

WARS OF AGGRESSION

INFORMATION SERVICES TEAM

DECEMBER 2022

BRING TO ACCOUNT LEADERS WHO START ILLEGAL WARS

Countless governments have waged wars of aggression to further the national interest, often on the flimsiest of excuses, notably the sacking of Troy by the Greeks over an unfaithful wife named Helen.

The 'liberation' of an oppressed people by a tyrant is a more commonly stated justification, as was the case with the German invasion of the Soviet Union in 1941, a murderous war of aggression unparalleled in history.

The catastrophe of the Second World War was the impetus for the creation of the United Nations, its primary function being to prevent wars of aggression by making it a crime under international law for one country to attack another without UN approval except in the case of self-defence (e.g., the Allied invasion of Nazi Germany) or to stop genocide (e.g., the 1999 bombing of Serbia).

Any other war must first be approved by the UN Security Council and must be a remedy to an attack on one country by another, as was the case with the coalition that ejected Iraqi forces from Kuwait in 1991 in response to the illegal 1990 invasion.

Without enforceable laws to prevent a war of aggression

(a crime against peace) the world is condemned to endless wars committed by the strong against the weak, a world where, to quote the ancient Greek general and historian Thucydides, "the strong do what they will, the weak suffer what they must."

Kofi Annan stated that the invasion of Iraq in 2003 was illegal, not that the leaders responsible for this crime fear prosecution by the International Criminal Court.

Since 2010 the ICC can launch a prosecution for a war of aggression using their definition of 'aggression' (UN member nations could not agree on how to define 'aggression'), but the UN Security Council can veto a prosecution, while nations like the US and Russia have not agreed to be subject to this court's jurisdiction for a war of aggression, so its citizens cannot be put on trial for this crime by the ICC.

If President Bush and his coalition allies wanted to bring Saddam Hussein to justice for his crimes they



Child injured in a fire started by a missile during the invasion of Iraq in 2003.

should have gone after him without emulating some of his worst crimes by launching an invasion that maimed and killed many civilians and turned coalition allies like Australia into aggressors, not unlike Hungary when its government supported the 1941 invasion of Yugoslavia by Germany to "advance the national interest".

The best way forward is to have as many governments as possible outlaw wars of aggression until the ICC can prosecute any leader for committing such a crime without the UN Security Council being able to veto it.

SUMMARY OF FINDINGS

1. The ICC cannot prosecute leaders for launching a war of aggression if their nation has not agreed to be subject to ICC jurisdiction or the UN Security Council vetos a prosecution.
2. The UN Security Council has failed to consistently punish leaders who launch wars of aggression because a handful of permanent members can veto resolutions that would do so via a special court.

RECOMMENDATION

Pass national laws to outlaw wars of aggression until the ICC is empowered to prosecute any leader for these crimes against peace.

FURTHER READING

The Crime of Aggression, Noah Weisbord, Princeton University Press, 2019.

Crimes Against Humanity: The Struggle for Global Justice, Jeffrey Robertson, Penguin, 4th Edition, 2012.

War, Aggression and Self-Defence, Yoram Dinstein, Cambridge University Press, 6th Edition, 2017.

NUREMBURG - A NEGLECTED PRECEDENT

Robert Jackson, Chief Counsel for the United States, declared: "This trial represents mankind's desperate effort to apply the discipline of the law to statesmen who have used their powers of

state to attack the foundations of the world's peace and to commit aggressions against their neighbors." Jackson was convinced that war could only be curbed "when we make all men

answerable to the law." The Nuremberg judges stated that initiating a war of aggression was "the supreme international crime", which often result in mass casualties and war crimes.

