

Forum: Legal
Issue: Policy reformation on Crimes against Humanity
Student Officer: Ioannis Methenitis
Position: Co-Chair

PERSONAL INTRODUCTION

Dear delegates,

It is a pleasure for me to officially welcome you to the Legal Committee of this year's Platon School MUN Conference. My name is Giannis Methenitis, I am 16 years old and study in Anavryta Experimental Lyceum. It is my honor to serve as a Co-Chair. I participated in last year's PS-MUN as a delegate and it's a great privilege for me to have the opportunity to serve as a Student Officer in this year's Conference. This is my second time serving as a Student Officer.

As a Co-Chair, it is my duty to guide you through this topic and this is the purpose this resolution is serving. I sincerely hope you will find this study guide helpful. Nevertheless, you should not limit your research to this Study Guide, as this is a really wide and controversial issue and you will definitely need to do further research in order to adapt your knowledge and ideas to your country's policy on the topic. With that being said, you can contact me with any questions concerning the topic or the procedure via email (giannis.methen@gmail.com).

As your Co-chair I promise to be as fair and objective and devote as much time and effort as I possibly can. I expect to see well prepared delegates with wide knowledge on the topic and above all a really interesting debate.

Sincerely,
Giannis Methenitis

INTRODUCING TOPIC

Humanity has suffered great crimes throughout its history. The first time a group of people were charged and tried for Crimes against Humanity, was at the Nuremberg Trial, in the aftermath of World War II. The Nuremberg Charter, Article 6 (c) defined crimes against humanity as:

"CRIMES AGAINST HUMANITY: namely, murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during the war; or persecutions on political, racial or religious grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated.

Leaders, organizers, instigators and accomplices participating in the formulation or execution of a common plan or conspiracy to commit any of the foregoing crimes are responsible for all acts performed by any persons in execution of such plan. "



The Nuremberg trials

Unlike acts like Crimes of War or Genocide, Crimes against humanity are neither widely recognized nor prohibited in international criminal law since the Nuremberg principles. Despite the fact that such crimes are repeatedly perpetrated worldwide, there has been no convention on Crimes against humanity. Nevertheless, in the 21st century there are

several new aspects of crimes against humanity that the Nuremberg Charter did not include.

Modern warfare, new causes of conflicts and atrocities and the extraordinary outburst of technological evolution; These are some of the factors that have set the definition of Crimes against humanity, as given by the Nuremberg Charter or later by the International Criminal Court, incapable of battling international crime in the 21st century, and in some situations imprecise and unable to cover all aspects of a conflict. The need of re-evaluation of the term of Crimes against humanity and what it includes is now more urgent than ever.

KEY TERMS

Crimes against Humanity

As defined by the international Criminal Court, Crime against the Humanity is a crime committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack. Any of the following acts could be defined as a crime against the humanity, if it fits the definition above:

- murder;
- extermination;
- enslavement;
- deportation or forcible transfer of population;
- imprisonment;
- torture;
- rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;
- persecution against an identifiable group on political, racial, national, ethnic, cultural, religious or gender grounds;
- enforced disappearance of persons;
- the crime of apartheid;
- other inhumane acts of a similar character intentionally causing great suffering or serious bodily or mental injury.

War Crimes

In order for a delegate not to confuse a crime against the humanity with a war crime, he/she needs to be aware of the definition:

War crime is an act that violates the law of war. Examples of such acts are: killing civilians or prisoners, destroying property, taking hostages, rape. The main difference between Crimes against Humanity and War Crimes is that Crimes against Humanity can be committed in both times of war and peace.

Nuremberg Charter

Also known as the " Charter of the International Military Tribunal – Annex to the Agreement for the prosecution and punishment of the major war criminals of the European Axis " , was formed on August 8th 1945 and defined the laws and procedures by which the Nuremberg Trials, the trial of the European Axis Powers, were to be conducted.

BACKGROUND INFORMATION

The first ever use of the term, goes back to 1907 and to the Second Hague Convention which expanded to the fourth Hague Convention. But, the first charge of a Crime against the Humanity was done by the Allied Powers, Britain, France, and Russia on May 24th, 1915. The government of Turkey, and especially the Ottoman Government as well as its agents that participated on the crimes, were charged for "Crimes against humanity and civilization " , mainly referring to the Armenian Genocide. When the creation of a tribunal to try "violations of the laws of humanity" was recommended, the US representative objected any references to "Law of Humanity " , as it was insufficient and imprecise at the time and the case was not pursued any further.

After World War II, one of the most brutal wars the mankind has ever faced with over 60 million victims, there were two military tribunals concerning Crimes against humanity:

The Nuremberg Trials

The Nuremberg Trials were a series of tribunals, held between November 20th 1945 and October 1st 1946, in which the leadership of Nazi Germany was charged and tried by the Allied forces for all the atrocities and inhuman crimes they committed through the duration of World War II. The Nuremberg trials and the Nuremberg Charter, gave the first definition of Crimes against Humanity (for the definition see the "Topic Introduction" sector).

The Tokyo Trials

Also known as the International Military Tribunal for the Far East (IMTFE), the Tokyo Trials, were a series of trials to try the leaders of the Empire of Japan, for the crimes they committed during World War II. Those crimes were separated in three different categories: "Class A" (crimes against peace), "Class B" (war crimes), and "Class C" (crimes against humanity). In the Tokyo Trials, no suspect was applied with Class C crimes as inhuman crimes such as but not limited to Nanking Massacre, were categorized as Class B crimes, a decision that could have been different if the definition of crimes against humanity was more precise.

After the Nuremberg and Tokyo Trials, the work on the development of the definition of Crimes against Humanity continued. In 1947 the United Nations charged the International Law Commission with drafting 'a code of offenses against the peace and security of mankind', after formulating the principles of international law in the Nuremberg charter and judgment. The draft code was completed fifty years later, in 1996. In addition to the Nuremberg Charter definition, the Draft Code added that Crimes against Humanity where the acts to be committed "before or during the war".

The International Criminal Tribunal for Former Yugoslavia (ICTY)

In 1993, the United Nations Security Council established the International Criminal Tribunal for Former Yugoslavia. The goal of this tribunal was to investigate and prosecute any acts of genocide, war crimes or crimes against the humanity committed in former Yugoslavia. The definition of Crimes against Humanity the ICTY used, included the principle of the Nuremberg Charter, concerning armed conflict, leading to the connection of Crimes against Humanity to both international and non-international armed conflict.

The International Criminal Tribunal for Rwanda (ICTR)

In 1994, the United Nations Security Council established the International Criminal Tribunal for Rwanda. The aim of ICTR was to prosecute the genocide that took place in April - July 1994 in Rwanda. The ICTR Statute separated the definition of Crimes against Humanity and the situation of Armed Conflict, in article 3. If the bond of Crimes against humanity and armed conflict from the Nuremberg principles had been maintained, most probably no charges for Crimes against Humanity would have been able to be applied.



International Criminal Tribunal for the former Yugoslavia

In 2002 the International Criminal Court (ICC) came into force. The Rome Statute, ICC's founding treaty, defined Crimes against Humanity as:

'Crime against Humanity' means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

- (a) Murder;
- (b) Extermination;
- (c) Enslavement;
- (d) Deportation or forcible transfer of population;
- (e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
- (f) Torture;
- (g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;

(h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court;

(i) Enforced disappearance of persons;

(j) The crime of apartheid;

(k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

This definition, which is almost identical to the one used in the ICTR Statute is the most current definition of Crimes against Humanity given.

Crimes against humanity

In order for the delegate to have a clear understanding on what consists a Crime against humanity here are some of the Crimes against humanity that have been committed throughout mankind's history:

The Holocaust

Also known as the Shoah (Hebrew for "the catastrophe"), in the Holocaust millions of Jews were systematically murdered by the Nazi regime. From 1941 to 1945, six million Jews were killed. The holocaust was categorized as a Crime against humanity in the Nuremberg trials.

The South African Apartheid

The South African Apartheid (African word for "separateness" or "the state of being apart") was a type of racial separation which was enforced in South Africa through legislation by the National Party (the governing party from 1948 to 1994). In this situation the phenomenon of minority rule was observed, in which an ethnical minority (here: "white" people) maintains political, economic or cultural domination in a country. "Black people" were considered as unequal compared to "white people", and this dominance was enforced by the law.

MAJOR ORGANIZATIONS INVOLVED

The Crimes against Humanity Initiative

Crimes against Humanity Initiative is a project that started in 2008 by Professor Leila Nadya Sadat and it is hosted in the Whitney R. Harris World Law Institute. The goal of this project is the creation of a convention on the prevention and punishment of Crimes against Humanity, as well as the analysis of all aspects of such a convention and the drafting of a proposed treaty. The draft treaty has been created and it's now being debated by the UN International Law Commission.

The UN International Law Commission

The International Law Commission was established by the United Nations to "initiate studies and make recommendations for the purpose of ... encouraging the progressive development of International Law and its codification" as mentioned in Article 13 (1) (a) of the United Nations Charter. It was charged by the United Nations Security Council in 1947 to draft 'a code of offenses against the peace and security of mankind'. This draft was completed in 1996, as mentioned in the Historical Information Sector.

The International Criminal Court (ICC)

The ICC was founded 2002. It is the only permanent treaty based court on an International level which aims to battle the most serious crimes that concern the International community. Its main contribution on the field of Crimes against humanity, was its definition given in the Rome Statute, its founding treaty.

TIMELINE OF EVENTS

Date	Description of Event
1907	First use of term in the Second Hague Convention
1915	Allied Powers charge Turkish Government for Crimes against humanity and civilization
1945	Formation of the Nuremberg Charter
1945	Nuremberg Trials, the first ever trials on Crimes against Humanity
1947	United Nations Charge International Law Commission for the Draft Code
1993	UN security Council establishes the ICTY
1994	UN security Council establishes the ICTR
1996	The Draft Code was completed
2002	The International Criminal Court comes into force
2008	Crimes against Humanity Initiative is founded

POSSIBLE SOLUTIONS

The goal of a delegate regarding this topic, is to adapt the criteria of what is being considered a crime against humanity, on several new aspects of the 21st century that concern the big scale international criminal activity since the Nuremberg Charter.

With that being said, in order for the new term of Crimes against humanity to be able to cope with the evolution of crimes in the 21st century, there are several aspects that should be taken into consideration while debating on the policy reformation on Crimes against humanity.

Terrorism

Terrorism is one of the most crucial issues of the 21st century and therefore one of the most important aspects of Crimes against humanity that should be debated. Terrorist groups are continuously perpetrating various acts, such as but not limited to murder and persecution under circumstances that satisfy the criteria mentioned in the definition of Crimes against humanity, as it is given by the International Criminal Court. Such groups include for example Boko Haram , a group that commits its crimes in Nigeria which is a member of the International Criminal Court since 2002. Nevertheless, no tribunal against any terrorist group has been held for crimes against humanity.

Environmental Issues

Author Larry Everest stated in one of his speeches the following: " I can't think of a more egregious crime against humanity than the destruction, the willful and conscious destruction of the habitat of all living things in this planet, the environment ". The technological outburst that began with the Industrial revolution and continues expanding on the 21st century, had brutal consequences on the environment. All these individual actions that harmed the environment on a big scale, could be considered crimes against humanity, as these kind of actions affect the life of future generations in a crucial way.

Violent Regimes

Every regime that violates the basic human rights and doesn't obey to several international laws should be charged for crimes against humanity. This is the situation in North Korea. North Korea's regime is continuously being accused for the violation of fundamental human rights, such as equality and the freedom of speech. These human rights abuses also include: Racial Separation, Kidnappings, Atrocities that include ten hours-a-day trainings for six months for rituals to honor Kim Jong-Un, torture and imprisonment for no serious reason and Death Camps that are similar to those the Nazis used. It is obvious that some of the previously mentioned acts already satisfy the basic

criteria of Crimes against humanity, but nevertheless no charges have been applied from any major organization or country involved.



Members of terrorist group executing innocents in Syria

After taking the previously-mentioned aspects of Crimes against humanity into consideration, there are certain questions concerning crimes against humanity that need to be answered, in order for the new term to be more precise and practical.

[The Actor vs. the Organizer](#)

One of the most-used arguments for the defense of someone charged with crimes against humanity, as well as one of the practical issues any attempt of charges against the humanity has to face is: Is the person who was following orders while committing a crime against the humanity responsible for the crime, or is the person who ordered the action responsible against the law?

[The Question of Sanctions](#)

What kind of sanctions are suitable for such brutal acts as those considered crimes against humanity? This question is now more urgent than ever, especially after 2007 when the United Nations general assembly voted for the moratorium on the death penalty, a resolution which suspends the use of death penalty worldwide. Therefore the capital punishment that was used against the majority of the defendants in the Nuremberg Trials cannot be used as a sanction.

Winner vs. Loser Scenarios

Are both the winning and the losing side of a war, equal against the law after the war is over? The answer is simple - No. A great example for this point is the fact that the Allied powers charged Nazi Germany for crimes against humanity in the Nuremberg trials in 1945, while in the same year, the USA, one of the most important members of the Allied powers, committed one of the most egregious and brutal crime against humanity ever committed, which was never tried by any international court: the use of nuclear weapons against innocent people in the towns of Hiroshima and Nagasaki. This is why the tribunals on crimes against humanity should be held by neutral organizations, such as but not limited to the United Nations organ or the International Criminal Court.

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