

<sup>2</sup> "Rule 156. Definition of War Crimes." <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule156>

acts during armed conflicts and give victims the opportunity to seek restitution. Even if it is difficult to agree upon a definition that is widely recognized, multilateral collaboration and open communication are crucial to creating a more equitable society where the terrible consequences of war may be challenged and resolved via the rule of law.

The creation of legal rules for the classification of war crimes is inextricably linked to the conference's ethical subject. The moral compass that directs cultures in setting norms for proper conduct during armed wars is moral considerations. These rules seek to maintain core ethical ideals including justice, fairness, and respect for human dignity as well as to safeguard human rights and lessen suffering. Societies try to discourage and prevent morally repugnant acts, hold people accountable, and advance a more moral and just global order by defining war crimes and creating legal frameworks.

## DEFINITION OF KEY-TERMS

### International Humanitarian Law (IHL)

International humanitarian law (IHL) aims to lessen the impacts of armed conflict. It outlines the obligations of nations and non-state armed organizations during a war. The regulations are meant to safeguard civilians, aid workers, and medical personnel during armed situations everywhere in the globe. There wouldn't even be any worldwide standards for this without them.<sup>3</sup>

### War Crimes

The idea of war crimes states that people can be held legally accountable for the deeds of a nation, or its military. The most serious crimes under international law are war crimes and crimes against humanity. Anybody found guilty of committing them can be tried and punished regardless of how long has passed since the act was done. These include deportation, ill-treatment, killing, torture, destruction of public and private property and others.<sup>4</sup>

### Morally reprehensible

Acts that are universally condemned due to their extreme cruelty and disregard for human life and dignity. It is something morally unjustifiable.<sup>5</sup>

### International Criminal Court (ICC)

"The International Criminal Court (ICC) investigates and, where warranted, tries individuals charged with the gravest crimes of concern to the international community: genocide, war crimes, crimes against humanity and the crime of aggression." It seeks to hold people

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<sup>3</sup> International Committee of the Red Cross, [www.icrc.org/en/doc/assets/files/other/what\\_is\\_ihl.pdf](http://www.icrc.org/en/doc/assets/files/other/what_is_ihl.pdf).

<sup>4</sup> "War Crimes." BBC, [www.bbc.co.uk/ethics/war/overview/crimes\\_1.shtml](http://www.bbc.co.uk/ethics/war/overview/crimes_1.shtml).

<sup>5</sup> "Reprehensible." *Cambridge Dictionary | English Dictionary, Translations & Thesaurus*, [dictionary.cambridge.org/dictionary/english/reprehensible](http://dictionary.cambridge.org/dictionary/english/reprehensible)

accountable for their crimes, assist prevent similar crimes from occurring in the future, and take part in the worldwide movement to eliminate impunity.<sup>6</sup>

### Manipulation or evasion of justice

The term "manipulation" or "evasion of justice" describes intentional activities made to thwart judicial procedures and escape responsibility. It entails gaming the judicial system, tainting hearings, falsifying documents, intimidating witnesses, and avoiding capture or extradition. These activities impede the pursuit of justice and violate the rights of victims.<sup>7</sup>

### Civil society organizations

A civil society organization (CSO) is any non-profit, voluntary citizens' group that is organized on a local, national, or international level. They carry out a range of services and humanitarian tasks, communicate peoples' concerns to governments, keep an eye on policies, and promote local political engagement.<sup>8</sup>

### Inclusive dialogue

Inclusive dialogue is defined as structured and facilitated conversations on an issue of concern by representatives of the various groups and institutions who are affected by or can affect the issue positively or negatively, to foster acceptance of legal guidelines on war crimes.<sup>9</sup>

### Cultural relativism

Cultural relativism is the belief that cultural practices should be understood and judged within the context of their own culture, rather than by external standards. All cultures are equally valid and must be understood in their own terms. It emphasizes respect for different cultures and rejects the idea of universal moral standards.<sup>10</sup>

### Ad hoc courts

Ad hoc courts are temporary courts created for specific cases or situations. They are not permanent institutions and are formed to handle extraordinary circumstances, such as war

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<sup>6</sup> "About the Court." *International Criminal Court*, [www.icc-cpi.int/about/the-court](http://www.icc-cpi.int/about/the-court).

<sup>7</sup> "Prosecutorial Manipulation or Misuse of Process." *OUP Academic*, 2008, <https://academic.oup.com/book/8382/chapter-abstract/154075398?redirectedFrom=fulltext>

<sup>8</sup> *Language Selection | Migration and Home Affairs*, [https://home-affairs.ec.europa.eu/system/files/2022-07/ran\\_paper\\_role\\_civil\\_society\\_organisations\\_exit\\_work\\_052022\\_en.pdf](https://home-affairs.ec.europa.eu/system/files/2022-07/ran_paper_role_civil_society_organisations_exit_work_052022_en.pdf)

<sup>9</sup> *United Nations Development Programme*, [www.undp.org/sites/g/files/zskgke326/files/publications/Inclusive\\_dialogue\\_Malawi.pdf](http://www.undp.org/sites/g/files/zskgke326/files/publications/Inclusive_dialogue_Malawi.pdf).

<sup>10</sup> "Cultural Relativism." *Oxford Reference*, <https://w09EFA7E3F>

crimes or human rights violations. Examples include the International Criminal Tribunal for the former Yugoslavia (ICTY).<sup>11</sup>

## BACKGROUND INFORMATION

### Importance of Defining War Crimes

Legal definitions of war crimes are essential to establishing accountability and advancing justice. Legal systems can hold people accountable for their acts by defining the precise criteria and components that constitute war crimes. This makes it possible to identify and bring culprits to justice, availing the victims and the impacted communities. The solid basis for unbiased and equitable trials is laid forth by specific definitions of war crimes.

To avoid injustice and serve as an indicator for future violations, legal definitions of war crimes are important. It sends a strong message that war crimes won't be condoned and that those involved will face legal repercussions when war crimes are specifically defined and enshrined in laws. The possibility of being held responsible for one's conduct serves as a significant deterrent, inhibiting potential offenders from carrying out illegal actions during armed



Figure 1: Predecessors of the International Criminal Court, the Nuremberg (November 1945 - October 1946) and Tokyo (May 1946 - November 1948) war crime trials

conflicts. International humanitarian law is more likely to be followed when there are legal penalties and people face the threat of getting caught breaking the law. Moreover, creating legal guidelines is of paramount importance for the protection of human rights and the preservation

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<sup>11</sup> "Pritzker Legal Research Center: International Criminal Law: Ad Hoc Tribunals (ICTY & ICTR)." *Pritzker Legal Research Center at Northwestern Pritzker School of Law*, 1 Feb. 2022, <https://library.law.northwestern.edu/IntlCrimLaw/AdHoc#s-lg-box-18940927>

of humanitarian principles. Legal frameworks provide limits that protect people's rights and dignity, especially those who are particularly at risk during armed conflict, by explicitly defining banned behaviors. The protection provided by the concept of war crimes is advantageous to several categories, including civilians, prisoners of war, and non-combatants. Legal frameworks ensure that during armed conflicts, the ideals of humanity (considering the dignity and well-being of all people), proportionality (avoiding undue harm), and differentiation (between soldiers and civilians) are upheld. These criteria offer a framework for reducing suffering among people and encouraging adherence to international humanitarian law.

Even in the heat of armed conflicts, legal frameworks on war crimes help to create a more compassionate society by respecting human rights and humanitarian ideals. These elements are essential for promoting a society in which people are held responsible for their deeds and armed conflicts are reduced.

### **Historical Context and Evolution of War Crimes**

The history of war crimes is intertwined with the growth of International Humanitarian Law. During the 19th century, when governments strove to develop laws and regulations to lessen the severity of armed conflicts, the modern notion of war crimes started to take shape. The first Geneva Convention was established in 1864, which was a big step toward protecting those impacted by armed wars. The agreement set guidelines for the care of prisoners of war, the protection of medical staff and facilities, and the protection of injured and ill troops.

In the years following World War II, war crimes were recognized and prosecuted for the first time. Famous Nazi officials were tried in the Nuremberg Trials in 1945 for crimes against humanity, war crimes, and genocide. This important historical moment established the idea of individual criminal culpability for war crimes, regardless of official rank. The Tokyo Trials, which took place after the Nuremberg Trials from 1946 to 1948, were focused on bringing charges against Japanese military and political officials for comparable crimes committed during World War II. These cases strengthened the idea that war crimes may be prosecuted even during hostilities.



Figure 2: International Criminal Tribunal for the Former Yugoslavia 1993-2017

The International Criminal Tribunal for the Former Yugoslavia (ICTY) was founded by the United Nations in 1993 as a reaction to the continued hostilities and crimes committed in the Balkans throughout the 1990s. Since Nuremberg and Tokyo, the ICTY has been the first international court to try people for war crimes, crimes against humanity, and genocide. A significant step toward the creation of a thorough framework for the prosecution of war crimes was the founding of the ICTY. It opened the door for other international criminal courts, such as the International Criminal Tribunal for Rwanda (ICTR) and the International Criminal Court (ICC), which widened the range of crimes against humanity that might be held accountable. In conclusion, the historical context and evolution of war crimes demonstrate a growing recognition of the need for legal frameworks to address the heinous acts committed during armed conflicts.

### **Challenges in Defining War Crimes**

It is a challenging task to define war crimes within the confines of the law. The inherent subjectivity and ambiguity in the criteria of war crimes present one key obstacle. This difficulty is exacerbated by the nature of armed conflicts and the variety of cultural and socioeconomic contexts in which they take place. International humanitarian law is violated by a variety of actions known as "war crimes," including deliberate assaults on civilians, torture, and the use of weapons that are not allowed. However, defining precisely what falls under the purview of a war crime can be arbitrary and up to interpretation.

The ambiguity in defining war crimes arises from the fact that armed conflicts often involve chaotic and fluid situations. It is challenging to distinguish clearly between actions that are allowed and banned in certain situations. Further complicating the process of identifying war

crimes is the fact that those engaging in battles might have a variety of goals and objectives. For instance, it can be difficult to tell the difference between lawful military operations and intentional acts of violence against civilians or non-combatants when evaluating the context and intent of a particular action. The concept of war crimes is also complicated by contextual and cultural differences. Different nations and cultures may have different ideas about what is appropriate conduct in times of armed conflict. Different perspectives on war crimes may result from how norms, beliefs, and traditions impact our perception of what constitutes legitimate behavior. The formation of generally recognized definitions of war crimes is complicated by cultural relativism, which accepts, that various communities' conceptions of right and wrong can vary. Contextual changes can make it more difficult to define war crimes. Armed conflicts take place in a variety of geographical, historical, and socio-political circumstances, which have an impact on their dynamics and course. A war crime in one situation could not have the same legal implications in another.

The distinction between precision and flexibility in the concept of war crimes must be carefully considered. On the one hand, specificity makes sure that the legal system offers precise instructions and imposes rigid limits for forbidden behavior. Accurate definitions support accountability and the prosecution of war crime offenders. A definition that is too strict and unbending, however, might not be able to change with the times and accommodate novel kinds of conflict. On the other hand, flexibility considers how armed conflicts are evolving and the necessity to deal with new problems. It enables legal frameworks to cover new forms of conflict, military strategies, and technological advancements that could result in war crimes that weren't predicted in the past. Maintaining the relevance and efficacy of legal definitions in preventing war crimes requires striking the correct balance between precision and flexibility.

## **MAJOR COUNTRIES AND ORGANIZATIONS INVOLVED**

### **Afghanistan**

Due to decades of warfare and the existence of several armed factions, Afghanistan has been impacted by war crimes. Grave human rights breaches have occurred in the nation, including the intentional targeting of civilians, wrongful deaths, sexual assault, and infrastructural devastation. Afghanistan's experiences have influenced how war crimes are defined and how important accountability and justice are.<sup>12</sup> As a result, they would prioritize victim rights, advance accountability, aid in investigations and prosecutions, bolster international assistance, and promote peace. Afghanistan may fight to bring about justice, dissuade potential offenders, and build a society that is safer and more just. The concept fosters foreign collaboration and aid,

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<sup>12</sup> "World Report 2023: Rights Trends in Afghanistan." *Human Rights Watch*, 20 Jan. 2023, [www.hrw.org/world-report/2023/country-chapters/afghanistan](http://www.hrw.org/world-report/2023/country-chapters/afghanistan).

supports Afghan institutions' capacity-building efforts, and helps the nation's attempts at lasting peace and reconciliation. It also gives a shared understanding.

### **DEMOCRATIC REPUBLIC OF CONGO (DRC)**

In the DRC, several armed groups and governmental authorities have engaged in protracted armed conflicts and perpetrated war crimes. Numerous instances of sexual assault, murder, forcible relocation, and the enlistment of children as soldiers are among these atrocities.<sup>13</sup> Due to the DRC's experiences, it is crucial to establish strong international structures as they provide the means to ensure accountability for perpetrators, overcome impunity, and break the cycle of violence. By conducting thorough investigations and prosecutions, they send a powerful message that war crimes will not go unpunished. Furthermore, these structures play a crucial role in safeguarding and empowering victims, providing them with avenues for justice and redress.

### **United States of America (US)**

By taking part in international conferences, discussions, and the ratification of pertinent treaties, the United States has actively shaped the concept of war crimes. By actively participating in discussions on the definition and extent of war crimes, the US has helped to shape international humanitarian law. The United States' involvement in shaping the definition of war crimes is its participation in the negotiation and adoption of the Rome Statute, which established the International Criminal Court (ICC).<sup>14</sup> The United States actively engaged in the drafting process of the Rome Statute but ultimately did not become a party to it.<sup>15</sup> Although the US has occasionally been criticized for its own adherence to international legal norms, the development and implementation of international humanitarian law have been greatly affected by its involvement in defining war crimes and international criminal justice systems.

### **United Kingdom (UK)**

The United Kingdom has made significant contributions to the definition of war crimes and the growth of international humanitarian law. The UK has taken a proactive role in participating in international forums, negotiations, and conferences where war crimes are discussed. For instance, the UK has actively engaged in international fora where deliberations on war crimes are held, such as the UN General Assembly and the International Law Commission. Additionally, it has actively supported international initiatives including its partnership with

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<sup>13</sup> "Children and Armed Conflict in the Democratic Republic of the Congo - Report of the Secretary-General (S/2022/745)." *ReliefWeb*, <https://reliefweb.int/report/democratic-republic-congo/children-and-armed-conflict-democratic-republic-congo-report-secretary-general-s2022745>

<sup>14</sup> | *International Criminal Court*, [www.icc-cpi.int/sites/default/files/RS-Eng.pdf](http://www.icc-cpi.int/sites/default/files/RS-Eng.pdf).

<sup>15</sup> "Q&A: The International Criminal Court and the United States." *Human Rights Watch*, 8 Feb. 2022, [www.hrw.org/news/2020/09/02/qa-international-criminal-court-and-united-states](http://www.hrw.org/news/2020/09/02/qa-international-criminal-court-and-united-states).

international criminal tribunals that are focused on uncovering and prosecuting war crimes. The interpretation and definition of war crimes have been impacted by the military doctrine, judicial systems, and application of legal sanctions in the UK. The legal environment on war crimes and their prosecution has been shaped by its participation in international projects.

### **Amnesty International**

Amnesty International is a prominent NGO that focuses on human rights issues worldwide. It conducts research, campaigns, and advocacy to promote and protect human rights, including addressing war crimes. Amnesty International's impact on the definition of war crimes lies in its documentation of violations, including war crimes,<sup>16</sup> and its efforts to raise awareness and hold perpetrators accountable. The organization engages in campaigns and advocacy to mobilize public opinion, put pressure on governments and armed groups, and push for accountability mechanisms. Amnesty International's work has been influential in promoting justice for victims, raising awareness about war crimes, and contributing to the development of legal norms and standards related to the prevention and prosecution of war crimes.<sup>17</sup>

### **Human Rights Watch (HRW)**

International non-governmental organization Human Rights Watch (HRW) undertakes advocacy and research on human rights concerns all over the world. The research and reporting done by HRW, which put light on episodes and patterns of abuse, had a significant effect on how war crimes are defined. By compiling evidence of breaches and conducting investigations, HRW advances knowledge of war crimes and influences the global conversation on justice and accountability. In order to encourage war criminal accountability, HRW participates in advocacy work. It demands that governments, international organizations, and other key players act against offenders, support legal systems, and reinforce existing laws.<sup>18</sup> The studies and suggestions made by HRW have an impact on policy discussions and help to create plans to stop war crimes and protect victims.

### **International Committee of the Red Cross (ICRC)**

The International Committee of the Red Cross (ICRC) is an unbiased, neutral organization, that strives to safeguard and support war victims. The ICRC has a long history of involvement in the formulation of international humanitarian law and the definition of war crimes. It has significantly influenced the concept of war crimes as well as the legal structure that oversees armed conflicts. Through its study, documenting of violations, and field activities in conflict-

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<sup>16</sup> "There Must Be No Safe Havens. Those Who Commit the Worst Crimes Imaginable Can No Longer Hide." *Amnesty International*, 31 Oct. 2022, [www.amnesty.org/en/what-we-do/international-justice/](http://www.amnesty.org/en/what-we-do/international-justice/).

<sup>17</sup> "The Nobel Peace Prize 1977." *NobelPrize.org*, [www.nobelprize.org/prizes/peace/1977/amnesty/history/](http://www.nobelprize.org/prizes/peace/1977/amnesty/history/).

<sup>18</sup> "Human Rights Watch - HRW | Genève Internationale." *Genève Internationale*, [www.geneve-int.ch/human-rights-watch-hrw-0](http://www.geneve-int.ch/human-rights-watch-hrw-0).

affected regions, it actively contributes to forming the understanding of war crimes. Its opinions and insights are highly regarded and aid in the creation of war crimes-related legal norms and standards. It holds private consultations with governments, armed forces, and other relevant parties to advance adherence to international humanitarian law, which includes the prevention and outlawing of war crimes.<sup>19</sup> The advice and experience of the ICRC are highly valued in discussions and negotiations on war crimes and related issues.

### **International Criminal Court (ICC)**

The International Criminal Court (ICC) is the first international criminal court that was formed permanently to try people for crimes against humanity, genocide, and war crimes. The Rome Statute, a convention that went into effect in 2002, established the ICC. The Rome Statute provides a legal framework for pursuing and punishing those accountable for such crimes by defining and listing war crimes that fall within its purview.<sup>20</sup> The importance of the ICC stems from its function as a focal organization for securing worldwide responsibility for war crimes. By establishing precedents through its rulings and conclusions, it helps to advance international humanitarian law. The court investigates and pursues those accused of war crimes, fostering deterrence and strengthening the notion that war crimes will not go unpunished.

## **TIMELINE OF EVENTS**

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<sup>19</sup> "International Committee of the Red Cross." *International Committee of the Red Cross*, 16 July 2018, [www.icrc.org/en/doc/resources/documents/misc/57jpzn.htm](http://www.icrc.org/en/doc/resources/documents/misc/57jpzn.htm).

<sup>20</sup> "Rome Statute of the International Criminal Court." *OHCHR*, [www.ohchr.org/en/instruments-mechanisms/instruments/rome-statute-international-criminal-court](http://www.ohchr.org/en/instruments-mechanisms/instruments/rome-statute-international-criminal-court).

DATE	DESCRIPTION OF EVENT
August 22, 1864	The creation of the first Geneva Convention.
July 29, 1899 - October 18, 1907	Hague Conventions address laws and customs of war and introduce principles.
November 20, 1945	The Nuremberg and Tokyo trials take place.
1949	Four Geneva Conventions are adopted that define war crimes and protect victims.
1984	The principle of war crimes was incorporated into other conventions.
May 25, 1993	UN establishes International Criminal Tribunal for Former Yugoslavia (ICTY)
July 1, 1997	The Mine Ban Treaty, which focused on personnel mines and their destruction, is adopted.
July 17, 1998	Rome Statute of the International Criminal Court (ICC) is adopted.
July 1, 2002	Rome Statute enters into force, making the ICC operational.
March 3, 2021	ICC authorizes investigation into alleged war crimes in Palestine, applying international criminal law to the Israeli-Palestinian conflict.

## RELEVANT UN RESOLUTIONS, TREATIES AND EVENTS

### The Rome Statute of the International Criminal Court (ICC)

An important international treaty was ratified by the United Nations Diplomatic Conference in 1998: the Rome Statute of the International Criminal Court (ICC), after being

approved by 60 nations, it entered into force in 2002.<sup>21</sup> The Rome Statute encompasses further grave breaches of the laws of war and establishes certain war crimes. The precise acts listed in Article 8 that qualify as war crimes include willfully attacking people, torturing prisoners without due process, utilizing illegal weapons or tactics of war, and seizing hostages.<sup>22</sup> Crimes committed against members of the humanitarian community, works of art, and the environment are also included. The ICC's definition and prosecution of war crimes are governed by Article 8, which reads: "*The Court shall have jurisdiction in respect of war crimes in particular when committed as part of a plan or policy or as part of a large-scale commission of such crimes*"<sup>23</sup>. The treaty continues to be an important worldwide legal framework for the prosecution of war crimes even if it has not been approved by all countries.

### **UN Security Council Resolution S/RES/827(1993)**

The main goal of this Security Council Resolution was to set up the International Criminal Tribunal for the Former Yugoslavia (ICTY) so that those responsible for serious crimes committed during the hostilities on the former Yugoslavian territory might be brought to justice. It made it clear that the newly established tribunal had jurisdiction over war crimes, which included violations of the Geneva Conventions. Resolution 827 represented a turning point in the evolution of international justice by establishing the ICTY and laying the foundation for holding war criminals responsible for their deeds.<sup>24</sup> For dealing with war crimes, crimes against humanity, and genocide, it offered a structure and legal procedure, establishing a standard for later international criminal courts.

### **United Nations Security Council Resolution S/RES/955(1994)**

The establishment of the International Criminal Tribunal for Rwanda (ICTR) was made possible by United Nations Security Council Resolution 955, which was adopted on November 8, 1994. The resolution was a reaction to the horrific massacre that took place in Rwanda earlier in 1994. It created the ICTR as an international court with the authority to try people for war crimes, genocide, and other grave infractions of international humanitarian law committed during the genocide in Rwanda. Resolution 955 outlined the offenses that were under the tribunal's purview, as well as the principles of a fair trial and the member nations' expected cooperation in order to make the tribunal's job easier. The resolution made clear that the international

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<sup>21</sup> "Commentary Rome Statute: Part 2, Articles 11-21: Case Matrix Network." *Home: Case Matrix Network*, 30 June 2016, [www.casematrixnetwork.org/index.php?id=336](http://www.casematrixnetwork.org/index.php?id=336).

<sup>22</sup> "Rule 156. Definition of War Crimes Rule 156. Serious violations of international humanitarian law constitute war crimes." [ihl-databases.icrc.org/en/customary-ihl/v1/rule156](http://ihl-databases.icrc.org/en/customary-ihl/v1/rule156).

<sup>23</sup> "Rome Statute of the International Criminal Court." | *International Criminal Court*, 2011, [www.icc-cpi.int/sites/default/files/RS-Eng.pdf](http://www.icc-cpi.int/sites/default/files/RS-Eng.pdf).

<sup>24</sup> "Resolution 827 (1993) /." *United Nations Digital Library System*, <https://digitallibrary.un.org/record/166567>

community was committed to holding genocide offenders accountable for their crimes and pursuing justice for the victims by creating the ICTR.

## **PREVIOUS ATTEMPTS TO SOLVE THE ISSUE**

### **Development of International Humanitarian Law (IHL)**

In order to regulate armed conflicts and identify war crimes, International Humanitarian Law (IHL) was established. The Geneva Conventions and its Additional Protocols are important pieces of legislation. A sizable number of governments have ratified the Geneva Conventions and its Additional Protocols, making them internationally recognized and enforceable legal documents. They have helped to create a shared understanding of what war crimes are as well as requirements for nations to pursue and punish those who commit them. These agreements set up rules for hostilities and safeguards for people during armed conflict. They have gained widespread ratification and help foster a shared understanding of war crimes and the obligation to investigate, charge, and punish those culpable. IHL education and awareness campaigns have also had a good effect. IHL has been essential in influencing armed conflict norms and practices, despite ongoing obstacles.

### **National legislation**

Many nations have shown their dedication to ensuring justice and accountability in situations of war crimes through national legislation by passing domestic laws that correspond to international standards. These national laws offer a strong foundation for the prosecution of anyone charged with war crimes, guaranteeing that those liable for such horrific deeds, regardless of their nationality, are held accountable. These countries contribute to the global effort to prevent impunity and promote respect for human rights during armed conflict by incorporating international norms into their legal systems. Such national laws are a crucial instrument in ensuring that justice is carried out and that those who commit war crimes suffer the proper repercussions for their acts.

### **Ad hoc courts**

A major focus of ad hoc courts has been on the ICTY and ICTR. These specialized courts were created to bring charges against those who were thought to have committed war crimes during certain conflicts. These courts have made a significant contribution to the evolution and clarification of the notion of war crimes through their judicial processes and rulings. The ad hoc courts have contributed to the understanding of what actions constitute war crimes by looking at cases and examining the behavior of people involved in armed conflicts. They have also established precedents and significant legal standards for future accountability and justice in situations of grave violations of international humanitarian law.

## **POSSIBLE SOLUTIONS**

### **Expert panels and commissions**

These can be extremely important in the creation of war crimes legal regulations. These organizations would bring together a wide spectrum of expertise, including judges, human rights activists, military experts, and ambassadors from other nations. Their goal is to define and confront various types of war crimes via analysis, discussion, and the formulation of detailed guidelines. Expert panels and commissions can manage the complicated legal, moral, and practical issues of war crimes by drawing on the skills and knowledge of these people. To make sure that the rules are still applicable and useful in the face of changing issues, they can evaluate current frameworks, spot gaps, and suggest required revisions. The participation of professionals with various experiences and viewpoints guarantees a thorough and educated approach to the creation of legal guidelines on war crimes, therefore boosting their credibility, effect, and legitimacy.

### **Accountability and Deterrence**

Multiple goals may be achieved by establishing effective systems to hold people responsible for their conduct during armed conflicts. In the first place, it guarantees that those accountable for war crimes bear the costs of their acts and brings justice to the victims. This promotes closure, aids in the healing process, and preserves the dignity and rights of the impacted people and communities. Accountability also serves as a potent deterrence by making it obvious that war crimes will not be tolerated. It acts as a warning to potential offenders, affecting their judgment and perhaps averting more crimes. Increasing accountability and deterrence can be accomplished by strengthening domestic legal systems, creating specialized courts, enacting targeted punishments, and enabling suspect extraction.

### **Clarity and Consistency**

In order to provide legal guidelines on the classification of war crimes, clarity and consistency should be kept in mind. Consistency and coherence amongst legal systems can be attained by providing precise definitions and criteria for various classifications of war crimes. The definitions of war crimes in the laws must be specific and explicit. Language ambiguity can result in different interpretations and compromise the ability of offenders to be held accountable. Clarity makes sure that everyone, including military members, citizens, and legal professionals, understands the banned actions.

Another thing that should be taken into consideration is, that the International law, in particular the body of legislation known as International Humanitarian Law (IHL) or the legislation of Armed Conflict, applies to war crimes. Legal principles should be in accordance with pertinent treaties, conventions, and international legal tradition. Consistency makes ensuring that the rules are in conformity with accepted norms in the worldwide community. Such uniformity and clarity

lay the groundwork for successful implementation, guaranteeing that offenders can be brought to justice and victims can do so using a common language.

### International cooperation

A key strategy for developing legal definitions of war crimes is international collaboration. States should jointly strive toward a shared understanding and consensus on the definition and prosecution of war crimes by encouraging international cooperation, exchanging best practices, information, and evidence. Cooperation between nations improves the efficiency of legal systems, increases the ability to find and punish criminals, and encourages the exchange of knowledge and resources. Additionally, it makes it easier to form specialized tribunals, carry out extradition procedures, and impose accountability measures, which helps deter and stop war crimes on a worldwide level. It can be achieved through more effective treaties and conventions, cooperation with international organizations, international criminal tribunals and courts, capacity building, and diplomatic efforts.

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