CHAPTER-IV

Crime against Humanity by Individuals: A Post 1945 Spectrum

World War II (1939-1945) was the largest armed conflict in human history. Ranging over six continents and all the world's oceans, the war caused an estimated 50 million military and civilian deaths, including those of 6 million Jews, global in scale and in its repercussions. Among its major results were the beginning of the nuclear era, increased pressure to decolonize the Third World, and the advent of the Cold War. The war also ended America's relative isolation from the rest of the world and resulted in the creation of the United Nations. At the same time, African Americans made significant steps toward achieving their political, economic and social rights.

I. The Warring Sides in World War II

Although the war began with Nazi Germany's attack on Poland in September 1939, the United States did not enter the war until after the Japanese bombed the American task force in Pearl Harbor, Hawaii, on December 7, 1941. Between those two events, President Franklin Roosevelt worked hard to prepare Americans for a conflict that he regarded as inevitable. In November 1939, he persuaded Congress to repeal the arms embargo provisions of the neutrality law so that arms could be sold to France and Britain. After the fall of France in the spring of June 1940, he pushed for a major military buildup and began providing aid in the form of Lend-Lease to Britain, which now stood alone against the Axis powers. America, he declared, must become "the great arsenal of democracy." From then on, America's capacity to produce hundreds of thousands of tanks, airplanes, and ships for itself and its allies proved a crucial factor in Allied success, as did the fierce resistance of the Soviet Union, which had joined the war in June 1941 after being attacked by Germany. The brilliance of America's military leaders, including General Dwight D. Eisenhower, who planned and led the attack against the Nazis in Western Europe, and General Douglas MacArthur and Fleet Admiral Chester Nimitz, who led the Allied effort in the Pacific, also contributed to the Allied victory.

Among the war's major turning points for the United States were the Battle of Midway (1942), the invasion of Italy (1943), the Allied invasion of France (1944), the battle of Leyte Gulf (1944) and the dropping of the atomic bombs on Japan (1945). The war ended with the Axis powers' unconditional surrender in 1945.

Germany was totally defeated, and the Nazi regime brought down. Its leaders were tried for crimes against humanity at Nuremberg, the former site of Nazi propaganda triumphs. Hitler escaped trial and execution by committing suicide in his Berlin bunker at the end of the war. German cities were in ruins from a massive bombing campaign.

Germany was divided into 4 zones of occupation by the victorious powers, pending a more permanent political settlement. Japan also was in ruins from extensive bombing. Prominent military leaders were tried and convicted of war crimes, but the emperor was allowed to retain his position. Japan was temporarily placed under U.S. military rule. England was devastated by the war, having experienced extensive bombing during the 1940 by the Germans. The economy depended for recovery upon aid from the United States. England rapidly phased out most of its remaining imperial holdings in the years immediately following the war. France had not experienced the enormous human losses sustained in the First World War, but would have to recover from the effects of Nazi occupation. Retribution was taken upon collaborators. Like England, France would be compelled to dismantle its colonial empire in the years following the war. This was a particularly traumatic and drawn out process for the French, in Algeria and in Vietnam where they fought prolonged and bitter wars in an attempt to maintain their colonial control. England and France no longer held a status of power comparable either to the United States or the Soviet Union.

II. Effect of World War II

World War II had appeared to pose an unprecedented threat to human civilization and gave impetus to the renewal of Wilson's vision of an international organization to keep the peace. Organizing efforts were begun even while the war was on. In June, 1945, 51 nations were represented at the founding conference in San Francisco. In October, 1945, the United Nations was officially established. Unlike the League of Nations, the UN had the full support and leadership of the United States. The Soviet Union and all the most significant nations of the world were members.

In 1944, representatives of the major economic powers met to create an International Monetary Fund and to agree upon a regime of international tariff regulation known as GATT. There was a determination to avoid the mistakes of the interwar years which had exacerbated the Great Depression. The world community was thought to be entering a new era of international cooperation, new economic thought and social change. It also ushered in new political alignment.

III. An Account of the Past World War II War Crimes and Crime Against Humanity

After World War II, both international and domestic courts conducted trials of accused war criminals. Beginning in the winter of 1942, the governments of the Allied powers

announced their determination to punish Axis war criminals. On December 17, 1942, the leaders of the United States, Great Britain, and the Soviet Union issued the first joint declaration officially noting the mass murder of European Jews and resolving to prosecute those responsible for crimes against civilian populations.

Signed by the foreign secretaries of the governments of the United States, the United Kingdom, and the Soviet Union, the October 1943 Moscow Declaration stated that at the time of an armistice persons deemed responsible for war crimes would be sent back to those countries in which the crimes had been committed and judged according to the laws of the nation concerned. “Major” war criminals, whose crimes could be assigned no particular geographic location, would be punished by joint decisions of the Allied governments. The trials of leading German officials before the International Military Tribunal (IMT), the best known of the postwar war crimes trials, took place in Nuremberg, Germany, before judges representing the Allied powers.

Between October 18, 1945, and October 1, 1946, the IMT tried 22 "major" war criminals on charges of crimes against peace, war crimes, and crimes against humanity, and conspiracy to commit such crimes. The IMT defined crimes against humanity as "murder, extermination, enslavement, deportation...or persecutions on political, racial, or religious grounds." Twelve of those convicted were sentenced to death, among them Reich Marshall Hermann Goring, Hans Frank, Alfred Rosenberg, and Julius Streicher. The IMT sentenced three defendants to life imprisonment and four to prison terms ranging from 10 to 20 years. It acquitted three of the defendants.

Under the aegis of the IMT, U.S. military tribunals conducted 12 further trials of high-ranking German officials at Nuremberg. These trials are often referred to collectively as the Subsequent Nuremberg Proceedings. Between December 1946 and April 1949, U.S. prosecutors tried 177 persons and won convictions of 97 defendants. Leading physicians, members of the German justice administration and German Foreign Office, members of the German High Command, and leading German industrialists were among the groups who stood trial.

The overwhelming majority of post-1945 war crimes trials involved lower-level officials and functionaries. In the immediate postwar years, the four Allied powers occupying Germany (and Austria) -- the United States, Great Britain, France, and the Soviet Union -- held trials in their zones of occupation and tried a variety of perpetrators for wartime offenses. Many of the earliest zonal trials, especially in the U.S. zone, involved the murder of Allied military personnel who had been captured by German or Axis troops. In time, however, Allied occupiers expanded their juridical mandate to try concentration camp guards and commandants and others who had committed crimes against Jews and others who suffered persecution in areas the Allies now occupied. Much of our early

knowledge of the German concentration camp system comes from the evidence and eyewitness testimonies at these trials.

Allied occupation officials were interested to remove Nazis from Germany and saw the reconstruction of the German court system as an important step in this direction. These proceedings represented the first German national trials in the early postwar period. Both the German Federal Republic (West Germany) and the German Democratic Republic (East Germany) continued to hold trials against Nazi-era defendants in the decades following their establishment as independent states. To date, the Federal Republic (in its old manifestation as West Germany and in its current status as a united Germany) has held a total of 925 proceedings trying defendants of National Socialist era crimes. Many detractors have criticized German proceedings, particularly those held in the 1960s and 1970s, for doling out acquittals or light sentences to aging defendants or defendants who claimed superior orders.

Many nations which Germany occupied during World War II or who collaborated with the Germans in the persecution of civilian populations, especially Jews, have also held national trials in the years following World War II. Poland, the former Czechoslovakia, the Soviet Union, Hungary, Romania, and France, among others, have tried thousands of defendants -- both Germans and indigenous collaborators, in the decades since 1945. The Soviet Union held its first trial, the Krasnodar Trial, against local collaborators in 1943, long before World War II had ended. Perhaps Poland's most famous postwar national trial was held in 1947 in Krakow. The proceedings tried a number of functionaries of the Auschwitz concentration camp and sentenced Auschwitz camp commandant Rudolf Hoss and others to death. One of the most famous national trials of German perpetrators was held in Jerusalem: the trial of Adolf Eichmann, chief architect in the deportation of European Jews, before an Israeli court in 1961 captured worldwide attention and is thought to have interested a new postwar generation in the crimes of the Holocaust.

Unfortunately, many perpetrators of Nazi-era criminality have never been tried or punished. In many cases, German perpetrators of National Socialist crimes simply returned to their normal lives and professions in German society. The hunt for German and Axis war criminals still goes on today.

Some of the major trials in the post World War II history that tried individuals for alleged commission of War Crime and Crime against Humanity are the following:

1. The Nuremberg trial
2. The Tokyo Trial.
3. 1948 Arab–Israeli War.
4. 1945-1949 Indonesian War of Independence.
5. 1954–1962 Algerian War.

6. 1954–1975: Vietnam War
7. 1971: Bangladesh Liberation War
8. Cambodian civil war 1970–1975
9. Invasion of Cyprus 1974
10. Lebanese Civil War 1975–1990
11. Civil war in Afghanistan 1978-present
12. 1980–1988: Iran – Iraq War
13. Uganda 1985-present
14. Yugoslav wars 1991–1999
15. Bosnian War 1992–1995
16. Kosovo War 1998–1999
17. 1990–2000: Liberia / Sierra Leone
18. 1990: Invasion of Kuwait
19. 2003–2011: Iraq War
20. 2003–2009/2010 Darfur conflict;
21. 2005–2010 Civil war in Chad
22. Sri Lanka 2009

1. The Nuremberg trial

The Nuremberg Trials were a series of military tribunals, held by the Allied forces of World War II, most notable for the prosecution of prominent members of the political, military, and economic leadership of Nazi Germany. The trials were held in the city of Nuremberg. The first and best known of these trials, described as "the greatest trial in history" by Norman Birkett, one of the British judges who presided over it,[192] was the Trial of the Major War Criminals before the International Military Tribunal (IMT). Held between 20 November 1945 and 1 October 1946,[193] the Tribunal was given the task of trying 23 of the most important political and military leaders of the Third Reich, though one of the defendants, Martin Bormann, was tried in absentia, while another, Robert Ley, committed suicide within a week of the trial's commencement. Not included were Adolf Hitler, Heinrich Himmler, and Joseph Goebbels, all of whom had committed suicide several months before the indictment was signed.[194] The second set of trials of lesser war

[192] Marrus, Michael R., "The Nuremberg Trial: Fifty Years After", The American Scholar ,1997, pp. 563–570.

[193] Herbert R. Reginbogin; Christoph J. M. Safferling, The Nuremberg Trials: International Criminal Law Since 1945, Berlin: Walter de Gruyter. pp. 106–114. ISBN 978-3-11-094484-6.

[194] Cooper, Robert W. (2011) [1947]. The Nuremberg Trial. London: Faber & Faber. ISBN 978-0-571-27273-0. p. 38. "On October 6, in Berlin, the Chief Prosecutors signed the momentous Indictment setting forth the charges ... against Hermann Göring and his associates and the six organizations, named as criminal, to which they belonged."

criminals was conducted at the US Nuremberg Military Tribunals (NMT); among them included the Doctors' Trial and the Judges' Trial.

1. A. Creation of the courts

On 14 January 1942, representatives from the nine occupying countries met in London to draft the Inter-Allied Resolution on German War Crimes. At the meetings in Tehran (1943), Yalta (1945) and Potsdam (1945), the three major wartime powers, the United Kingdom, United States, and the Soviet Union, agreed on the format of punishment for those responsible for war crimes during World War II. France was also awarded a place on the tribunal. The legal basis for the trial was established by the London Charter of International Military Tribunal, which was agreed upon by the four so-called Great Powers on 8 August 1945,[195] and which restricted the trial to "punishment of the major war criminals of the European Axis countries".

Some 200 German war crimes defendants were tried at Nuremberg, and 1,600 others were tried under the traditional channels of military justice. Political authority for Germany had been transferred to the Allied Control Council which, having sovereign power over Germany, could choose to punish violations of international law and the laws of war. Because the court was limited to violations of the laws of war, it did not have jurisdiction over crimes that took place before the outbreak of war on 1 September 1939.[196]

1. B. Trial

The International Military Tribunal was opened on November 20, 1945, in the Palace of Justice in Nuremberg.[197] The first session was presided over by the Soviet judge, Nikitchenko. The prosecution entered indictments against 24 major war criminals and seven organizations – the leadership of the Nazi party, the Reich Cabinet, the Schutzstaffel (SS), Sicherheitsdienst (SD), the Gestapo, the Sturmabteilung (SA) and the "General Staff and High Command", comprising several categories of senior military officers. These organizations were to be declared "criminal" if found guilty.

The indictments were for:

1. Participation in a common plan or conspiracy for the accomplishment of a crime against peace.

2. Planning, initiating and waging wars of aggression and other crimes against peace.

3. War crimes.

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[195] Lawrence, Geoffrey (1947). "The Nuremberg Trial". International Affairs , pp.151–159.
[196] Ibid.
[197] Summary of the indictment in Department of State Bulletin, October 21, 1945, p. 595.

4. Crimes against humanity.

The 24 accused were, with respect to each charge, either indicted but not convicted, indicted and found guilty, or not charged, as listed in Appendix-I[198] by defendant, charge, and eventual outcome.

1. C. A Chronological Account of Trial [199]

1. November 20, 1945 start of the trial.
2. November 21, 1945 Robert H. Jackson opens for the prosecution with a speech lasting several hours, leaving a deep impression on court and public.
3. November 26, 1945 Hossbach Memorandum (of a conference in which Hitler explained his war plans) presented.
4. November 29, 1945 film "Nazi concentration camps" screened.
5. November 30, 1945 witness Erwin von Lahousen testifies, e.g. that Keitel and von Ribbentrop gave orders to murder Poles, Jews and Russian POWs.
6. December 12, 1945 film The Nazi Plan is screened, showing long-term planning and preparations for war by the Nazis.
7. January 3, 1946 witness Otto Ohlendorf, former head of Einsatzgruppe D, detachedly admits the murder of around 90,000 Jews.
8. January 3, 1946 witness Dieter Wisliceny, describes the organisation of RSHA, Department IV-A-4, in charge of the Final solution.
9. January 7, 1946 witness former SS-Obergruppenführer Erich von dem Bach-Zelewski, admits to organized mass murder of Jews and other groups in the Soviet Union.
10. January 28, 1946 witness Marie-Claude Vaillant-Couturier, member of the French resistance and KZ survivor, first victim giving testimony on the holocaust.
11. February 11/12, 1946 witness former General Paulus, who had been secretly brought to Nuremberg, on the question of waging a war of aggression.
12. February 14, 1946 the Soviet prosecutors try to blame the massacre of Katyn on the Germans.
13. February 19, 1946 film Cruelties of the German-Fascist Intruders on atrocities in the death camps.
14. February 27, 1946 witness Abraham Sutzkever on the murder of almost 80,000 Jews in Vilnius by the German occupiers.
15. March 8, 1946 first witness for the defense, former General Karl Bodenschatz.
16. March 13–22, 1946 Goring takes the stand.

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[198] Appendix I of Chapter-IV.

[199] Henkel (ed.), Matthias (2011), Memoriam Nuernberger Prozesse, exhibition catalogue (German), Nuremberg: Museen der Stadt Nuernberg, pp. 78–84.

17. April 15, 1946 witness Rudolf Hoss, former commandant of Auschwitz, confirms that Kaltenbrunner had never been there but admits to mass murder.
18. May 21, 1946 witness Ernst von Weizsacker explains the German-Soviet pact of 1939 and the secret protocol.
19. June 20, 1946 Albert Speer takes the stand, he is the only defendant admitting a personal responsibility.
20. June 29, 1946 defense for Martin Bormann.
21. July 1–2, 1946 the court hears six witnesses on the Katyn massacre, Soviets fail to put the blame on Germany.
22. July 2, 1946 written testimony by Chester W. Nimitz regarding attacks on merchant vessels without warning, admitting that the US did the same.
23. July 4, 1946 final statement by the defense.
24. July 26, 1946 final statement by the prosecution.
25. July 30, 1946 start of the trial "criminal organizations".
26. August 31, 1946 last statement by the defendants.
27. September 1, 1946 court adjourns.
28. September 30, 1946 sentencing takes two days, with the individual sentences read out on the afternoon of October 1.

1. D. Legacy

The Tribunal is celebrated for establishing that "crimes against international law are committed by men, not by abstract entities, and only by punishing individuals who commit such crimes can the provisions of international law be enforced."[200] This can be considered as the first concrete step that established and recognized individual responsibility for war crimes and crime against humanity of. The creation of the IMT was followed by trials of lesser Nazi officials and the trials of Nazi doctors, who performed experiments on people in prison camps. It served as the model for the International Military Tribunal for the Far East which tried Japanese officials for crimes against peace and against humanity. It also served as the model for the Eichmann trial and for present-day courts at The Hague, for trying crimes committed during the Balkan wars of the early 1990s, and at Arusha, for trying the people responsible for the genocide in Rwanda.

The Nuremberg trials had a great influence on the development of international criminal law. The Conclusions of the Nuremberg trials served as models for:

1. The Genocide Convention, 1948.

[200] Heller, Kevin Jon, The Nuremberg Military Tribunals and the Origins of International Criminal Law. Oxford: Oxford University Press, 2011. ISBN 978-0-19-923233-8,p.3.

2. The Universal Declaration of Human Rights, 1948.
3. The Nuremberg Principles, 1950.
4. The Convention on the Abolition of the Statute of Limitations on War Crimes and Crimes against Humanity, 1968.
5. The Geneva Convention on the Laws and Customs of War, 1949; its supplementary protocols, 1977.
6. Primary legal framework for fixing individual liability for crime against humanity.

The International Law Commission, acting on the request of the United Nations General Assembly, produced in 1950 the report Principles of International Law Recognized in the Charter of the Nuremberg Tribunal and in the Judgement of the Tribunal[201].

The influence of the tribunal can also be seen in the proposals for a permanent international criminal court, and the drafting of international criminal codes, later prepared by the International Law Commission.

1. E. Establishment of a permanent International Criminal Court

The Nuremberg trials initiated a movement for the prompt establishment of a permanent international criminal court, eventually leading over fifty years later to the adoption of the Statute of the International Criminal Court. This movement was brought about because during the trials, there were conflicting court methods between the German court system and the U.S. court system. Conspiracy was unheard of by the Europeans at the time of the trials. Therefore, the German defense found it unfair to charge the criminals with conspiracy of crime, while the Allied judges were used to doing so.

Critics of the Nuremberg trials argued that the charges against the defendants were only defined as "crimes" after they were committed and that therefore the trial was invalid as a form of "victors' justice".[202] Much of the criticism of the Nuremberg Trials stems from a school of legal thought called legal positivism. As Quincy Wright noted eighteen months after the conclusion of the IMT:

The assumptions underlying the Charter of the United Nations, the Statute of the International Court of Justice, and the Charter of the Nuremberg Tribunal are far removed from the positivistic assumptions which greatly influenced the thought of international jurists in the nineteenth century. Consequently, the activities of those institutions have frequently been vigorously criticized by positivistic jurists ... who have asked: How can principles enunciated by the Nuremberg Tribunal, to take it as an example, be of legal value until most of the states have agreed to a tribunal with jurisdiction to enforce those principles? How could the Nuremberg Tribunal have obtained jurisdiction to find

[201] Yearbook of the International Law Commission, 1950, vol. II.
[202] Zolo, Danilo, Victors' Justice: From Nuremberg to Baghdad, New York & London: Verso Books, 2009. ISBN 978-1-84467-317-9.

Germany guilty of aggression, when Germany had not consented to the Tribunal? How could the law, first explicitly accepted in the Nuremberg Charter of 1945, have bound the defendants in the trial when they committed the acts for which they were indicted years earlier?[203]

Chief Justice of the United States Supreme Court Harlan Fiske Stone called the Nuremberg trials a fraud. "(Chief U.S. prosecutor) Jackson is away conducting his high-grade lynching party in Nuremberg," he wrote. "I don't mind what he does to the Nazis, but I hate to see the pretense that he is running a court and proceeding according to common law. This is a little too sanctimonious a fraud to meet my old-fashioned ideas."[204]

Jackson, in a letter discussing the weaknesses of the trial, in October 1945 told U.S. President Harry S. Truman that the Allies themselves "have done or are doing some of the very things we are prosecuting the Germans for. The French are so violating the Geneva Convention in the treatment of prisoners of war that our command is taking back prisoners sent to them. We are prosecuting plunder and our Allies are practicing it. We say aggressive war is a crime and one of our allies asserts sovereignty over the Baltic States based on no title except conquest."[205]

Associate Supreme Court Justice William O. Douglas charged that the Allies were guilty of "substituting power for principle" at Nuremberg. "I thought at the time and still think that the Nuremberg trials were unprincipled," he wrote. "Law was created ex post facto to suit the passion and clamor of the time."

U.S. Deputy Chief Counsel Abraham Pomerantz resigned in protest at the low caliber of the judges assigned to try the industrial war criminals such as those at I.G. Farben.

1. F. Legitimacy

One criticism that was made of the IMT was that some treaties were not binding on the Axis powers because they were not signatories. This was addressed in the judgment relating to war crimes and crimes against humanity, which contains an expansion of customary law: "the Convention Hague 1907 expressly stated that it was an attempt 'to revise the general laws and customs of war,' which it thus recognised to be then existing, but by 1939 these rules laid down in the Convention were recognised by all civilised nations, and were regarded as being declaratory of the laws and customs of war which are referred to in Article 6 (b) of the [London] Charter." The implication under international

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[203] Wright, Quincy,"Legal Positivism and the Nuremberg Judgment". American Journal of International Law, 1948, pp.405-407.

[204] Mason, Alpheus Thomas , Harlan Fiske Stone: Pillar of the Law. Hamden, CT: Archon Books, 1968,p.716.

[205] Luban, David, Legal Modernism: Law, Meaning, and Violence. Ann Arbor, MI: University of Michigan Press, 1994. ISBN 978-0-472-10380-5,p.360-361.

law is that if enough countries have signed up to a treaty, and that treaty has been in effect for a reasonable period of time, then it can be interpreted as binding on all nations, not just those who signed the original treaty. This is a highly controversial aspect of international law, one that is still actively debated in international legal journals.

In summataion two jurisprudential issues are raised by Nuremberg Trial:

a. If command of the sovereign is law and person bound by that law commit an act, can he or she be tried for that act by a subsequent ruler or sovereign?
b. What is the validity of the doctrine of continuity of Crown or Sovereign?
c. Can criminal trial be conducted under an Ex-Post Facto law?

2. Tokyo Trial

The International Military Tribunal for the Far East (IMTFE), also known as the Tokyo Trials, the Tokyo War Crimes Tribunal, or simply the Tribunal, was convened on April 29, 1946, to try the leaders of the Empire of Japan for three types of war crimes. **"Class A"** crimes were reserved for those who participated in a joint conspiracy to start and wage war, and were brought against those in the highest decision-making bodies; **"Class B"** crimes were reserved for those who committed "conventional" atrocities or crimes against humanity; **"Class C"** crimes were reserved for those in "the planning, ordering, authorization, or failure to prevent such transgressions at higher levels in the command structure."

Twenty-eight Japanese military and political leaders were charged with Class A crimes, and more than 5,700 Japanese nationals were charged with Class B and C crimes, mostly entailing prisoner abuse. China held 13 tribunals of its own, resulting in 504 convictions and 149 executions.

The Japanese Emperor Hirohito and all members of the imperial family, such as career officer Prince Yasuhiko Asaka, were not prosecuted for involvement in any of the three categories of crimes. Herbert Bix explains that "the Truman administration and General MacArthur both believed the occupation reforms would be implemented smoothly if they used Hirohito to legitimise their changes."[206] As many as 50 suspects, such as Nobusuke Kishi, who later became Prime Minister, and Yoshisuke Aikawa, head of Nissan, were charged but released in 1947 and 1948. Shiro Ishii received immunity in exchange for data gathered from his experiments on live prisoners. The lone dissenting judge to exonerate all indictees was Indian jurist Radhabinod Pal.

The tribunal was adjourned on November 12, 1948.

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[206] Herbert Bix ,Hirohito and the Making of Modern Japan, Perennial, 2011.

2. A. Background

The Tribunal was established to implement the Cairo Declaration, the Potsdam Declaration, the Instrument of Surrender, and the Moscow Conference. The Potsdam Declaration had called for trials and purges of those who had "deceived and misled" the Japanese people into war. However, there was major disagreement, both among the Allies and within their administrations, about whom to try and how to try them. Despite the lack of consensus, General Douglas MacArthur—the Supreme Commander of the Allied Powers—decided to initiate arrests. On September 11, just over a week after the surrender, he ordered the arrest of thirty-nine suspects—most of them members of General Hideki Tojo's war cabinet. Tojo tried to commit suicide, but was resuscitated with the help of US doctors.

2. B. Creation of the court

On January 19, 1946, MacArthur issued a special proclamation ordering the establishment of an International Military Tribunal for the Far East (IMTFE). On the same day he also approved the Charter of the International Military Tribunal for the Far East (CIMTFE), which prescribed how it was to be formed, the crimes that it was to consider, and how the tribunal was to function. The charter generally followed the model set by the Nuremberg Trials. On April 25, in accordance with the provisions of Article 7 of the CIMTFE, the original Rules of Procedure of the International Military Tribunal for the Far East with amendments were promulgated.[207]

2. C. Defendants

Twenty-eight defendants were charged, mostly military officers and government officials.

Civilian officials

1. Koki Hirota, prime minister (1936–1937), foreign minister (1933–1936, 1937–1938).
2. Baron Kiichiro Hiranuma, prime minister (1939), president of the Privy Council.
3. Naoki Hoshino, chief cabinet secretary.
4. Marquis Koichi Kido, Lord Keeper of the Privy Seal.
5. Toshio Shiratori, ambassador to Italy.
6. Shigenori Togo, foreign minister (1941-1942).
7. Mamoru Shigemitsu, foreign minister (1943-1945).
8. Okinori Kaya, finance minister (1941-1944).
9. Yosuke Matsuoka, foreign minister (1940–1941).

[207] Charter of the International Military Tribunal for the Far East.

Military officers

1. General Hideki Tojo, prime minister (1941–1944), war minister (1940-1941).
2. General Seishiro Itagaki, war minister (1938-1939).
3. General Sadao Araki, war minister (1931-1934).
4. Field Marshal Shunroku Hata, war minister (1939-1940).
5. Admiral Shigetarō Shimada, navy minister (1941-1944).
6. General Kenryo Sato, chief of the Military Affairs Bureau.
7. General Kuniaki Koiso, prime minister (1944–1945), governor-general of Korea (1942-1944).
8. Admiral Takazumi Oka, chief of the Bureau of Naval Affairs.
9. Lieutenant General Hiroshi Oshima, ambassador to Germany.
10. Admiral Nagano Osami, navy minister (1936-1937), chief of the Imperial Japanese Navy General Staff (1941-1944).
11. General Jiro Minami, governor-general of Korea (1936-1942).
12. General Kenji Doihara, chief of the intelligence service in Manchukuo.
13. General Heitaro Kimura, commander of the Burma Area Army.
14. General Iwane Matsui, commander of the Shanghai Expeditionary Force and Central China Area Army.
15. Lieutenant General Akira Muto, chief of staff of the 14th Area Army.
16. Colonel Kingoro Hashimoto, founder of Sakurakai.
17. General Yoshijiro Umezu, commander of the Kwantung Army, chief of the Imperial Japanese Army General Staff Office (1944-1945).
18. Lieutenant General Teiichi Suzuki, chief of the Cabinet Planning Board.

Other defendants

1. Shumei Okawa, a political philosopher.

2. D. Tokyo War Crimes Trial

On May 3 the prosecution opened its case, charging the defendants with conventional war crimes, crimes against peace, and crimes against humanity. The trial continued for more than two and a half years, hearing testimony from 419 witnesses and admitting 4,336 exhibits of evidence, including depositions and affidavits from 779 other individuals.

Charges

Following the model used at the Nuremberg Trials in Germany, the Allies established three broad categories. "Class A" charges, alleging crimes against peace, were to be brought against Japan's top leaders who had planned and directed the war. Class B and C charges could be leveled as war crimes and crimes against humanity respectively. Unlike the Nuremberg Trials, the charge of crimes against peace was a prerequisite to

prosecution—only those individuals whose crimes included crimes against peace could be prosecuted by the Tribunal.

The indictment accused the defendants of promoting a scheme of conquest that "contemplated and carried out ... murdering, maiming and ill-treating prisoners of war (and) civilian internees ... forcing them to labour under inhumane conditions ... plundering public and private property, wantonly destroying cities, towns and villages beyond any justification of military necessity; (perpetrating) mass murder, rape, pillage, brigandage, torture and other barbaric cruelties upon the helpless civilian population of the over-run countries."

Judgment

The IMT spent six months reaching judgment and drafting its 1,781-page opinion. On the day the judgment was read, five of the eleven justices released separate opinions outside the court.

In his concurring opinion Justice Webb (Australia) took issue with Emperor Hirohito's legal status. "The suggestion that the Emperor was bound to act on advice is contrary to the evidence", wrote Webb. While refraining from personal indictment of Hirohito, Webb indicated that Hirohito bore responsibility as a constitutional monarch who accepted "ministerial and other advice for war" and that "no ruler can commit the crime of launching aggressive war and then validly claim to be excused for doing so because his life would otherwise have been in danger ... It will remain that the men who advised the commission of a crime, if it be one, are in no worse position than the man who directs the crime be committed".[208]

Justice Jaranilla (Philippines) disagreed with the penalties imposed by the tribunal. "They are, in my judgment, too lenient", wrote the justice, "not exemplary and deterrent, and not commensurate with the gravity of the offence or offences committed." Justice Henri Bernard (France) pointed out the tribunal's flawed course of action, including the absence of Hirohito and the lack of sufficient deliberation by the judges. He concluded that Japan's declaration of war "had a principal author who escaped all prosecution and of whom in any case the present Defendants could only be considered as accomplices" and that "A verdict reached by a Tribunal after a defective procedure cannot be a valid one ..."[209]

"It is well-nigh impossible to define the concept of initiating or waging a war of aggression both accurately and comprehensively", wrote Justice B. V. A. Roling

[208] Roling, B. V. A.; Ruter, C. F., The Tokyo Judgment: The International Military Tribunal for the Far East (I.M.T.F.E), 29 April 1946-12 November 1948. 1. Amsterdam: APA-University Press, 2011, p.478. ISBN 978-90-6042-041-6.
[209] Ibid at p. 496.

(Netherlands) in his dissenting opinion. Justice Roling stated "I think that not only should there have been neutrals in the court, but there should have been Japanese also." He argued that they would always have been a minority and therefore would not have been able to sway the balance of the trial. However, "they could have convincingly argued issues of government policy which were unfamiliar to the Allied justices". Pointing out the difficulties and limitations in holding individuals responsible for an act of state and making omission of responsibility a crime, Roling called for the acquittal of several defendants, including Hirota.[210]

Legacy

In 1978 1,068 persons convicted for war crimes, including 14 convicted Class-A war criminals were secretly enshrined at Yasukuni Shrine.[211] Those enshrined include Hideki Tojo, Kenji Doihara, Iwane Matsui, Heitaro Kimura, Koki Hirota, Seishiro Itagaki, Akira Muto, Yosuke Matsuoka, Osami Nagano, Toshio Shiratori, Hiranuma Kiichiro, Kuniaki Koiso and Yoshijiro Umezu.[212] Since 1985, visits made by Japanese government officials to the Shrine have aroused protests in China and Korea.

In a survey of 3,000 Japanese conducted by Asahi News as the 60th anniversary approached in 2006, 70% of those questioned were unaware of the details of the trials, a figure that rose to 90% for those in the 20–29 age group. Some 76% of the people polled recognized a degree of aggression on Japan's part during the war, while only 7% believed it was a war strictly for self-defense.[213]

A Korean government commission cleared 83 of 148 Koreans convicted by the Allies of war crimes during World War II. The commission ruled that the Koreans, who were categorized as Class B and Class C war criminals, were in fact victims of Japanese imperialism.

3. 1948 Arab–Israeli War

Killings and massacres during the 1948 Palestine war resulted in the deaths of hundreds of civilians and unarmed soldiers.[214] Historians disagree concerning the effect these killings and massacres had on the 1948 Palestinian exodus. They also disagree that these killings and massacres were carried out with the intent of hastening the exodus.

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[210] Ibid.
[211] "Where war criminals are venerated", CNN, January 4, 2003.
[212] "Enshrinement Politics: War Dead and War Criminals at Yasukuni Shrine", Japan Focus. October 16, 2007.
[213] "Asahi Shimbun May 2, 2006 "Tokyo Trials Poll", Mansfield Asian Opinion Poll Database, April 2006.
[214] Benny Morris, 1948: A History of the First Arab-Israeli War, Yale University Press, 2008,p.404-406.

3. A. Consequences

According to historians, whether deliberate or otherwise, the massacres had a strong impact on the exodus of the Palestinian Arab population. For example, the Deir Yassin massacre is considered to have generated more panic among the Arab population than all other previous operations put together and to have caused a mass flight of Palestinians in numerous areas,[215] partly because the actual events at Deir Yassin were greatly embellished by the media.[216]

Additionally, the Deir Yassin massacre became a strong argument for the Arab states to intervene against Israel. Arab League chief Azzam Pasha is on record stating that, 'The massacre of Deir Yassin was to a great extent the cause of the wrath of the Arab nations and the most important factor for sending in the Arab armies'.[217]

3. B. Table of killings and massacres

A non exhaustive and brief list available for the killings or massacres that took place during the war has been tabled under Appendix-II of this Chapter.

4. 1945-1949 Indonesian War of Independence

4. A. South Sulawesi massacre

The South Sulawesi Campaign (December 10, 1946 – February 21, 1947) was a campaign of the Indonesian National Revolution. It pitted local Indonesian Republicans on the island of Sulawesi against the returning Dutch who sought to re-assert their authority. The Dutch counter-insurgency offensive was masterminded by the controversial *Raymond Westerling*, a Captain in the Royal Netherlands East Indies Army. Westerling's operation, which started in December 1946 and ended in February 1947, succeeded in eliminating the insurgency and undermining local support for the Republicans by instituting summary executions of suspected enemy fighters.[218]

Accusations of war crimes

Westerling has always defended his actions and denied accusations of war crimes. His memoirs, which he publiced in 1952, devote a chapter to his self-defense. "They painted

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[215] Simha Flapan , 'The Palestinian Exodus of 1948', J. Palestine Studies 16 (4), 1987, p.3-26.
[216] Yoav Gelber, Palestine 1948, Sussex Academic Press, 2006,p.314.
[217] Tom Segev, 1949: The First Israelis, 1986, p.89.
[218] Kahin, George McTurnan. “Nationalism and Revolution in Indonesia”, 1952,N.Y.: Cornell University Press, (ISBN 0-8014-9108-8).

me as a bloodthirsty monster, who attacked the people of Celebes by fire and sword and exposed all those, who in the interest of Indonesia's national independence resisted Dutch rule, to a merciless campaign of repression". Westerling stated he had based his tactics on the premise that he performed the role of policeman, combating terror: "I arrested terrorists, not because they acted as instigators of the Republican government... but because they made themselves guilty of open and unmistaken crimes...I never had them [his troops] bombard a village, nor did I take the hut of innocent under fire. I had executed some criminals, but nobody had died needlessly or wrongly by my doing.[219]

In 1949, the Dutch–Indonesian agreement on transfer of power stipulated neither country would call the other on its wartime offences, thus ruling out any attempt by Indonesia to press for Westerling's extradition.

4. B. Rawagede massacre

The Rawagede massacre was committed by Dutch armed forces on 9 December 1947 in the village of Rawagede. Dutch forces were deployed in the East Indies to try and retain them as a Dutch colony. They were fighting Indonesian Republicans seeking independence for Indonesia. Almost all males from the village, amounting to 431 men according to most estimates, were killed by the Dutch military, since the people of the village would not tell where the Indonesian independence fighter Lukas Kustario was hiding.

Although Dutch army general Spoor recommended that the responsible officer, *Major Alphons Wijnen*, be prosecuted, no criminal investigation was started. A report from the United Nations published on 12 January 1948 called the killings "deliberate and merciless".[220]

On 8 September 2008, 10 survivors of the massacre officially held the Netherlands responsible for the massacre. The state lawyer replied in a letter published on 24 November 2008, that the Netherlands "deeply regrets" the massacre, but that it believes the term for prosecution had expired. This has drawn some criticism among MPs, as well as among leading Dutch newspaper NRC Handelsblad, who argued in an editorial that there is no such thing as a statute of limitations on war crimes.[221]

In December 2009, the 10 survivors decided to sue the Dutch state in court. The court decided on 14 September 2011 that the crime due to its extraordinary nature is not subject

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[219] Westerling, Raymond Paul Pierre (1952), Mes Aventures en Indonesie (in French). Translated from the French to English by Waverley Root as Challenge to Terror. Holyoake Press, 18 May 2008, p.150. ISBN 978-1-4097-2448-3.

[220] "Widows sue Netherlands over Indonesia massacre", NRC Handelsblad, 12th January 1948.

[221] No statute of limitations on Dutch past in Indonesia, NRC Handelsblad, 24th November,2008.

to a statute of limitations, and thus held the Dutch state fully accountable for the damages caused.[222]

On December 9, 2011, the Dutch ambassador for Indonesia stated: "We remember the members of your families and those of your fellow villagers who died 64 years ago through the actions of the Dutch military." "On behalf of the Dutch government, I apologize for the tragedy that took place." Only 9 relatives are still alive and will receive Euro 20,000 ($27,000) compensation each, but there is no schedule for these payments.[223]

4. C. Bersiap massacre

Bersiap is the name given by the Dutch to a violent and chaotic phase of the Indonesian National Revolution following the end of World War II. The Indonesian word bersiap means 'get ready' or 'be prepared'. The Bersiap period lasted from August 1945 to December 1946.

The period starting with revolutionary violence occurring during the increasing power vacuum left by the retreating Japanese occupational forces and the gradual build up of a British military presence, but before the official handover to a Dutch military presence. The term refers to that period when, after being kidnapped by Republican youths (‘Pemuda’), Sukarno declared independence on 17 August 1945. The period ended with the departure of the British military in 1946, by which time the Dutch had rebuilt their military capacity. Meanwhile the Indonesian revolutionary fighters were well into the process of forming a formal military. The last Japanese troops had been evacuated by July 1946.[224]

5. 1954–1962 Algerian War

The Algerian War, also known as the Algerian War of Independence or the Algerian Revolution was a war between France and the Algerian independence movements from 1954 to 1962, which led to Algeria gaining its independence from France. An important decolonization war, it was a complex conflict characterized by guerrilla warfare, maquis fighting, terrorism, the use of torture by both sides, and counter-terrorism operations. The conflict was also a civil war between loyalist Algerians who believed in a French Algeria and their insurrectionist Algerian Muslim counterparts.[225] Effectively started by members of the National Liberation Front (FLN) on November 1, 1954, during the Toussaint Rouge, the conflict shook the foundations of the French Fourth Republic (1946–58) and led to its eventual collapse.

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[222] “Court: Dutch accountable for war crimes in Indonesia”, RNW, 15th September, 2011.
[223] "Dutch state apologizes for 1947 Indonesia massacre", NRC Handelsblad, 9th December, 2011.
[224] Berg, J. van den, Bersiap, Nederlands-Indonesische Verhalen. Publisher: KITLV, The Hague, 1993.
[225] Guy Perville, Pour une histoire de la guerre d´Algerie, chap. "Une double guerre civile", Picard, 2002, pp.132–139.

The war involved a large number of rival movements which fought against each other at different moments, such as on the independence side, when the National Liberation Front (FLN) fought viciously against the Algerian National Movement (MNA) in Algeria and in the Café Wars on the French mainland; on the pro-French side, during its final months, when the conflict evolved into a civil war between pro-French hardliners in Algeria and supporters of General Charles de Gaulle. The French Army split during two attempted coups, while the right-wing Organisation de l'armée secrète (OAS) fought against both the FLN and the French government's forces.

Overview of the Algerian War

Under directives from Guy Mollet's French Section of the Workers' International (SFIO) government and from Francois Mitterrand, who was minister of the interior, the French Army initiated a campaign of "pacification" of what was considered at the time to be a full part of France. This "public-order operation" quickly grew to a full-scale war. Algerians, who had at first largely favored a peaceful resolution, turned increasingly toward the goal of independence, supported by Arab countries and, more generally, by worldwide opinion fueled by anti-colonialist ideas. Meanwhile, the French were divided on the issues of "French Algeria", specifically, concerning whether to keep the status-quo, negotiate a status intermediate between independence and complete integration in the French Republic, or allow complete independence. The French army finally obtained a military victory in the war, but the situation had changed, and Algerian independence could no longer be forestalled.

Because of the instability in France, the French Fourth Republic was dissolved. Charles de Gaulle returned to power during the May 1958 crisis and subsequently founded the Fifth Republic with his Gaullist followers. De Gaulle's return to power was supposed to ensure Algeria's continued occupation and integration with the French Community, which had replaced the French Union and brought together France's colonies. However, de Gaulle progressively shifted in favor of Algerian independence, purportedly seeing it as inevitable. De Gaulle organized a vote for the Algerian people. The Algerians chose independence, and France engaged in negotiations with the FLN, leading to the March 1962 Evian Accords, which resulted in the independence of Algeria.

After the failed April 1961 Algiers putsch, organized by generals hostile to the negotiations headed by Michel Debré's Gaullist government, the OAS (Organisation de l'armée secrete), which grouped various opponents of Algerian independence, initiated a campaign of bombings. It also initiated peaceful strikes and demonstrations in Algeria in order to block the implementation of the Evian Accords and the exile of the pieds-noirs

(Algerians of European origin). Ahmed Ben Bella, who had been arrested in 1956 along with other FLN leaders, became the first President of Algeria.

To this day, the war has provided an important strategy frame for counter-insurgency thinkers, while the use of torture by the French Army has provoked a moral and political debate on the legitimacy and effectiveness of such methods. This debate is far from being settled because torture was used by both sides.

The Algerian war was a founding event in modern Algerian history. It left long-standing scars in both French and Algerian societies and continues to affect some segments of society in both countries. It was not until June 1999, 37 years after the conclusion of the conflict, that the French National Assembly officially acknowledged that a "war" had taken place,[226] while the Paris massacre of 1961 was recognized by the French state only in October 2001. On the other hand, the Oran massacre of 1962 by the FLN has also not yet been recognized by the Algerian state. Relations between France and Algeria are still deeply marked by this conflict and its aftermath.

6. 1954–1975: Vietnam War

6. A. United States perpetrated crimes: The major incident in Vietnam War by the U.S. militant was **'**My Lai Massacre', in which one officer of U.S. Army William Calley was convicted and sentenced to life imprisonment. The details of the incident can be found in Appendix-IIIof this chapter.

6. B. North Vietnamese perpetrated crimes

North Vietnamese troops executed over 2,500 civilians and prisoners of war while occupying the city of Hue in 1968. An additional 3,500 people are suspected to have been executed, but never found.

6. C. Vietcong perpetrated crimes:

The Viet Cong or **National Liberation Front**, was a political organization and army in South Vietnam and Cambodia that fought the United States and South Vietnamese governments during the Vietnam War (1959–1975), and emerged on the winning side. It had both guerrilla and regular army units, as well as a network of cadres who organized peasants in the territory it controlled. Many soldiers were recruited in South Vietnam, but others were attached to the People's Army of Vietnam (PAVN), the regular North Vietnamese army. During the war, communists and anti-war spokesmen insisted the Viet Cong was an insurgency indigenous to the South, while the U.S. and South Vietnamese governments portrayed the group as a tool of Hanoi. Although the terminology

[226] World: Africa, France admits Algerian campaign was 'war', BBC, 16/ 11/ 2008.

distinguishes northerners from the southerners, communist forces were under a single command structure set up in 1958.[227]

North Vietnam established the National Liberation Front in 1960 to ferment insurgency in the South. Hanoi gave the regroupees military training and sent them back to the South along the Ho Chi Minh trail in the early 1960s. The NLF called for southern Vietnamese to "overthrow the camouflaged colonial regime of the American imperialists" and to make "efforts toward the peaceful unification." The Viet Cong's best-known action was the Tet Offensive, a massive assault on more than 100 South Vietnamese urban centers in 1968, including an attack on the US embassy in Saigon. The offensive riveted the attention of the world's media for weeks, but also overextended the Viet Cong. Later communist offensives were conducted predominately by the North Vietnamese. The organisation was dissolved in 1976 when North and South Vietnam were officially unified under a communist government.

7. 1971: Bangladesh Liberation War:

In the Bangladesh Liberation War in the year of 1971, there were thousands of death in several incidents like- 1971 Bangladesh atrocities, Civilian Casualties, Atrocities on women and minorities. Bangladesh war Tribunal was formed after the occurrences for trial of the accuseds individuals as well as the groups. Recently in the present year of 2014 the tribunal have pronounced several judgments and sentenced various Jamat leaders by life imprisonment or death by hang. Some of them are:

a. Ghulam Azam: 90 years imprisonment.
b. Ali Ahasan Mohammad Mujahid: hang till death.
c. Abdul Alim: life imprisonment.
d. Ashrafujjan Khan and Chowdhury Muinuddin:death sentence
e. Kader Molla: death sentence.

Table of the armed conflicts is narrated under Appendix-IV of this chapter and the details of the judgments of the perpetrators are detailed in Chapter-VIII of this thesis.

8. Cambodian civil war 1970–1975

The Cambodian Civil War was a conflict that pitted the forces of the Communist Party of Kampuchea (known as the Khmer Rouge) and their allies the Democratic Republic of Vietnam (North Vietnam) and the Viet Cong against the government forces of Cambodia

[227] Military History Institute of Vietnam,(2002) Victory in Vietnam: The Official History of the People's Army of Vietnam, 1954–1975, translated by Merle L. Pribbenow. University Press of Kansas. p. 68. ISBN 0-7006-1175-4.

(after October 1970, the Khmer Republic), which were supported by the United States (U.S.) and the Republic of Vietnam (South Vietnam).

The struggle was complicated by the influence and actions of the allies of the two warring sides. People's Army of Vietnam (North Vietnamese Army) involvement was designed to protect its Base Areas and sanctuaries in eastern Cambodia, without which the prosecution of its military effort in South Vietnam would have been more difficult. Then following the Cambodian coup of 1970, the North Vietnamese Army's attempt to overrun the entire country in March–April 1970 plunged Cambodia into civil war.[228] The U.S. was motivated by the desire to buy time for its withdrawal from Southeast Asia, to protect its ally in South Vietnam, and to prevent the spread of communism to Cambodia. American and both South and North Vietnamese forces directly participated (at one time or another) in the fighting. The central government was mainly assisted by the application of massive U.S. aerial bombing campaigns and direct material and financial aid.

After five years of savage fighting, the Republican government was defeated on 17 April 1975 when the victorious Khmer Rouge proclaimed the establishment of Democratic Kampuchea. The conflict, although a civil war, was considered to be part of the larger Vietnam War (1959–1975) that also consumed the neighbouring Kingdom of Laos, South Vietnam, and North Vietnam. This civil war led to the Cambodian Genocide, one of the bloodiest in history.[229]

As the Khmer Rouge leadership was almost completely unknown by the public, most of the leaders were being unprosecuted and there was no notable trail, which can establish the individual's liability for crime against humanity. They were referred to by their fellow countrymen as peap prey – the forest army. Previously, the very existence of the communist party as a component of GRUNK had been hidden.

9. Invasion of Cyprus 1974

The Turkish Armed forces committed an ethnic cleansing of the entire Christian population of the Northern districts of Cyprus, including Kyrenia, Morphou, Famagusta, Karpasia and parts of Nicosia. Other crimes committed by the Turkish Armed forces in Cyprus include but are not limited to breaching the Forth Geneva Convention on Human Rights and mass rapes. The ethnic cleansing is maintained by 40,000 Turkish troops who prevent IDPs from returning to their homes. But no individual was prosecuted and sentenced for that event also.

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[228] Dmitry Mosyakov, "The Khmer Rouge and the Vietnamese Communists: A History of Their Relations as Told in the Soviet Archives," in Susan E. Cook, ed., Genocide in Cambodia and Rwanda (Yale Genocide Studies Program Monograph Series No. 1, 2004), p54.

[229] Rodman, Peter, Returning to Cambodia, Brookings Institute, 23 August 2007.

10. Lebanese Civil War 1975–1990

There are six major incidents of armed conflict in the era of Lebanese Civil War, which continued from 1975 to 1990. But in all the incidents there were no individuals being prosecuted for crime against humanity. In the the armed conflicts the major groups such as Kataeb Party, Guardians of the Cedars, Tigers Militia, Lebanese Front, Tigers Militia, Syrian Army, Lebanese Armed Forces, PLO, Lebanese National Movement and Syrian Army, Hafez al-Assad were being accused for perpetrating the armed conflict. So in the particular incident also it can be assumed that there war a vacuum of international legal framework for determining the accountability of individuals for crime against humanity. Appendix-V is attached after the chapter to illustrate the armed conflicts and their trails during the Lebanese Civil War.

11. Civil war in Afghanistan 1978-present

This war has ravaged the country for over 30 years now, with several foreign actors playing important roles during different periods. Since 2001 U.S. and NATO troops have been fighting in Afghanistan in the "War on Terrorism". In these armed conflict also the main perpetrators are Taliban and Northern Alliance. There was again no record of prosecution of any individual for crime against humanity. The details of this session are in the sixth schedule of this chapter.

12. 1980–1988: Iran – Iraq War

In the eight years bloddy Iran – Iraq War, most of the acuusitions of Crime against humanity and War Crimes left without any prosecution. Among the crimes perpetrated by Iraq in the Halabja poison gas attack case several individuals were being prosecuted, convicted and also sentenced to death by the Iraqi Court. In the three incidents of armed conflicts perpetrated by Iran none of them ad any prosecution and the incident of shooting down of Iran Air Flight 655 by the U.S.A. was tried by the International Court of Justice, but as U.S. did not admit any wrong doing, none had any sentence by the ICJ.[230] In that segment also there was a gross violation of Human rights and failure of international egal echanism concludes its failure.

13. Uganda 1985-present

The Uganda–Tanzania war was fought between Uganda and Tanzania in 1978–1979, and led to the overthrow of Idi Amin's regime. Idi Amin's forces included thousands of troops sent by Muammar Gaddafi, and some Palestinian support.

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[230] Detail is in Appendix-VII of Chapter-IV.

13. A. Aftermath

13. A. 1. Uganda

The period following the ousting of Amin was a time of intense competition and fighting for power among different groups of political and ethnic rivals. Yusuf Lule had been installed as president by Tanzania. In June 1979, following a dispute over the extent of presidential powers, the National Consultative Commission (NCC), which was then the supreme governing body of the UNLF, replaced Lule with Godfrey Binaisa. Binaisa was himself removed on 12 May 1980 by the Military Commission, a powerful organ of the UNLF headed by Paulo Muwanga and his deputy Yoweri Museveni (then leader of the Uganda Patriotic Movement). A Presidential Commission with three members, Saulo Musoke, Polycarp Nyamuchoncho, and Joel Hunter Wacha-Olwol were then appointed to lead the country. They governed Uganda until the December 1980 general elections, which were won by Milton Obote's Uganda Peoples Congress. The elections were bitterly disputed. Yoweri Museveni alleged electoral fraud and declared an armed rebellion against Obote's government, plunging the country into the Ugandan Bush War.

13.A . 2. Tanzania

Tanzania received no help from other countries in the Organization of African Unity, which had denounced Tanzania's invasion (and its role as a backer of the 1977 coup in the Seychelles which brought France-Albert René to power) as a breach of national sovereignty. As a result, the government in Dar es Salaam had to foot the bill for the invasion and subsequent peacekeeping role from its own coffers, further driving the country into poverty; Tanzania would not fully recover from the cost of the war until Uganda paid back Tanzania's debt in 2007. The International Criminal Court has launched an investigation and has issued indictments against LRA leaders.[231]

14. Yugoslav wars 1991–1999

Croatian War of Independence 1991–1995

In almost seventeen incidents of violation of War Crimes and Crime against Humanity Yugoslav People's Army, Army of Serbian Krajina and paramilitary units were being prosecuted by the International Criminal Tribunal of Yugoslavia. Several individual commanders were prosecuted and sentenced in these trials also. So after the brief study of the incidents and prosecutions of the incidents from the Appendix-VIII of this chapter the initiative attemps to establish individual liability for crime against humanity can be portrayed.

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[231] Mambo, Andrew; Julian Schofield, "Military Diversion in the 1978 Uganda-Tanzania War". Journal of Political and Military Sociology, 2007.

15.Bosnian War 1992–1995

After the devastating three years of Bosnian War the trial was initiated against the alleged criminals of War Crimes and Crime against Humanity. The main perpetrators of the armed conflict are Serb forces, Army of Republika Srpska, Paramilitary units from Serbia, local Serb police and civilians, Croat forces, HVO and Bosniak forces, Army of the Republic of Bosnia and Herzegovina. The persons responsible for the alleged crimes are mainly of Commanders and the soldiers of the various army forces. Through these trials establishing the Individual Criminal Responsibility and the Command responsibility, various persons were become convicted and sentenced to death by the tribunals. The elaborate descriptions of the sentences are discussed for reference under Appendix–IX of this Chapter.

16. Kosovo War 1998–1999

The two years Kosovo War killed hundreds of civillions and militants. The main perpetrators of this armed conflict are Serbian army, police and paramilitary forces and KLA. In Racak massacre a police officer was convicted by joint UN-Kosovo Albanian panel of judges for killing of 40 to 50 Kosovo Albanians, but accordingdly in the Izbica massacre no perpetrators was prosecuted for any of the alleged crimes. In the same course of trials several individuals are also being convicted and sentenced to death. The brief list is enumerated in Appendix-X of this Chapter.

17. 1990–2000: Liberia / Sierra Leone

The Sierra Leone Civil War (1991–2002) began on 23 March 1991 when the Revolutionary United Front (RUF), with support from the special forces of Charles Taylor's National Patriotic Front of Liberia (NPFL), intervened in Sierra Leone in an attempt to overthrow the Joseph Momoh government. The resulting civil war lasted 11 years, enveloped the country, and left over 50,000 dead.[232],[233]

In January 1999, world leaders intervened diplomatically to promote negotiations between the RUF and the government.[234] The Lome Peace Accord, signed on 27 March 1999, was the result. RUF compliance with the disarmament process was inconsistent and

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[232] The Times March 28, 2006.

[233] Gberie, Lansana, Dirty War in West Africa: the RUF and the Destruction of Sierra Leone, Indiana UP,2004. p.6.

[234] Gberie, Lansana , A Dirty War in West Africa: the RUF and the Destruction of Sierra Leone., Indiana UP, 2005. p.161.

sluggish, and by May 2000, the rebels were advancing again upon Freetown.[235] The British intervened to save the failing UN mission and the weak government of President Ahmad Tejan Kabbah. With help from a renewed UN mandate and Guinean air support, the British Operation Palliser finally defeated the RUF. On 18 January 2002, President Kabbah declared the Sierra Leone Civil War over.

Prosecution

On 13 January 2003, a small group of armed men tried unsuccessfully to break into an armory in Freetown. Former AFRC-junta leader Koroma, after being linked to the raid, went into hiding. In March, the Special Court for Sierra Leone issued its first indictments for war crimes during the civil war. Foday Sankoh, already in custody, was indicted, along with notorious RUF field commander Sam "Mosquito" Bockarie, Koroma, the Minister of Interior and former head of the Civil Defense Force, Samuel Hinga Norman, and several others. Norman was arrested when the indictments were announced, while Bockarie and Koroma remained at large (presumably in Liberia). On 5 May 2003, Bockarie was killed in Liberia. President Charles G. Taylor expected to be indicted by the Special Court and had feared Bockarie's testimony.[236] He is suspected of ordering Bockarie's murder, although no indictments are pending.[237]

Several weeks later, word filtered out of Liberia that Koroma had been killed as well, although his death remains unconfirmed. In June the Special Court announced Taylor's indictment for war crimes.[238] Sankoh died in prison in Freetown on 29 July 2003 from a heart attack. He had been ailing for some time.

In August 2003 President Kabbah testified before the Truth and Reconciliation Commission on his role during the civil war. On 1 December 2003, Major General Tom Carew, who had been the Chief of Defence Staff for the Government of Sierra Leone and an important figure in the Sierra Leonean Army, was reassigned to civilian duties. In June 2007, the Special Court found three of the eleven people indicted – Alex Tamba Brima, Brima Bazzy Kamara and Santigie Borbor Kanu – guilty of war crimes, including acts of terrorism, collective punishments, extermination, murder, rape, outrages upon personal

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[235] Abdullah, Ibrahim, Between Democracy and Terror: The Sierra Leone Civil War. Dakar: Council for the Development of Social Science Research in Africa, 2004.pp.214-217.

[236] Lykke, A.M. and Due, M.K. and Kristensen, M. and Nielsen, I, The Sahel. Proceedings of the 16th Danish Sahel Workshop.. Dept. of Systematic Botany, Institute of Biological Sciences, Aarhus University., 2004. pp. volume 5 page 6. ISBN 978-87-87600-38-5.

[237] "The Mysterious Death of a Fugitive". The Perspective (The Perspective (Atlanta, Georgia, USA)). 7 May 2003. Retrieved 18 January 2008.

[238] Crane, David M. (3 March 2003). "CASE NO. SCSL – 03 – I". The Special Court for Sierra Leone. Freetown, Sierra Leone: United Nations and the Government of Sierra Leone. Retrieved 18 January 2008.

dignity, conscripting or enlisting children under the age of 15 years into armed forces, enslavement and pillage.[239]

18. 1990: Invasion of Kuwait

The Invasion of Kuwait broke out in the year of 1990. In the trial of the invasion no individual persons will be held liable, as there was no prosecution even for large numbers of Crime against Humanity or War Crimes, which evolved as another failure of the international legal framework for prosecuting individuals for the international crimes. The elements of the trials are listed in the Eleventh Appendix of this chapter.

19. 2003–2011: Iraq War

The issue of Iraq's disarmament reached a crisis in 2002–2003, when Bush demanded a complete end to alleged Iraqi production of weapons of mass destruction and full compliance with UN Security Council Resolutions requiring UN weapons inspectors unfettered access to suspected weapons production facilities. The UN had prohibited Iraq from developing or possessing such weapons after the Gulf War and required Iraq to permit inspections confirming compliance. During inspections in 1999, U.S. intelligence agents supplied the United States with a direct feed of conversations between Iraqi security agencies as well as other information. During 2002, Bush repeatedly warned of military action against Iraq unless inspections were allowed to progress unfettered.

President George Bush, surrounded by leaders of the House and Senate, announces the Joint Resolution to Authorize the Use of United States Armed Forces against Iraq, 2 October 2002. In October 2002, a few days before the U.S. Senate voted on the Joint Resolution to Authorize the Use of United States Armed Forces against Iraq. The resolution granted the authorization by the Constitution of the United States and the United States Congress for the President to command the military to fight anti-United States violence. Citing the Iraq Liberation Act of 1998, the resolution reiterated that it should be the policy of the United States to remove the Hussein regime and promote a democratic replacement. The authorization was signed by President George W. Bush on 16 October 2002. A meeting between George W. Bush and Tony Blair took place on 31 January 2003, in the White House. A secret memo of this meeting purportedly showed that the Bush administration had already decided on the invasion of Iraq at that point.

At 5:34 a.m. Baghdad time on 20 March 2003 (9:34 p.m., 19 March EST) the surprise[240] military invasion of Iraq began. There was no declaration of war.[241] The 2003 invasion of

[239] "Guilty Verdicts in the Trial of the AFRC Accused", press release from the Special Court for Sierra Leone, 20 June 2007; "Sierra Leone Convicts 3 of War Crimes", Associated Press, 20 June 2007 (hosted by The Washington Post); "First S Leone war crimes verdicts", BBC News, 20 June 2010.

Iraq, led by U.S. army General Tommy Franks, began under the codename "Operation Iraqi Liberation", later renamed "Operation Iraqi Freedom".

On 9 April Baghdad fell, ending President Hussein's 24year rule. U.S. forces seized the deserted Ba'ath Party ministries and stage-managed the tearing down of a huge iron statue of Hussein, photos and video of which became symbolic of the event.

Most significantly, Saddam Hussein himself was captured on 13 December 2003, on a farm near Tikrit in Operation Red Dawn. The operation was conducted by the United States Army's 4th Infantry Division and members of Task Force 121. Intelligence on Saddam's whereabouts came from his family members and former bodyguards.

With the capture of Hussein and a drop in the number of insurgent attacks, some concluded the multinational forces were prevailing in the fight against the insurgency. The provisional government began training the new Iraqi security forces intended to police the country. Shortly after the capture of Hussein, elements left out of the Coalition Provisional Authority began to agitate for elections and the formation of an Iraqi Interim Government. The Coalition Provisional Authority opposed allowing democratic elections at this time. The insurgents stepped up their activities.

Saddam Hussein was hanged on 30 December 2006, after being found guilty of crimes against humanity by an Iraqi court after a year-long trial.[242]

On 1 January 2009, the United States handed control of the Green Zone and Saddam Hussein's presidential palace to the Iraqi government in a ceremonial move described by the country's prime minister as a restoration of Iraq's sovereignty.

20. 2003–2009/2010 Darfur conflict

The War in Darfur[243] is a guerrilla conflict or civil war centered on the Darfur region of Sudan. It began in February 2003 when the Sudan Liberation Movement/Army (SLM/A) and Justice and Equality Movement (JEM) groups in Darfur took up arms, accusing the Sudanese government of oppressing non-Arab Sudanese in favor of Sudanese Arabs.

International Criminal Court charges

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[240] Daniel Barenblatt, A plague upon Humanity, HarperCollns, 2004, pp.220-222.
[241] Radu Ioanid, The Holocaust in Romania: The Iasi Pogrom of June 1941, Contemporary European History, Vol. 2, No. 2, pp. 119-148 ,Cambridge University Press, 1993.
[242] Lacey, Marc, "Tallying Darfur Terror: Guesswork with a Cause". International Herald Tribune., 2005.
[243] "Q&A: Sudan's Darfur conflict". BBC News. 8 February 2010. Retrieved 24 March 2010.

Sudan's humanitarian affairs minister, Ahmed Haroun, and a Janjaweed militia leader, known as Ali Kushayb, have been charged by the International Criminal Court with 51 counts of war crimes and crimes against humanity.

In March 2005, the Security Council formally referred the situation in Darfur to the Prosecutor of the International Criminal Court, taking into account the report of the International Commission of Inquiry on Darfur, authorized by UN Security Council Resolution 1564 of 2004, but without mentioning any specific crimes.[244]

In April 2007, the Judges of the ICC issued arrest warrants against the former Minister of State for the Interior, Ahmed Haroun, and a Janjaweed leader, Ali Kushayb, for crimes against humanity and war crimes. The Sudan Government said that the ICC had no jurisdiction to try Sudanese citizens and that it would not hand the two men over to authorities in the Hague.

On 14 July 2008, the Prosecutor filed ten charges of war crimes against Sudan's incumbent President Omar al-Bashir, three counts of genocide, five of crimes against humanity and two of murder. The Prosecutor has claimed that Mr. al-Bashir "masterminded and implemented a plan to destroy in substantial part" three tribal groups in Darfur because of their ethnicity. Leaders from three Darfur tribes are suing ICC prosecutor Luis-Moreno Ocampo for libel, defamation, and igniting hatred and tribalism.[245]

After an arrest warrant was issued for the Sudanese president in March 2009, the Prosecutor appealed to have the genocide charges added. However, the Pre-Trial Chamber found that there was no reasonable ground to support the contention that he had a specific intent to commit genocide, which is an intention to destroy, in whole or in part, a protected group. The definition adopted by the Pre-Trial Chamber is the definition of the Genocide Convention, the Rome Statute, and some ICTY cases.

In July 2010, Sudan's president Omar al-Bashir was finally charged by Hague for orchestrating Darfur genocide, three counts of genocide in Darfur by the International Criminal Court. It is expected that al-Bashir will not face trial in The Hague until he is apprehended in a nation which accepts the ICC's jurisdiction, as Sudan is not a state party to the Rome Statute which it signed but didn't ratify.[246] Recently, however, a 2007 Small Arms Survey research paper suggested that China may be changing its stance on Darfur due to international pressure.

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[244] Security Council Resolution 1593 (2005).

[245] "IslamOnline.net- News". Islamonline. 14 September 2008 / Ramadan 14, 1429. Retrieved 2 October 2008.

[246] Walker, Peter, "Darfur genocide charges for Sudanese president", The Guardian, London,14 July 2008.

21. 2005–2010 Civil war in Chad

The civil war in Chad[247] began in December 2005. Since its independence from France in 1960, Chad has been swamped by the civil war between the Arab-Muslims of the north and the Sub-Saharan-Christians of the south. As a result, leadership and presidency in Chad drifted back and forth between the Christian southerners and Muslim northerners. When one side was in power, the other side usually started a revolutionary war to counter it. France, the former occupying imperial power, and Chad's northern neighbour Libya have both become involved at various times throughout the civil war. By the mid-1990s the civil war had somewhat stabilised, and in 1996 Idriss Deby, a northerner, was confirmed president in Chad's first democratic election. In 1998 an armed rebellion began in the north, led by President Deby's former defence chief, Youssouf Togoimi. A Libyan peace deal in 2002 failed to put an end to the fighting. In 2003, conflict in the neighbouring Darfur region in Sudan leaked across the border into Chad. Refugees from Sudan were joined by Chadian civilians who were trying to escape rebel violence and eventually filled the camps. It was clear that Chad's rebels received weapons and assistance from the government of Sudan. At the same time, Sudan's rebels got help from Chad's government. In February 2008, three rebel groups joined forces and launched an attack on Chad's capital, N'Djamena. After launching an assault that failed to seize the presidential palace, the attack was decisively repulsed.

France sent in troops to shore up the government. Many of the rebels were former allies of President Idriss Deby. They accused him of corruption towards members of his own tribe. An agreement for the restoration of harmony between Chad and Sudan, signed January 15, 2010, marked the end of a five-year war.[248] The fix in relations led to the Chadian rebels from Sudan returning home, the opening of the border between the two countries after seven years of closure, and the deployment of a joint force to secure the border. President Idriss Deby visited Khartoum, in February for the first time in six years; and in July, Chad, a state party to the International Criminal Court (ICC), hosted Sudanese President Omar al-Bashir, earning the doubtful claim of being the first ICC member state to harbor a suspect from the court.[249] Following the UN decision to draw down the mission by the end of 2010, representatives of UN agencies formed a working group with the Chadian government to improve security for humanitarian groups in eastern Chad.

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[247] Schofield, Hugh (4 February 2008). "France faces tough choices over Chad". BBC News.
[248] "World Report 2011: Chad". Human Rights Watch. Retrieved 6 June 2011.
[249] "World Report 2011: Chad". Human Rights Watch. Retrieved 6 June 2011.

Chad, although a state party to the International Criminal Court started no prosecution against any of the individuals even after the large massacres by the Arab muslims aganst the Christians of the South Chad.

22. Sri Lanka 2009

There are allegations that war crimes were committed by the Sri Lankan military and the rebel Liberation Tigers of Tamil Eelam (Tamil Tigers) during the Sri Lankan Civil War, particularly during the final months of the conflict in 2009. The alleged war crimes include attacks on civilians and civilian buildings by both sides; executions of combatants and prisoners by both sides; enforced disappearances by the Sri Lankan military and paramilitary groups backed by them; acute shortages of food, medicine, and clean water for civilians trapped in the war zone; and child recruitment by the Tamil Tigers.[250] A panel of experts appointed by United Nations Secretary-General (UNSG) Ban Ki-moon to advise him on the issue of accountability with regard to any alleged violations of international human rights and humanitarian law during the final stages of the civil war found "credible allegations" which, if proven, indicated that war crimes and crimes against humanity were committed by the Sri Lankan military and the Tamil Tigers.[251] The panel has called on the UNSG to conduct an independent international inquiry into the alleged violations of international law.[252] The Sri Lankan government has denied that its forces committed any war crimes and has strongly opposed any international investigation.

War crimes are prohibited by the Geneva Conventions, of which Sri Lanka is a signatory. In 2002 the International Criminal Court (ICC) was created by the Rome Statute to prosecute individuals for serious crimes, such as war crimes. Sri Lanka is not a signatory of the Rome Statute. Therefore it is only possible for the ICC to investigate and prosecute war crimes in Sri Lanka if the UN Security Council was to refer Sri Lanka to the ICC, which is unlikely. However, individual countries may investigate and prosecute alleged culprits over whom they have jurisdiction, such as those with dual-nationality. In addition, a number of countries apply universal jurisdiction in respect of certain crimes, such as war crimes, allowing them to prosecute individuals irrespective of where the crime was committed, the nationality of the culprits and the nationality of the victims.

Accusations

International organisations such as Amnesty International and Human Rights Watch have accused both sides in Sri Lanka's long-running conflict of deliberately putting civilians at

[250] "Sri Lanka: US War Crimes Report Details Extensive Abuses". Human Rights Watch. 22 October 2009.
[251] "Report of the UNSG's panel of experts on accountability in SL". The Island, Sri Lanka. 16 April 2011.
[252] "Sri Lankan military committed war crimes: U.N. panel". The Hindu. 16 April 2011.

risk to pursue military objectives. Nearly 70,000 people were displaced due to aerial bombardment and artillery attacks by government forces in Mullaitivu and Kilinochchi, the organisations said.

The Sri Lankan government has furiously rejected all claims that its forces committed war crimes. In a June 2010 speech, President Rajapaksa insisted that his soldiers did not kill a single civilian. “Our troops carried a gun in one hand and a copy of the human rights charter in the other,” the president said. These statements are at odds with multiple independent sources; the United Nations itself has said that at least 7,000 ethnic Tamil civilians died in the first four months of last year, just before the government claimed final victory over the Tigers, and high-level United States officials have said, “The US has strong, credible allegations of evidence of atrocities during the prosecution of the war against the Tamil Tigers."[253]

In March 2012, the United Nations Human Rights Council adopted a resolution on promoting reconciliation and accountability in Sri Lanka by a vote of 24 in favour, 15 against and 8 abstentions.[254]

In June 2010 UN Secretary-General Ban Ki-moon appointed a three-member panel of experts to advise him on whether war crimes were committed in the final stages of the civil war. The panel consisted of Marzuki Darusman (Indonesia - chair), Steven Ratner (USA) and Yasmin Sooka (South Africa).[255] The panel looked into "accountability with regard to any alleged violations of international human rights and humanitarian law" and whether the commitment on "human rights accountability" given by Sri Lankan President Mahinda Rajapaksa to Ban Ki-moon has been implemented. The panel examined "the modalities, applicable international standards and comparative experience with regard to accountability processes, taking into account the nature and scope of any alleged violations in Sri Lanka".

On 12 April 2011 the panel handed over its report, the Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka, to the Secretary-General who passed on a copy to the Sri Lankan government.[256] The Sri Lankan government immediately rejected the report as "fundamentally flawed" and "patently biased".[257] The report was not

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[253] "Sri Lanka furious as UN names war crimes panel". Gulf Times. 21 June 2010.

[254] "Human Rights Council adopts seven texts on Sri Lanka, Adequate Housing, Right to Food, and extends the mandate on Cultural Rights". Office of the United Nations High Commissioner for Human Rights (Geneva, {Switzerland). March 22, 2012.

[255] "U.N. appoints human rights panel for Sri Lanka". CNN. 22 June 2010.

[256] "Sri Lanka: UN chief receives report of panel of experts on human rights issues". UN News Centre. 12 April 2011.

[257] "Colombo dismisses UN report as "biased, flawed"". TamilNet. 14 April 2011.

initially made public to allow the Sri Lankan government time to make a formal reply.[258] On 16 April 2011 the report was published in The Island, an-independently owned nationalist Sri Lankan newspaper.[259] It had been suggested that the Sri Lankan government leaked the report so that it can issue a full rebuttal before of the report is officially made public by the UN. The Sri Lankan government did not make a formal reply and on 25 April 2011 the UN published the full report.[260]

The evidence obtained by the panel revealed "a very different version of the final stages of the war than that maintained to this day by the Government of Sri Lanka". The panel found "credible allegations, which if proven, indicate that a wide range of serious violations of international humanitarian law and international human rights law were committed both by the Government of Sri Lanka and the LTTE, some of which would amount to war crimes and crimes against humanity".[261] The panel concluded that the "conduct of the war represented a grave assault on the entire regime of international law designed to protect individual dignity during both war and peace".

The panel found that the Sri Lankan justice system was incapable of providing accountability. The independence of the Attorney General had been eroded and the continuation of Emergency Regulations and the Prevention of Terrorism Act precluded the judiciary from holding the government accountable on human rights issues. Military courts and other domestic institutions were also incapable of providing accountability. The panel found that the government's triumphalism and the Sri Lankan Tamil diaspora's inability to acknowledge the Tamil Tigers' role in the humanitarian disaster also hindered accountability.[262] The panel criticised the UN for not protecting civilians.[263] Its reluctance to release casualty figures undermined the call to protect civilians.

The panel a number of recommendations including that there be an independent international inquiry into the alleged violations of international law and that the Sri Lankan government carry out genuine investigations of the alleged violations of international humanitarian and human rights law committed by both sides.[264]

Permanent Peoples' Tribunal

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[258] "UN chief under pressure over Lanka war report". Gulf Times. 14 April 2011.
[259] "UN panel recommends Ind. Int'l mechanism to monitor SL judicial process". The Island, Sri Lanka. 16 April 2011.
[260] "Sri Lanka: UN says army shelling killed civilians". BBC News. 26 April 2011.
[261] "Report of the UNSG's panel of experts on accountability in SL". The Island, Sri Lanka. 16 April 2011.
[262] ibid
[263] ibid
[264] ibid

Between 14 and 16 January 2010 the Permanent Peoples' Tribunal held a Tribunal on Sri Lanka in Dublin, Ireland to investigate allegations that the Sri Lankan armed forces committed war crimes and crimes against humanity during its final phase of the war, and to examine violations of human rights in the aftermath of the war and the factors that led to the collapse of the 2002 ceasefire.[265] The tribunal received reports from NGOs and human rights groups, victims' testimony, eye-witness accounts including from members of the Sri Lankan armed forces, expert testimony, journalistic reports, video footage and photographs. Parts of the tribunal were held in camera to protect the identity of witnesses. The tribunal found the Sri Lankan government guilty of war crimes and crimes against humanity.[266]

The tribunal made a number of recommendations to the Sri Lankan government, UN and international community, including that a UN special rapporteur be appointed to "investigate and identify responsibilities for human rights violations, violations of humanitarian law and war crimes committed by all parties in conflict". The tribunal's findings were completely rejected by the Sri Lankan government.[267]

International Crisis Group report

In May 2010 the International Crisis Group published a detailed report on war crimes during the final months of the civil war. The report collated vast amounts of evidence including numerous reliable eyewitness statements, hundreds of photographs, video, satellite images, electronic communications and documents from multiple credible sources. The report concluded that war crimes were committed by the Sri Lankan armed forces and the Tamil Tigers.[268]

The report suggested that the actions of some members of the international community produced conditions which allowed war crimes to be committed.[269]

The report made a number of recommendations, particularly that there should be an international investigation into alleged war crimes. The report stated that it was impossible for any domestic (Sri Lankan) investigation into the government/security forces to be impartial "given the entrenched culture of impunity". The report noted that although Sri Lanka was not a member of the International Criminal Court and the UN Security Council was unlikely to refer Sri Lanka to the ICC, individual countries may investigate and prosecute alleged culprits over whom they have jurisdiction, such as those

[265] Fondazione Lelio e Lisli Basso Issoco - Sezione Internazionale (12 January 2010). "People's Tribunal on Sri Lanka"
[266] "Sri Lanka 'guilty' of war crimes". BBC Sinhala. 17 January 2010.
[267] "Sri Lanka rejects Dublin tribunal". Daily Mirror (Sri Lanka). Retrieved 14 January 2010.
[268] "War Crimes in Sri Lanka". International Crisis Group. 17 May 2010.
[269] ibid

with dual-nationality.[270] Sri Lanka's Defence Secretary Gotabhaya Rajapaksa holds dual US-Sri Lankan citizenship and Sarath Fonseka, commander of the Sri Lankan armed forces during the final months of the war, has a US Green Card.[271]

European Center for Constitutional and Human Rights

Following the end of the civil war many senior Sri Lankan military officers were appointed to diplomatic positions abroad.[272] Major General Jagath Dias, who had been commander of 57 Division during the final stages of the civil war, was appointed deputy ambassador to Germany, Switzerland and the Vatican.

In January 2011 the European Center for Constitutional and Human Rights, a German human rights group, sent a dossier detailing alleged war crimes committed by the 57 Division to the German Federal Foreign Office[273] The ECCHR followed the military offensives as described by the Sri Lankan military, examined reports produced by the Sri Lankan government and NGOs, and talked to eyewitnesses present in the conflict area. The dossier concluded that many violations of international law were committed by the Sri Lankan military and the Tigers, particularly war crimes. The dossier supports the view of the US embassy in Colombo that the senior military and civilian leaders were responsible for these crimes. The dossier urges the German government to investigate Dias' individual criminal responsibility, withdraw his diplomatic visa.

Eyewitness accounts and statements by opposing leaders

Civilians who managed to escape the war zone claimed that the Tamil Tigers had shot at injured civilians fleeing the fighting.[274] It was claimed that the Tigers were keeping them human shields as well using them as fighters, a charge denied by the Tigers. The civilians' claims were corroborated by Tamil Tiger officials who surrendered to the Sri Lankan Army.[275]

The soldier claimed that the Tamils were tortured before being executed. Numerous photos taken by Sri Lankan soldiers showing dead bodies and Tamil prisoners were also

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[270] ibid
[271] Jyoti Thottam and Amantha Perera (19 May 2010). "The Sins of Sri Lanka's Great War Victory". Time.
[272] Abeywickrema, Mandana Ismail (23 January 2011). "The Militarisation Of Sri Lanka's Diplomatic And Administrative Services". The Sunday Leader.
[273] "The Jagath Dias Case". European Center for Constitutional and Human Rights. 22 September 2011.
[274] "LTTE shot fleeing civilians, says top Tiger leader". Al Jazeera. February 12, 2009.
[275] "LTTE shot fleeing civilians, says top Tiger leader". NDTV. April 29, 2009.

shown in the broadcast. No audio of the actual commander or the front line soldier making the claims were aired to protect their identity, a standard practice.[276]

Eyewitness accounts from members of the Sri Lankan Army

In 2012, Ravindra Watudura Bandanage a former member of the Sri Lankan Army admitted that the Sri Lankan Government tortured Tamil civilians during the war. Bandanage also admitted to being ordered to place a bomb at the home of M. K. Shivajilingam a member of the Sri Lankan Parliament. During this Shivajilingam time was an outspoken critic of the government and was aligned with the opposition the Tamil National Alliance. Bandanage refused to go through with any of these orders and admitted to seeing members of the Sri Lankan army torturing, beating and raping Tamil civilians. These new allegations against the Sri Lankan army are "raising new questions about military abuses committed during the island nation's long civil war."[277]

After the brief discussion of the Sri Lankan Civil War and various trials and reports regarding the accountability of war crimes and crimes against humanity, it is found that all the reports and tribunals made an attempt to perpetrate the Sri Lankan Government or the Rebel Liberation Tigers of Tamil Nadu, popularly known as Tamil Tigers, but no attempt was made to prosecute any of the individuals for crime against humanity or war crimes.

In concluding remarks it can be summed up that since 1945 to 2009 there were at around 22 large scale violations of International Humanitarian laws, which devastatecaused the whole World and caused thousands of death of civillions and also of militants. As to the question of accountability of individual for crime against humanity it can be wrapped up that **firstly**, there is a lack of international legal framework for prosecuton of international crime, **secondly,** the existing framework is even of no use, as the past showed the lack of applicability of International Criminal Court or any other similar courts, **thirdly,** the domestic justice system are incapable of providing accountability. So, the urgency of the time is to establish a strong legal mechanism that no criminal can be left unpunished, because it is very shameful for the 21st century's civilized countires to have such vacuum in the international legal system.

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[276] "Sri Lanka Tamil killings 'ordered from the top'". Channel 4 News. 18 May 2010.

[277] Stewart Bell (29 November 2012). "Sri Lankan Army deserter gives 'rare' insider account of government forces torturing civilians at refugee hearing". National Post.

Appendix-I[278]

Name	Penalty	Notes
Martin Bormann	Death	Successor to Hess as Nazi Party Secretary. Sentenced to death in absentia. Remains found in Berlin in 1972 and dated to have died in 1945.[279]
Karl Donitz	10 years	Leader of the Kriegsmarine from 1943, succeeded Raeder. Initiator of the U-boat campaign. Briefly became President of Germany following Hitler's death.[280]Convicted of carrying out unrestricted submarine warfare in breach of the 1936 Second London Naval Treaty, but was not punished for that charge because the United States committed the same breach.
Hans Frank	Death	Reich Law Leader 1933–45 and Governor-General of the General Government in occupied Poland 1939–45. Expressed repentance.[281]
Wilhelm Frick	Death	Hitler's Minister of the Interior 1933–43 and Reich Protector of Bohemia-Moravia 1943–45. Co-authored the Nuremberg Race Laws.[282]

[278] Appendix-I of Chapter-IV.
[279] "The International Military Tribunal for Germany". The Avalon Project Documents in Law, History, and Diplomacy. Yale Law School Lillian Goldman Law Library, at Bormann Judgment.
[280] Ibid at Donitz judgment.
[281] Ibid at Frank judgment.
[282] Ibid at Frick judgment.

Hans Fritzsche	Acquitted	Popular radio commentator; head of the news division of the Nazi Propaganda Ministry. Released early in 1950.[283] Fritzsche had made himself a career whithin German radio, because his voice was similar to Goebbels.[284]
Walther Funk	Life imprisonment	Hitler's Minister of Economics; succeeded Schacht as head of the Reichsbank. Released because of ill health on 16 May 1957. Died 31 May 1960.[285]
Hermann Goering	Death	Reichsmarschall, Commander of the Luftwaffe 1935–45, Chief of the 4-Year Plan 1936–45, and original head of the Gestapo before turning it over to the SS in April 1934. Highest ranking Nazi official to be tried at Nuremberg. Originally Hitler's designated successor and the second highest ranking Nazi official, he fell out of favor with Hitler in April 1945.[286] Committed suicide the night before his execution.[287]
Rudolf Hess	Life imprisonment	Hitler's Deputy Führer until he flew to Scotland in 1941 in an attempt to broker peace with Great Britain. After trial, incarcerated at Spandau Prison where he allegedly committed suicide in 1987.[288]
Alfred Jodl	Death	Wehrmacht Generaloberst, Keitel's subordinate and Chief of the OKW's Operations Division 1938–45.[289]

[283] Henkel (ed.), Matthias (2011), Memoriam Nuernberger Prozesse, exhibition catalogue (German), Nuremberg: Museen der Stadt Nuernberg, 46 pp.
[284] William L. Shierer "The Rise and Fall of the third reich", Nuremberg-chapter of part IV.
[285] "The International Military Tribunal for Germany". The Avalon Project Documents in Law, History, and Diplomacy. Yale Law School Lillian Goldman Law Library, at Funk judgment.
[286] Evans, Richard J. (2008). The Third Reich at War. London: Allen Lane. ISBN 978-0-7139-9742-2,p.509.
[287] "The International Military Tribunal for Germany". The Avalon Project Documents in Law, History, and Diplomacy. Yale Law School Lillian Goldman Law Library, at Goering judgement.
[288] Ibid at Hess judgment.
[289] Ibid at Jodi judgement.

Ernst Kaltenbrunner	Death	Highest surviving SS-leader. Chief of RSHA 1943–45, the Nazi organ comprised of the intelligence service (SD), Secret State Police (Gestapo), Criminal Police (Kripo) and had overall command over the Einsatzgruppen.[290]
Wilhelm Keitel	Death	Head of Oberkommando der Wehrmacht (OKW) 1938–45. Known for his unquestioning loyalty to Hitler. Expressed repentance.[291]
Gustav Krupp von Bohlen und Halbach	Escaped Prosecution	Major Nazi industrialist. C.E.O. of Krupp A.G. 1912–45. Medically unfit for trial (died 16 January 1950). Due to an error, Gustav, instead of his son Alfried (who ran Krupp for his father during most of the war), was selected for indictment. The prosecutors attempted to substitute his son in the indictment, but the judges rejected this due to proximity to trial.[292] Alfried was tried in a separate Nuremberg trial (the Krupp Trial) for slave labor, thereby escaping worse charges and possible execution.
Robert Ley	Committed Suicide	Head of DAF, German Labour Front. Committed suicide on 25 October 1945, before the trial began. Indicted but neither acquitted nor found guilty as trial did not proceed.
Baron Konstantin Von Neurath	15 years	Minister of Foreign Affairs 1932–38, succeeded by Ribbentrop. Later, Protector of Bohemia and Moravia 1939–43. On furlough since 1941, he resigned in 1943 because of a dispute with Hitler. Released (ill health) 6 November 1954 after suffering a heart attack. Died 14 August 1956.[293]
Franz Von	Acquitted	Chancellor of Germany in 1932 and Vice-Chancellor under Hitler in 1933–34. Ambassador to Austria 1934–38 and ambassador to Turkey 1939–44.Although acquitted at Nuremberg, von Papen was reclassified

[290] Ibid at Kaltenbrunner judgment.
[291] Ibid at Keitel judgment.
[292] Clapham, Andrew (2003). "Issues of complexity, complicity and complementarity: from the Nuremberg Trials to the dawn of the International Criminal". In Philippe Sands. From Nuremberg to the Hague: the future of international criminal justice. Cambridge University Press. ISBN 0-521-82991-7.
[293] "The International Military Tribunal for Germany". The Avalon Project Documents in Law, History, and Diplomacy. Yale Law School Lillian Goldman Law Library, at Von Neurath judgment.

Papen		as a war criminal in 1947 by a German de-Nazification court, and sentenced to eight years' hard labour. He was acquitted following appeal after serving two years.[294]
Erich Raeder	Life imprisonment	Commander In Chief of the *Kriegsmarine* from 1928 until his retirement in 1943, succeeded by Donitz. Released (ill health) 26 September 1955. Died 6 November 1960.[295]
Joachim von Ribbentrop	Death	Ambassador-Plenipotentiary 1935–36. Ambassador to the United Kingdom 1936–38. Minister of Foreign Affairs 1938–45.[296]
Alfred Rosenberg	Death	Racial theory ideologist. Later, Minister of the Eastern Occupied Territories 1941–45.[297]
Fritz Sauckel	Death	Gauleiter of Thuringia 1927–45. Plenipotentiary of the Nazi slave labor program 1942–45. Defense attorney: Robert Servatius.
Dr. Hjalmar Schacht	Acquitted	Prominent banker and economist. Pre-war president of the Reichsbank 1923–30 & 1933–38 and Economics Minister 1934–37. Had been imprisoned in a KZ in 1944. Admitted to violating the Treaty of Versailles. Many at Nuremberg alleged that the British had brought about Schacht's acquittal to safeguard German industrialists and financiers; Francis Biddle revealed Geoffrey Lawrence had argued that Schacht, being a "man of character", was nothing like the other "ruffians" on trial.[298] By the end of the war, Hjalmar Schacht had been put in concentration camp by the nazis, and was not pleased to be put to trial as a such after the war[299]
Baldur von Schirach	20 years	Head of the Hitlerjugend from 1933–40, Gauleiter of Vienna 1940–45. Expressed repentance.[300]
Arthur	Death	Instrumental in the Anschluss and briefly Austrian Chancellor 1938. Deputy to Frank in Poland 1939–40. Later, Reich Commissioner of the

[294] Ibid at Von Papen judgment.
[295] Ibid at Raeder judgment.
[296] Ibid at Von Ribbentrop judgment.
[297] Ibid at Rosenberg judgment.
[298] Bower, Tom, Blind Eye to Murder: Britain, America and the Purging of Nazi Germany—A Pledge Betrayed (2nd revised ed.)., London Little, Brown,1995. ISBN 978-0-316-87668-1,p.347.
[299] William L Shierer "the Rise and Fall of the third Reich", part IV, Nuremberg-chapter.
[300] "The International Military Tribunal for Germany". The Avalon Project Documents in Law, History, and Diplomacy. Yale Law School Lillian Goldman Law Library, at Von Schirach judgment.

Seyss-Inquart		occupied Netherlands 1940–45. Expressed repentance.[301]
Albert Speer	20 Years	Hitler's friend, favorite architect, and Minister of Armaments from 1942 until the end of the war. In this capacity, he was ultimately responsible for the use of slave laborers from the occupied territories in armaments production. Expressed repentance.[302]
Julius Streicher	Death	Gauleiter of Franconia 1922–40, when he was relieved of authority but allowed by Hitler to keep his official title. Publisher of the anti-semitic weekly newspaper, Der Sturmer.[303]

Appendix-II[304]

Date	Event	Victims	Notes
30 December 1947	Haifa Oil Refinery massacre	Workers	39 Jewish workers killed by Arab workers in the immediate aftermath of an Irgun grenade attack on the Arab workers that had killed 6 and wounded 42. [305]
11 March 1948	Jewish Agency	Noncombatants	Arabs killed 13 Jews in a bombing[306]
9 April 1948	Deir Yassin, Jerusalem	Poorly armed fighters and villagers	100 to 120 deaths reported.[307]
13 April 1948	Hadassah medical convoy massacre, Jerusalem	Medical convoy	79 Jewish doctors, nurses and scientists and 1 British soldier.[308]

[301] Ibid at Seyss-Inquart judgment.
[302] Ibid at Speer judgment.
[303] Ibid at Streicher judgment.
[304] Appendix-II of Chapter-IV.
[305] Commission of enquiry report, Palestine Post, 20 Feb 1948; Spencer Tucker, Priscilla Roberts (2008). The Encyclopedia of the Arab-Israeli Conflict [4 volumes]: A Political, Social, and Military History. p. 415 (vol 1).
[306] Gilbert, Martin, Routledge Atlas of the Arab-Israeli Conflict. Routledge. 2005,ISBN 0415359015.
[307] Benny Morris, The Birth of the Palestinian Refugee Problem Revisited, Cambridge University Press, 2004.pp.125-127.
[308] Professor Efraim Karsh, "Palestine Betrayed", Yale University Press,27 April 2010, ISBN 978-0-300-12727-0 ,p. 279.

Appendix-III[309]

Armed conflict	Perpetrator
Vietnam War	United States

Incident	Type of crime	Persons responsible	Notes
My Lai Massacre	War crimes, Crimes against humanity (Murder of civilians)	Lt. William Calley convicted in 1971 of premeditated murder of 22 civilians for his role in the massacre and sentenced to life in prison. He served 3½ years under house arrest. Others were indicted but not convicted.	In March, 1968, a US army platoon led by Lt. William Calley killed (and in some cases beat, raped, tortured, or maimed) 347 to 504 unarmed civilians – primarily women, children, and old men – in the hamlets of My Lai and My Khe of Son My. The My Lai Massacre was allegedly an operation of the Phoenix Program. 26 US soldiers, including 14 officers, were charged with crimes related to the My Lai massacre and its coverup. Most of the charges were eventually dropped and only Lt. Calley wasconvicted.

[309] Appendix-III of Chapter-IV.

Appendix-IV[310]

Armed conflict	Perpetrator
1971 Bangladesh War	Pakistan

Incident	Type of crime	Persons responsible	Notes
1971 Bangladesh atrocities	War crimes, Crimes against humanity, Crime of genocide (murder of civilians; genocide)	Allegedly the Pakistan Government, and the Pakistan Army and its local collaborators. A case was filed in the Federal Court of Australia on September 20,	During the Bangladesh Liberation War of 1971, widespread atrocities were committed against the Bengali population of East Pakistan (now Bangladesh). With 1-3 million people killed in nine months, 'genocide' is the term that is used to describe the event in almost every major publication and newspaper[312] [313]Although the word 'genocide' was and is still used frequently amongst observers and scholars of the events that transpired during the 1971 war, the allegations that a genocide took place during the Bangladesh War of 1971 were never investigated by an

[310] Appendix-IV of Chapter-IV.
[312] Editorial The Jamaat Talks Backin The Bangladesh Observer December 30, 2005.
[313] Dr. N. Rabbee Remembering a Martyr Star weekend Magazine, The [[Daily Star (Bangladesh)|]] December 16, 2005

		2006 for crimes of Genocide, war crimes and crimes against humanity.[311]	international tribunal set up under the auspices of the United Nations, due to complications arising from the Cold War. A process is underway in 2009–2010 to begin trials of some local war collaborators.
Civilian Casualties	Crimes against humanity (murder of civilians)	no prosecutions	The number of civilians that died in the liberation war of Bangladesh is not known in any reliable accuracy. There has been a great disparity in the casualty figures put forth by Pakistan on one hand (26,000, as reported in the now discredited Hamoodur Rahman Commission)[314] and India and Bangladesh on the other hand (From 1972 to 1975 the first post-war prime minister of Bangladesh, Sheikh Mujibur Rahman, estimated that 3 million died)[315]. This is the figure officially maintained by the Government of Bangladesh. Most scholarship on the topic estimate the number killed to be between 1 and 3 million. A further eight to ten million people fled the country to seek safety in India.[316]
Atrocities on women and minorities	Crimes against humanity; Crime of genocide; Crime of torture (torture, rape and murder of civilians)	no prosecutions	The minorities of Bangladesh, especially the Hindus, were specific targets of the Pakistan army.[317]Numerous East Pakistani women were tortured, raped and killed during the war. The exact numbers are not known and are a subject of debate. Bangladeshi sources cite a figure of 200,000 women raped, giving birth to thousands of war-babies. Some other sources, for example Susan Brownmiller, refer to an even higher number of over 400,000. Pakistani sources claim the number is much lower, though having not completely denied rape incidents.[318]

[311] "Immigration Citizenship-Australia", available at http://www.Rayimmigration.com.au, viewed at 01:00 p.m. 12/06/2013.
[314] Hamoodur Rahman Commission, Chapter 2, Paragraph 33.
[315] F. Hossain Genocide 1971 Correspondence with the Guinness Book of Records on the number of dead.
[316] Rummel, Rudolph J., "Statistics of Democide: Genocide and Mass Murder Since 1900", ISBN 3-8258-4010-7, Chapter 8.
[317] U.S. Consulate (Dacca) Cable, Sitrep: Army Terror Campaign Continues in Dacca; Evidence Military Faces Some Difficulties Elsewhere, March 31, 1971.
[318] Brownmiller, Susan, "Against Our Will: Men, Women, and Rape" ISBN 0-449-90820-8, page 81.

Killing of intellectuals	Crimes against humanity (murder of civilians)	No prosecutions	During the war, the Pakistan Army and its local supporters carried out a systematic execution of the leading Bengali intellectuals. A number of university professors from Dhaka University were killed during the first few days of the war. However the most extreme cases of targeted killing of intellectuals took place during the last few days of the war. On December 14, 1971, only two days before surrendering to the Indian military and the Mukhti Bahini forces, the Pakistani army – with the assistance of the Al Badr and Al Shams – systematically executed well over 200 of East Pakistan's intellectuals and scholars.[319]

Appendix-V[320]

Armed conflict			**Perpetrator**
Lebanese Civil War			**Various**
Incident	**Type of crime**	**Persons responsible**	**Notes**
Black Saturday	Crimes against humanity (200 to 600 killed)	Kataeb Party	On December 6, 1975, Black Saturday was a series massacres and armed clashes in Beirut, that occurre in the first stages of the Lebanese Civil War.
Karantina massacre	Crimes against humanity (Estimated 1,000 to 1,500 killed)	Kataeb Party, Guardians of the Cedars, Tigers Militia	Took place early in the Lebanese Civil War on January 18, 1976. Karantina was overrun by the Lebanese Christian militias, resulting in the deaths approximately 1,000-1,500 people.
Tel al-Zaatar massacre	Crimes against humanity (Estimated 1,000 to 3,000 killed)	Lebanese Front, Tigers Militia, Syrian Army, Lebanese Armed Forces	The Tel al-Zaatar Battle took place during the Lebanese Civil War from June 22 - August 12, 197 Tel al-Zaatar was a UNRWA administered Palestin Refugee camp housing approximately 50,000-60,00 refugees in northeast Beirut. Tel al-Zaatar massacre refers to crimes committed around this battle.
Damour massacre	Crimes against humanity (Estimated 684	PLO, Lebanese National Movement	Took place on January 20, 1976. Damour, a Christi town on the main highway south of Beirut. It was attacked by the Palestine Liberation Organisation

[319] Shahiduzzaman "No count of the nation's intellectual loss" The New Age, December 15, 2005.
[320] Appendix-V of Chapter- V.

	civilians killed)		units. Part of its population died in battle or in the massacre that followed, and the remainder were forced to flee.
Sabra and Shatila massacre	Crimes against humanity (762 to 3,500 (number disputed))	Kataeb Party	Took place in the Sabra and Shatila Palestinian refugee camps in Beirut, Lebanon between September 16 and September 18, 1982. Palestinian and Lebanese civilians were massacred in the camps by Christian Lebanese Phalangists while the camp was surrounded by the Israel Defense Forces. Israeli forces controlled the entrances to the refugee camps of Palestinians and controlled the entrance to the city. The massacre was immediately preceded by the assassination of Bachir Gemayel, the leader of the Lebanese Kataeb Party. Following the assassination, an armed group entered the camp and murdered inhabitants during the night. It is now generally agreed that the killers were "the Young Men", a gang recruited by Elie Hobeika.[321]
October 13 massacre	Crimes against humanity (500-700 killed during the fighting. Additionally at least 240 unarmed prisoners executed, including civilians)	Syrian Army, Hafez al-Assad	Took place on October 13, 1990, during the final moments of the Lebanese Civil War, when hundreds of Lebanese soldiers were executed after they surrendered to Syrian forces.[322]

[321] Les Secrets de la guerre du Liban : Du coup d'état de Béchir Gémayel aux massacres des camps palestiniens, by Alain Menargues, final chapter.

[322] Robert Owen Freedman, The Middle East enters the twenty-first century, Baltimore University, 2002, page 214.

Appendix-VI[323]

Talibani perpetrator

Armed conflict	Perpetrator
Civil war in Afghanistan	**Taliban**

Incident	Type of crime	Persons responsible	Notes
Executions and torture after fall of Mazar-i-Sharif on August 8, 1998	War crimes (Murder, cruel or degrading treatment and torture; Summary execution)	Taliban	Mass killing of the locals; 4,000 to 5,000 civilians were executed, and many more reported tortured.
Assassination of Iranian diplomats	Crimes against humanity (murder of civilians), offenses against the customary law of nations (outrages upon	Taliban	8 Iranian diplomats were assassinated and an Iranian press correspondent was murdered by the Taliban.

[323] Appendix-VI of Chapter-IV.

	diplomatic plenipotentiaries and agents)		
Murder of Ahmed Shah Massoud, on September 9, 2001	War crimes (Perfidious use of suicide bombers disguised as journalists (who are protected persons) in murder.)	Islamic Emirate of Afghanistan, Al Qaeda	Perfidiously used suicide bombers disguised as television journalists to murder Ahmed Shah Massoud, leader of the Northern Alliance, the leader of the only remaining military opponent of the Taliban, two days before the September 11th Attacks, constituting a failure to bear arms openly, and misuse of the status of protected persons, to wit, journalists in war zones.

Northern Alliance perpetrator

Civil war in Afghanistan		**Northern Alliance**	
Incident	**Type of crime**	**Persons responsible**	**Notes**
Atrocities against Taliban prisoners of war	War crimes (Maltreatment leading to death of Islamic Emirate of Afghanistan POWs (Taliban))	Northern Alliance partisans	Allegedly did place captured Taliban POWs in cargo containers, and did seal them, leading to deaths of those within due to suffocation and excessive heat, thereby constituting war crimes.

Appendix-VII[324]

Iraqi perpetrator

Armed conflict			Perpetrator
Iran–Iraq War			Iraq
Incident	**Type of crime**	**Persons responsible**	**Notes**
Iran – Iraq War	Crimes against peace (Waging a war of aggression)	No prosecutions	In 1980, Iraq invaded neighboring Iran, allegedly to capture Iraqi territory held by Iran.
Use of chemical weapons	War crimes, Use of poisons as weapons (Violation of 1925 Geneva Protocol[325])	No prosecutions	Iraq made extensive use of chemical weapons, including mustard gas and nerve agents such as tabun. Iraqi chemical weapons were res ponsible for over 100,000 Iranian casualties (including 20,000 deaths).
Attacks on neutral shipping	Crime against peace (Attacks against parties not involved	No prosecutions	Iraq attacked oil tankers from neutral nations in an attempt to disrupt enemy trade

[324] Appendix-VII of Chapter-IV.

[325] "Security Council members condemn use of chemical weapons in Iran-Iraq conflict; demand observance of Geneva protocol". UN Chronicle. 1987.

	in a war)		
Halabja poison gas attack	Dutch court has ruled that the incident involved War Crimes and Genocide; also may involve the Use of poisons as weapons and Crimes against humanity.	Ali Hassan Abd al-Majid al-Tikriti, officially titled Secretary General of the Northern Bureau of the Ba'ath Party from March 1987 to April 1989, and advisor to Saddam Hussein, was convicted in June 2007 of war crimes and was sentenced to death by an Iraqi court, along with accomplices Sultan Hashem Ahmed and Hussein Rashid Mohammed. Frans van Anraat war crime.	Iraq also used chemical weapons against their own Kurdishpopulation causing casualties estimated between several hundred up to 5,000 deaths.[326] On December 23, 2005 a Dutch court ruled in a case brought against Frans van Anraat for supplying chemicals to Iraq, that "it thinks and considers legally and convincingly proven that the Kurdish population meets the requirement under the genocide conventions as an ethnic group. The court has no other conclusion that these attacks were committed with the intent to destroy the Kurdish population of Iraq." and because he supplied the chemicals before 16 March 1988, the date of the Halabja attack, he is guilty of a war crime but not guilty of complicity in genocide.[327]

Irani Perpetrator

Armed conflict	Perpetrator

[326] Whatever Happened To The Iraqi Kurds? (Human Rights Watch Report, March 11, 1991).
[327] Dutch court says gassing of Iraqi Kurds was 'genocide' by Anne Penketh and Robert Verkaik in The Independent December 24, 2005.

Iran – Iraq War			Iran
Incident	**Type of crime**	**Persons responsible**	**Notes**
Attacks on neutral shipping	Crime against peace (Attacks against parties not involved in the war)	no prosecutions	Iran attacked oil tankersfrom neutral nations in an attempt to disrupt enemy trade.
Using child soldiers in suicide missions	War crimes (Using child soldiers)	no prosecutions	Iran allegedly used volunteers (among them children) in high risk operations for example in clearing mine fields within hours to allow the advancement of regular troops.
Laid mines in internation al waters		no prosecutions	Mines damaged the US frigate USS Samuel B. Roberts

United States of American Perpetrator

Armed conflict			Perpetrator
Iran – Iraq War			United States of America
Incident	**Type of crime**	**Persons responsible**	**Notes**
Shooting down of Iran Air Flight 655	Rome Statute of the International Criminal Court Article 8(2)(b)(iv) prohibits actions where the anticipated civilian damage outweighs the anticipated military	settlement in the International Court of Justice, U.S. did not admit any wrongdoing	While patrolling Iranian waters without permission, USS Vincennes shot down a civilian air plane killing all 290 passengers and crew aboard. According to the U.S. government, the Vincennes mistakenly identified the Iranian airliner as an attacking military fighter, but awarding the responsible officer the Legion of Merit medal can be interpreted as a tacit approval of the incident.

	advantage.		

Appendix-VIII[328]

Yugoslav People's Army, Army of Serbian Krajina and paramilitary units perpetrators

Armed conflict		**Perpetrator**	
Croatian War of Independence		**Yugoslav People's Army, Army of Serbian Krajina and paramilitary units.**	
Incident	**Type of crime**	**Persons responsible**	**Notes**
Borovo Selo killings[329]	Crimes against humanity (Murder of 12 and wounding of 20 policemen)	Serb paramilitary units commanded by Vojislav Seselj. Seselj is on trial at ICTY.	2 May 1991
Battle of Vukovar	Crimes against humanity, War crimes (indiscriminate shelling of city for 87 days until it was leveled to the ground. At least 1.798 killed, civilians and soldiers)	JNA, Serb Volunteer Guard. Mile Mrksic and Veselin Sljivancanin sentenced by the ICTY.	August 25-November 18, 1881
Ovcara massacre[330]	Crimes against humanity, War crimes (Over 264 civilians and wounded POWs executed	Serb Territorial Defense and paramilitary units. Mile Mrksic sentenced to 20 years, Veselin	18–21 November 1991; bodies

[328] Appendix-VIII of Chapter-VIII.
[329] Final report of the United Nations Commission of Experts, established pursuant to security council resolution 780 (1992), Annex VIII - Prison camps; Under the Direction of: M. Cherif Bassiouni; S/1994/674/Add.2 (Vol. IV), 27 May 1994, Special Forces, (p. 1070). Accessdate 20 October 2010.
[330] Two jailed over Croatia massacre, BBC News, 27 September 2007. Retrieved 28 September 2007.

	afterBattle of Vukovar)	Sljivancanin sentenced to 5 years. Miroslav Radic acquitted.	buried in a mass grave
Stajicevo camp, Morinj camp, Sremska Mitrovica camp, Velepromet camp, Knin camp	Torture of POWs and illegal detention of civilians	Milosevic indicted by the ICTY.	November 1991-March 1992
Dalj killings	War crimes (Execution of 11 detainees)	Territorial Defense of SAO SBWS under Zeljko Raznatovic. Dalj was also one of the charges on the Slobodan Milosevic ICTY indictment.	21 September 1991; bodies buried in a mass grave in the village of Celija
Dalj massacre	War crimes (Massacre of 28 detainees)	Territorial Defense of SAO SBWS under Zeljko Raznatovic. Dalj was also one of the charges on the Slobodan MiloševićICTY indictment.	4 October 1991
Lovas massacre	War crimes; Crimes against humanity (massacre of 70-75 detainees, most of whom were civilians)	Yugoslav People's Army, Territorial Defense of SAO SBWS and Dusan Silni paramilitary unit. Ljuban Devetak and 17 individuals are being tried by Croatian courts. Lovas was also one of the charges on the Slobodan Milosevic ICTY indictment.	10 October 1991
Siroka Kula massacre[331]	Crimes against humanity (massacre of 40 civilians)	JNA and Krajina Serb Territorial Defense.	Siroka Kula near Gospić. On October 13, 1991.
Bacin massacre[332]	Crimes against humanity (massacre of approximately	Serb Territorial Defense forces and SAO Krajina militia. Milan	On 21 October 1991.

[331] http://www.un.org/icty Summary of judgement: Milan Martic sentenced to 35 years for crimes against humanity and war crimes.
[332] Ibid.

	110 civilians)	Babic and Milan Martic convicted by ICTY. Bacin was also one of the charges on the Slobodan Milosevic ICTY indictment.	
Saborsko massacre[333]	Crimes against humanity (massacre of 7, 10 and 29 civilians)	Serb-led JNA (special JNA unit from Nis), TO forces, rebel Serbs militia. Milan Babic and Milan Martic convicted.	On October 28, November 7, and November 12, 1991.
Erdut massacre	War crimes (killing of 37 civilians)[334]	Zeljko Raznatovic, Slobodan Milosevic, Goran Hadzic, Jovica Stanisic and Franko Simatovic indicted by the ICTY.	November 1991-February 1992
Skabrnja massacre	Crimes against humanity, War crimes (Massacre of 86 civilians and POWs.)	Serb forces. Milan Babic and Milan Martic convicted.	On November 18, 1991.
Siege of Dubrovnik[335]	Crimes against humanity (Shelling of civilian targets that killed almost 90 civilians)	JNA and Montenegrin territorial forces. Several JNA commanders sentenced.	Shelling of UNESCO protected World Heritage site.October 1991.
Vocin massacre	Crimes against humanity (Massacre of 32 civilians.)	White Eagles paramilitary group under Vojislav Seselj, indicted by ICTY. Voćin was also one of the charges on the Slobodan Milosevic ICTY indictment.	13 December 1991.
Bruska massacre	Crimes against humanity (Massacre of civilians.)	Serb forces. Milan Babic and Milan Martic convicted.	On December 21, 1991.
Zagreb rocket attack[336]	Crimes against humanity (Shelling of civilian targets in 1995 that killed 7 and wounded at least 175.)	RSK Serb forces. Leader Milan Martić bragged on Television about ordering the assault, the videotape being used against him at ICTY, convicted.	Rocket attack was started as revenge for Serb military defeat in

[333] Ibid.
[334] "The Prosecutor of the Tribunal against Slobodan Milosevic (p. 53, 54, 56, 57, 58)". ICTY, 2001.
[335] The battle of Dubrovnik, Final report of the United Nations Commission of Experts.
[336] "Prosecutors Seek Life Sentence for War Crimes Suspect Martić", Voice of America. 2007-01-10.

			Operation Flash.
Ethnic cleansing in Serb Krajina[337]	Crimes against humanity (Serb forces forcibly removed virtually all non-Serbs living there-nearly a quarter of a million people (mostly Croats))[338]	JNA and Serb paramilitaries. Many people, including leadersMilan Babic and Milan Martic, convicted at ICTY and Croatian courts.	June–December 1991

Croatian Army and paramilitary units perpetrator

Armed conflict	**Perpetrator**
Croatian War of Independence	**Croatian Army and paramilitary units**

Incident	**Type of crime**	**Persons responsible**	**Notes**
Lora prison camp	Crime of torture, War crimes (Torture of POWs)	Croatian army. Several people convicted by Croatian courts.	Croatian internment camp for Serb soldiers and civilians between 1992 and 1997
Borovo Selo killings	Crimes against humanity (Murder of 20 civilians)	Croatian police forces. No prosecutions	2 May 1991; started the ethnic conflict in Baranya, Eastern Slavonia and Western Syrmia
Gospic massacre	Crimes against humanity (Massacre of 50-100 civilians)	Croatian army. Commander Mirko Norac and others convicted by Croatian courts.	16–18 October 1991
Operation Otkos 10	Crimes against humanity (Killings of numerous individuals and expulsion of thousands of civilians	Croatian army. No prosecutions	31 October - 4 November 1991

[337] http://www.un.org/icty Summary of judgement: Milan Martić sentenced to 35 years for crimes against humanity and war crimes.
[338] "Milosevic: Important New Charges on Croatia". Human Rights Watch. October 21, 2001. 2010.

	from over 20 villages)		
Miljevci plateau incident	War crimes (Killings of 40 militiamen)	Croatian army. No prosecutions	21 June 1992; invasion and permanent occupation of territory under international protection; bodies buried in mass graves nearby
Battle for Maslenica Bridge	Crimes against humanity, War crimes (Killings of 490 or 491 individuals, including civilians)	Croatian army. No prosecutions	22 January - 1 February 1993; invasion of territory under international protection
Mirlovic Polje incident [339]	Crimes against humanity (Murder of 7 elderly civilians)	Croatian paramilitaries. No prosecutions	6 September 1993; 5 men and 2 women, four were executed and three burned alive at the stake.
Operation Medak Pocket	Crimes against humanity, War crimes, Crime against peace (Killings of 29 civilians and 71 soldiers;[340] wounding 4 UN peacekeepers)	Croatian army. Commanders Janko Bobetko, Rahim Ademi and Mirko Norac. Ademi acquitted, Bobetko died in the meantime, Norac sentenced to 7 years.	9–17 September 1993; invasion of territory under international protection and assault on UN peacekeeping forces
Operation Flash	Crimes against humanity, (Killings of at least 83 civilians and causing an exodus of 30,000)	Croatian army. No prosecutions	1–3 May 1995; invasion and permanent occupation of territory under international protection; Western Slavonia fully taken from RSK; 53 were killed in their own homes, while 30 during the Croatian raids of the refugee colons.
Operation Storm	Crimes against humanity, (Killings of at least 677 civilians, 150-200,000	Croatian army. Generals Ante Gotovina and Mladen	4–8 August 1995; invasion and permanent occupation of territory

[339] Croatia Human Rights Practices, 1993.
[340] Daniel Simpson (2002-12-03). "Croatia Protects a General Charged With War Crimes". New York Times.

	Serbian refugees)	Markac ultimately acquitted by the ICTY.	under international protection; Individual war crimes comitted during the operation.

Appendix–IX[341]

Armed conflict	Perpetrator
Bosnian War	Serb forces, Army of Republika Srpska, Paramilitary units from Serbia, local Serb police and civilians.

Incident	Type of crime	Persons responsible	Notes
Srebrenica Massacre[342]	Crime of genocide, Crimes against humanity (Murder of over 8,000 Bosnian Muslim men and boys)	Army of Republika Srpska. President Radovan Karadzic and General Ratko Mladic charged.	Following the fall of the eastern Bosnian enclave of Srebrenica the men were separated from the women and executed over a period of several days in July 1995.
Prijedor massacre	Crime of genocide, Crimes against humanity (5,200	Army of Republika Srpska.	Numerous war crimes committed during the Bosnian war by the Serb political and military leadership mostly on Bosniak

[341] Appendix–IX of Chapter-IV.
[342] Federal Commission for Missing Persons, "Preliminary List of Missing and Killed in Srebrenica", 2005.

	killed and missing)	Milomir Stakic convicted.	civilians in the Prijedor region of Bosnia-Herzegovina.
Visegrad massacre	Crime of genocide, Crimes against humanity (Murder of over 3,000 civilians)	Serbian police and military forces. Seven officers convicted.	Acts of ethnic cleansing and mass murder of Bosniak civilians that occurred in the town of Visegrad in eastern Bosnia and Herzegovina, committed by Serb police and military forces at the start of the Bosnian War during the spring of 1992.
Foca massacre [343]	Crime of genocide, crimes against humanity (Murder of over 2,704 civilians)	Army of Republika Srpska. Eight officers and soldiers convicted.	A series of killings committed by Serb military, police and paramilitary forces on Bosniak civilians in the Foca region of Bosnia-Herzegovina (including the towns of Gacko and Kalinovik) from April 7, 1992 to January, 1994. In numerous verdicts, the International Criminal Tribunal for the former Yugoslavia ruled that these killings constituted crimes against humanity and acts of genocide.
Markale massacre [344]	Crimes against humanity (Murder of 105 civilians and wounding 234)	Army of Republika Srpska. Stanislav Galic convicted	The victims were civilians who were shopping in an open air market in Sarajevo when Serb forces shelled the market. Two separate incidents. February 1994; 68 killed and 144 wounded and August 1995; 37 killed and 90 wounded.
Siege of Sarajevo	Crimes against humanity, (10,000 civilians killed)	Army of Republika Srpska. Stanislav Galic and Dragomir Milosevic, were sentenced to life imprisonment and to 33 years imprisonment, respectively.	The longest siege of a capital city in the history of modern warfare. Republika Srpska and the Yugoslav People's Army besieged Sarajevo, the capital city of Bosnia and Herzegovina, from April 5, 1992 to February 29, 1996.
Siege of Bihac	Crimes against humanity	Army of Republika	From April 1992 to August 1995.

[343] Prosecutor v. Radislav Krstic - Trial Chamber I - Judgment - IT-98-33 [2001] ICTY 8 (2 August 2001).
[344] Fish, Jim. (February 5, 2004). Sarajevo massacre remembered. BBC.

		Srpska.	
Tuzla massacre	Crimes against humanity (Murder of 72 and wounding of more than 200 individuals)	Army of Republika Srpska. ARS Officer Novak Dukic on trial.	On May 25, 1995 the Serb army shelled the city of Tuzla and killed 72 people with a single shell.
Koricani Cliffs massacre	Crimes against humanity, War crimes (Murder of over 200 men)	Serbian reserve police. Darko Mrda was convicted.	Mass murder of more than 200 Bosniak men on 21 August 1992 at the Korićani Cliffs (Korićanske Stijene) location on Mount Vlasic, Bosnia and Herzegovina
Ahatovici massacre	Crimes against humanity, Crime of torture (64 men and boys tortured, 56 killed)	Army of the Republika Srpska. No prosecutions.	Rounded up in an attack on a village, they were tortured. Claiming they were going to be exchanged, Serb forces put them on a bus, which they attacked with machine guns and grenades on June 14, 1992. 8 survived by hiding under bodies of the dead.
Paklenik Massacre [345]	Crimes against humanity (Murder of around 50 men)	Army of the Republika Srpska. Four indicted.	The massacre of at least 50 Bosniaks by Bosnian Serb Army in the Rogatica Municipality on 15 June 1992.
Bosanska Jagodina massacre [346]	Crimes against humanity (Murder of over 17)	Army of the Republika Srpska. No prosecutions.	The execution of 17 Bosniak civilians from Visegrad on 26 May 1992, all of which were men.

Armed conflict	**Perpetrator**
Bosnian War	Croat forces, HVO.

[345] Bosnia Report - July - September 2000.
[346] Resolution 771, The First Report on the War Crimes in the Former Yugoslavia.

Incident	Type of crime	Persons responsible	Notes
Ahmici massacre [347]	Crimes against humanity according to ICTY, (Murder of 116 civilians)	Croatian Defence Council, Tihomir Blaskic convicted.	On April 16, 1993, the Croatian Defence Council attacked the village of Ahmici and killed 116 Bosniaks.
Stupni Do massacre	Crimes against humanity according to ICTY; (Murder of 37 civilians)	Croatian Defence Council, Ivica Rajic convicted.	On October 23, 1993, the Croatian Defence Council attacked the village of Stupni do and killed 37 Bosniaks
Lasva Valley ethnic cleansing	Crimes against humanity according to ICTY. (2,000 civilians killed and missing)	Croatian Defence Council. Nine politicians and officers convicted, among them Dario Kordic.	Numerous war crimes committed by the Croatian Community of Herzeg-Bosnia's political and military leadership on Bosnian Muslim (Bosniak) civilians in the Lašva Valley region of Bosnia-Herzegovina, from April, 1993 to February, 1994.

Armed conflict	Perpetrator
Bosnian War	Bosniak forces, Army of the Republic of Bosnia and Herzegovina

Incident	type of crime	Persons responsible	Notes
Massacre in Grabovica	War crimes (13 civilians murdered)	Army of the Republic of Bosnia and Herzegovina. Nihad Vlahovljak, Sead Karagicm and Haris Rajkic convicted.	13 Croatian inhabitants of Grabovica village by members of the 9th Brigade and unidentified members of the Bosnian Army on the 8th or 9 September 1993.

[347] "Flashback: The Ahmici massacre". BBC News. 2000-01-14.

Appendix-X[348]

Armed conflict	Perpetrator
Kosovo War	Serbian army, police and paramilitary forces

Incident	type of crime	Persons responsible	Notes
Racak massacre [349]	War crimes; Crimes against humanity; (Murder of 40 - 45 Albanian civilians)	Serbian Police. Zoran Stojanovic, a 32-year-old police officer, was convicted by a joint UN-Kosovo Albanian panel of judges.	40 to 45 Kosovo Albanians were killed in the village of Racak in central Kosovo. The government of the Federal Republic of Yugoslavia asserted that the casualties were all members of the Kosovo Liberation Army who had been killed in a clash with state security forces.
Izbica	Crimes	Serb forces, no	120 Albanian civilians killed by

[348] Appendix-X of Chapter-IV.
[349] "Nato crisis talks on massacre", BBC News, 1999-01-17.

massacre[350]	against humanity (Murder of 120 Albanian civilians)	prosecutions.	Serbian forces in the village of Izbica, in the Drenica region of central Kosovo on 28 March 1999.
Suva Reka massacre	Crimes against humanity (Murder of 48 Albanian civilians)	Serbian police. Four former policemen were convicted and received prison sentences ranging from 13 to 20 years.	The massacre took place in Suva Reka, in central Kosovo on 26 March 1999. The victims were locked inside a pizzeria into which two hand grenades were thrown. Before taking the bodies out of the pizzeria, the police allegedly shot anyone still showing signs of life.
Cuska massacre	Crimes against humanity (Murder of 41 Albanian civilians)	Serbian army, police, paramilitary and Serb volunteers from Bosnia, no prosecutions.	Serbian forces summarily executed 41 Albanians in Cuska on 14 May 1999, in western Kosovo. Serbian forces took three groups of men into three different houses, where the villagers were shot with automatic weapons and set on fire.
Massacre at Velika Krusa [351]	Crimes against humanity (Murder of 26 Albanian civilians)	Serbian special forces, no prosecutions.	The Massacre at Velika Kruša near Orahovac, Kosovo, took place during the Kosovo War on the afternoon of 25 March 1999 the day after the NATO air campaign began.
Podujevo massacre	Crimes against humanity (Murder of 19 Albanian civilians)	Serbian paramilitary. Four convicted and sentenced to lengthy prison sentences.	19 Kosovo Albanian civilians, all women and children, were executed by Serbian paramilitary forces in March, 1999 in Podujevo, in eastern Kosovo.

Kosovo War			**KLA**
Incident	**type of crime**	**Persons responsible**	**Notes**

[350] "U.S.: Massacre video matches mass grave evidence". CNN.
[351] Massacre at Krusha e Madhe, Human Rights Watch Report, 4 April 1999.

Llapushnik prison camp	War crime; Crime Against Humanity (312 killed and missing)	KLA; Haradin Bala sentenced to 13 years.	Detention camp (also referred to as prison and concentration camp) near the city of Glogovac in central Kosovo during the Kosovo war, in 1998. The camp was used by Kosovo-Albanian insurgents to collect and confine hundreds of male prisoners of Serb and non-Albanian nationalities.
Lake Radonjic massacre [352]	War crime; (Murder of 34 Serbian civilians)	Albanian Extremists, no prosecutions	34 ethnic-Serbs were killed by members of the Kosovo Liberation Army near Lake Radonjic.

Appendix-XI[353]

Armed conflict	**Perpetrator**
1990:Invasion of Kuwait	Iraq

Incident	**Type of crime**	**Persons responsible**	**Notes**
Invasion of Kuwait	Crimes against peace (waging a war of aggression for territorial aggrandizement; "*breach of international peace and security*" (UN Security Council Resolution 660))	No Prosecutions	Did conspire to levy and did levy a war of aggression against Kuwait, a sovereign state, took it by force of arms, did occupy it, and did annex it, by right of conquest, a right utterly alien, hostile, and repugnant to all extant international law, being a grave breach of the Charter of the United Nations, and the customary international law, adhered to by all civilized nations and armed groups, thus constituting Crimes against peace.
Invasion of	War crimes,	No prosecutions	Country devastated, resources

[352] http://www.vreme.com, http://www.pogledi.php
[353] Appendix-XI of Chapter-IV.

Kuwait	Crimes against humanity, Crime of torture, Criminal environmental modification (Destruction of resources; murder, persecution, and torture of civilians and soldiers; willful environmental devastation and modification)		intentionally and wantonly destroyed for no militarily necessitous purpose, murder of civilians, torture of residents and citizens of Kuwait, attempted criminal environmental modification on a global scale through intentional oil spills and soot from intentional oil well fires.

CHAPTER-V

A ROADMAP OF THE DEVELOPMENT OF LAW ENFORCEMENT AGENCIES FOR DEALING WITH INDIVIDUALS ACCUSED OF CRIME AGAINST HUMANITY

International humanitarian law has played a decisive role in this development, as both the laws and customs of war and the rules for the protection of victims fall within its material scope. Indeed, an initial proposal to reach agreement on the establishment of an international criminal court was formulated in the nineteenth century with a view to prosecuting violations of the Geneva Convention for the Amelioration of the Condition of the Wounded in Armies in the Field, which was adopted in 1864.

In 1907 the states codified the laws and customs of war applicable to war on land in the Hague Convention No. IV and its annexed Regulations. The Convention provides that the obligations set down in its rules are binding on the states parties, but at the end of the First World War the peace treaty signed at Versailles in 1919[354] established that Kaiser William II of Germany, whom it

[354] Part VIII of the 1919 Peace Treaty sets out, in Articles 231 to 247, the obligation for Germany to pay reparations to the Allies for the damages inflicted; the amount of the reparations was to be set by a Reparation Commission.