
ACCOUNTABILITY FOR CRIMES AGAINST HUMANITY: NEW TRENDS IN INTERNATIONAL TRIBUNALS

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ABSTRACT

The Nuremberg trials after World War 2 established crimes against humanity as a fundamental concept of modern international law through their establishment of state-sanctioned individual accountability and unified legal framework with moral mechanism. The paper examines the development of international mechanisms and the introduction of organizations like the ICTY and ICTR for handling such crimes ad hoc tribunals to the Rome Statute-based International Criminal Court. The already established process of international justice has evolved through hybrid tribunals, universal jurisdiction, technological advancements, enhanced victim participation and digital journalism's free flow of information. International justice systems face limitations because of state sovereignty and political interference and resource constraints and selective prosecution. The paper argues that future progress demands ICC jurisdiction expansion and enforcement capabilities together with universal jurisdiction principal ratification and local judicial framework integration and victim rights prioritization. The research evaluates historical developments alongside current patterns to demonstrate the immediate requirement for a unified system which combines impartiality with technological adaptability to enforce global accountability for crimes against humanity.

INTRODUCTION

Crimes against humanity have been one of the cornerstones of modern international law, whose origins trace back to the aftermath of World War II, specifically to the Nuremberg Trials. Individual Nuremberg Trials offered a precedent of the first and foremost of its kind: individuals holding state officials and judges accountable for horrendous acts committed in the name of legal and state orders. Since then, international tribunals have advanced and so have the mechanisms to deal with such crimes. The paper analyzes historical and contemporary developments, challenges, and future directions in international attempts to ensure accountability over crimes against humanity.

HISTORICAL BACKGROUND: THE NUREMBERG TRIALS AND THEIR AFTERMATH

History records that after World War II, representatives of several countries established the International Military Tribunal. The tribunal was tasked with the coordination of indictments, prosecution, and punishment of persons who had been accused of crimes such as crimes against humanity as well as war crimes and genocide. The Tribunal in its first session between 1945 and 1946 indicted leading officers of the Third Reich, some military officers, and lawyers who played a significant role in perpetuating atrocities during the Third Reich. The law principles that emerged from the trials were to abolish the “superior orders” defense. The lawyer of the accused persons claimed that the defendants acted on the directive of the state, and hence, they should not be liable on a personal basis. The tribunal rejected this insisting that individuals must be held responsible for acts against fundamental human rights. This placed the origin of the principle of individual responsibility which is the focus of the modern international law conception in the treatment of persons.

The trials likewise tackled the conflict between legal positivism and natural law. Legal positivism, which denotes a clear distinction between law and morality, suffered severe criticism during the trial. As the prosecution proved, Nazi legislation was law in the state, but it was abhorrent to morals. The Nuremberg Tribunal verdicts confirmed the need for the unification of legal order with moral values – particularly in matters that bear the title of humanity.

AFTERMATH OF COLD WAR AND THE ROLE OF INTERNATIONAL TRIBUNALS IN HISTORY.

The post-Cold War period saw global communities witnessing a chaotic pattern of incidences

involving large-scale violence. The International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda are good examples. Both are reported to have dealt quite cruelly with genocide, war crimes, and crimes against humanity in their territories.

The ICTY

ICTY was set up in 1993 to prosecute the crimes that were committed during the Yugoslav wars in the Balkans. It is documented that ICTY contained an active docket with cases involving political and military leaders accused of crimes such as ethnic cleansing mass killings, and sexual violence. One of its most important decisions was to classify rape as a weapon of war as well as a crime against humanity. It also emphasized the fact that no one, regardless of the state whose territory he or she may be residing in, can be protected from prosecution for gross human rights violations.

The ICTR

The ICTR was set up in 1994 and concentrated on the Rwandan Genocide which saw the systematic murder of nearly 800,000 Tutsi as well as moderate Hutu. The works of the tribunal were significant because they included efforts to prosecute crimes of sexual violence as well as seeking to hold people accountable for encouraging genocide through the use of media. The conviction of people for masterminding the organization of mass killings illustrated the will of the international community to eradicate the culture of impunity.

PERMANENT MECHANISM: THE INTERNATIONAL CRIMINAL COURT

The year 2002 was very crucial in the history of the criminalization of relations between people and nations because it saw the birth of the International Criminal Court (ICC) which had been under discussion for decades.

The ICC was able to control and oversee legal affairs deemed important, including war crimes, genocide, and other crimes against humanity. It did so cross-border and internationally which rendered it the first international court of law. They developed the idea owing to the weaknesses of ad hoc tribunals as being sometimes too passive and also being constrained to one geographic region. Under the enactment of the Rome statute it grants jurisdiction to the court broadened to the region of member states. However, the region of crimes of non-member states is not specified as legal jurisdiction. The United Nations Security Council can also act this way by referring cases to the court even if member countries commit the crime on their territory. Thus, this conjuncture is both universal and limited at the same time. Having committed so

many countries joined the ICC prior in 2002 up until 2017 but more brush with reality came when President Omar al Bashir of Sudan was charged with war crimes and genocide, which did get the ICC some attention and power. However, the ICC used to heavily depend on nations' states for power and law enforcement to 'aid' them which was and is an issue that in turn caused them to be ineffective power-wise. The court has its fair share of challenges such as ranging to legal matters but also political ones, including interference in cases and biased prosecution of poor nations as aggressors.

Strong nations that possess exceptional influence on the systems of international relations are reported to be left out.

1. State Sovereignty: Almost no state, many of them powerful countries such as the US, China, and Russia, has ratified it, thus restricting the jurisdiction and the enforcement aspect of the Court.

2. Informal Bodily Commonwealth and – Compliance: The ICC has no formal enforcement body and also the states voluntarily are called upon to arrest and hand over the accused. The court power disappears when the state takes measures to not comply with this.

3. Budgetary Resources: The budget of ICC and the resources that it controls and manages are limited therefore intricate cases are left unresolved and consequently poorly pursued.

RECENT DEVELOPMENT IN ACCOUNTABILITY MECHANISM:

Hybrid Tribunals

It has been shown to be very effective through the creation of hybrid tribunals that have both components locally and internationally for example the SCSL and the ECCC. It employs local professionals and international criteria to achieve justice and promote peace within the concerned societies.

Universal Jurisdiction

The principle of universal jurisdiction enables countries to try individuals who, regardless of their nationality, are guilty of crimes against humanity, based on the location in which the crime was committed. This principle has increasingly become the norm as evidenced in some recent writings including cases where German courts have prosecuted former Syrian officials for torture and war crimes.

If one seeks pragmatic justice in international tribunals, they must be under jurisdictional rules. There cannot be political reasons given to stake such claims.

Advancing Technology

Through technology, the process of obtaining evidence and recording crime scenes has been revolutionized. Drone images, social media pages, and other digital formats are now becoming indispensable sources of evidential materials in proving crimes against humanity. Organizations like The International Criminal Evidence Database (ICED) are assisting in the collection of such data for use in future prosecutions as more and more evidence is coming in.

There has been increasing interest in international tribunals in the recent past, especially in participation in the role of the victims. Therefore, it is possible for them to be heard, to participate in proceedings and they may be compensated. This is to emphasize that while the satisfaction of victims may not be the only goal of justice, victims must know that there is room for empowerment and healing.

CRITICISM AND CHALLENGES

There are still high challenges to holding perpetrators of crimes against humanity accountable with these changes.

- 1. Powerful States Impunity.** Some state actors should not be held accountable. The reason is that power comes with immunity. There has been no prosecution of any state leaders accused of committing war atrocities in Iraq and Afghanistan.
- 2. Efforts Split Up:** There may be the emergence of numerous tribunals with intersecting boundaries which will result in jurisdictional overlap and a lack of uniformity in how legal standards are applied.
- 3. Resistance by Culture and Politics:** International efforts at accountability may be met domestically by resistance and thus prosecutions and reconciliation would be stalled.
- 4. Complicated Nature Of Cases:** As these are large-scale planners and executants, investigating and prosecuting such crimes is a resource and time-consuming endeavor while focusing on the mass killing of individuals.

FUTURE DIRECTIONS

Only mechanisms that are stronger in dispensing justice and even more comprehensive ones that fill the gaps existing now can aid effectiveness in the international systems for preventing human crimes. Such critical areas include:

1. Formation of the Rome Statute necessitated the establishment of the ICC with further increased budgets and further ratifications with increased jurisdiction and enforcement mechanisms.
2. Adoption Of Universal Jurisdiction: There is a need for states to enact universal jurisdiction legislation to support international efforts and address gaps in jurisdiction.
3. Global Expansion: Restricting and strengthening local judicial systems while embedding them into the norm can equally provide for durable mechanisms for accountability.
4. Focus on victim's perspective strategies that encompass justice, reparations, and psychosocial healing aspects for the sake of peace.

It is safe to say that the emergence of consensus over the issues targeting impunity and granting justice for often unaddressed victims of crimes against humanity brutalities remains the biggest challenge within the international community.

From the heroic Nuremberg Trials to the establishment of the ICC and the hybrid tribunals, great progress has been accomplished, but problems such as political interference, resource constraints, or jurisdiction limitations are still present, and therefore it is necessary to make an effort to fortify the existing machinery regularly.

The global community will be assisted in bringing about a world where the reporting or the accountability for crimes against humanity is a 'done deal' rather than an objective in a distant future by the advancement of justice principles across the world, and inclusion of ethical aspects in legal frameworks and the advancement of technology. Humanity and protection from evil that has not yet taken place will hinge on these mechanisms getting stronger and further developing.