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War crime



A picture taken by the [Polish Underground](#) of [Nazi Secret Police](#) rounding up Polish intelligentsia at [Palmiry](#) near [Warsaw](#) in 1940 for mass execution ([German AB-Aktion in occupied Poland](#)).

War crimes are serious violations of the laws applicable in armed conflict (also known as [international humanitarian law](#)) giving rise to individual criminal responsibility. Examples of such conduct include "murder, the ill-treatment or deportation of civilian residents of an occupied territory to slave [labor camps](#)", "the murder or ill-treatment of [prisoners of war](#)", the killing of prisoners, "the wanton destruction of cities, towns and villages, and any devastation not justified by military, or civilian necessity".^[1]

Similar concepts, such as [perfidy](#), have existed for many centuries as customs between civilized countries, but these customs were first codified as international law in the [Hague Conventions of 1899 and 1907](#). The modern concept of a war crime was further developed under the auspices of the [Nuremberg Trials](#) based on the definition in the [London Charter](#) that was published on August 8, 1945. (Also see [Nuremberg Principles](#).) Along with war crimes the charter also defined [crimes against peace](#) and [crimes against humanity](#), which are often committed during wars and in concert with war crimes.

Article 22 of The Hague IV ("Laws of War: Laws and Customs of War on Land (Hague IV); October 18, 1907") states that "The right of belligerents to adopt means of injuring the enemy is not unlimited"^[2] and over the last century many other treaties have introduced positive laws that place constraints on belligerents (see [International treaties on the laws of war](#)). Some of the provisions, such as those in The Hague, the Geneva, and Genocide Conventions, are considered to be part of customary international law, and are binding on all.^{[3][4]} Others are only binding on individuals if the belligerent power to which they belong is a party to the treaty which introduced the constraint.

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[\[edit\]](#) History



[Hsuechow](#), China, 1938. A ditch full of the bodies of Chinese civilians, killed by [Japanese](#) soldiers.^[5]

[\[edit\]](#) Early example

The trial of [Peter von Hagenbach](#) by an ad hoc tribunal of the [Holy Roman Empire](#) in 1474, was the first "international" war crimes trial, and also of [command responsibility](#).^{[6][7]} He was convicted and beheaded for crimes that "he as a knight was deemed to have a duty to prevent", although he had argued that he was only "following orders".

[\[edit\]](#) Hague Conventions

Main article: [Hague Conventions \(1899 and 1907\)](#)

The Hague Conventions were international treaties negotiated at the First and Second Peace Conferences at [The Hague](#), Netherlands in 1899 and 1907, respectively, and were, along with the First and Second Geneva Conventions (1864 and 1909), among the first formal statements of the [laws of war](#) and war crimes in the nascent body of secular [international law](#).

[\[edit\]](#) Geneva Conventions

Main article: [Geneva Conventions](#)

The [Geneva Conventions](#) are four related treaties adopted and continuously expanded from 1864 to 1949 that represent a legal basis and framework for the conduct of war under international law. Every single member state of the [United Nations](#) has currently ratified the conventions, which are universally accepted as [customary international law](#), applicable to every situation of armed conflict in the world. However, the Additional Protocols to the Geneva Conventions adopted in 1977 containing the most pertinent, detailed and virulent protections of [international humanitarian law](#) for persons and objects in modern warfare are still not ratified by a number of States continuously engaged in armed conflicts, namely the United States, Israel, India, Pakistan, Iraq, Iran, and

others. Accordingly, states retain different codes and values with regard to wartime conduct. Some signatories have routinely violated the Geneva Conventions in a way which either uses the ambiguities of law or political maneuvering to sidestep the laws' formalities and principles.

All conventions were revised and expanded in 1949:

- [First Geneva Convention](#) *"for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field"* (first adopted in 1864, last revision in 1949).
- [Second Geneva Convention](#) *"for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea"* (first adopted in 1906).
- [Third Geneva Convention](#) *"relative to the Treatment of Prisoners of War"* ([first adopted in 1929](#), last revision in 1949).
- [Fourth Geneva Convention](#) *"relative to the Protection of Civilian Persons in Time of War"* (first adopted in 1949, based on parts of the 1907 [Hague Convention IV](#)).

Two Additional Protocols were adopted in 1977, completing and updating the Geneva Conventions:

- [Protocol I](#) (1977) *"relating to the Protection of Victims of International Armed Conflicts."*
- [Protocol II](#) (1977) *"relating to the Protection of Victims of Non-International Armed Conflicts."*

[\[edit\]](#) **Leipzig War Crimes Trial**

Main article: [Leipzig War Crimes Trial](#)

Several German military commanders of the First World War were tried in 1921 by the German Supreme Court for war crimes.

[\[edit\]](#) **London Charter / Nuremberg Trials 1945**

Main article: [London Charter of the International Military Tribunal](#)

The modern concept of war crime was further developed under the auspices of the [Nuremberg Trials](#) based on the definition in the [London Charter](#) that was published on August 8, 1945. (Also see [Nuremberg Principles](#).) Along with war crimes the charter also defined crimes against peace and crimes against humanity, which are often committed during wars and in concert with war crimes.

[\[edit\]](#) **International Military Tribunal for the Far East 1946**

Main article: [International Military Tribunal for the Far East](#)

Also known as the Tokyo Trial, the Tokyo War Crimes Tribunal or simply as the Tribunal, it was convened on May 3, 1946 to try the leaders of the Empire of Japan for three types of crimes: "Class A" (crimes against peace), "Class B" (war crimes), and "Class C" (crimes against humanity), committed during World War II.

[\[edit\]](#) **International Criminal Court 2002**



Bodies of some of the hundreds of Vietnamese villagers who were murdered by U.S. soldiers during the [My Lai Massacre](#)

On July 1, 2002, the [International Criminal Court](#), a treaty-based court located in [The Hague](#), came into being for the prosecution of war crimes committed on or after that date. Several nations, most notably the United States, China, Russia, and Israel, have criticized the court. The United States still participates as an observer. Article 12 of the Rome Statute provides jurisdiction over the citizens of non-contracting states in the event that they are accused of committing crimes in the territory of one of the state parties.^[8]

However the court only has jurisdiction over these crimes where they are "*part of a plan or policy or as part of a large-scale commission of such crimes*".^[9]

[\[edit\]](#) **Prominent indictees**

Main article: [List of war crimes](#)

Heads of state & government

To date, the present and former [heads of state](#) and [heads of government](#) that have been charged with war crimes include:

- German [Großadmiral](#) and [President Karl Dönitz](#) and Japanese [Prime Ministers](#) and [Generals Hideki Tōjō](#) and [Kuniaki Koiso](#) in the aftermath of World War II.
- Former [Yugoslav President Slobodan Milošević](#) was brought to trial for alleged war crimes, but died in custody in 2006 before the trial could be concluded after more than 4 years of proceedings.
- Former [Liberian President Charles G. Taylor](#) was also brought to The Hague charged with war crimes; his trial stretched from 2007 to March 2011; a verdict is still being awaited.^[10]
- Former [Bosnian Serb President Radovan Karadžić](#) was arrested in Belgrade on 18 July 2008 and brought before Belgrade's War Crimes Court a few days after. He was extradited to the Netherlands, and is currently in The Hague, in the custody of the [International Criminal Tribunal for the former Yugoslavia](#). The trial began in 2010 and is expected to continue until 2014.
- [Omar al-Bashir](#), current head of state of [Sudan](#), for [actions in Darfur](#).
- Former [Libyan](#) leader [Muammar Gaddafi](#) has been indicted for allegedly ordering the killings of protesters and civilians during the [2011 Libyan civil war](#), however he was killed before he could stand trial in October 2011.

Other prominent indictees

- [Yoshijirō Umezu](#), a general in the [Imperial Japanese Army](#)
- [Seishirō Itagaki](#), [War minister](#) of the [Empire of Japan](#)
- [Hermann Göring](#), Commander in Chief of the [Luftwaffe](#).
- [Ernst Kaltenbrunner](#) and [Adolf Eichmann](#)—high ranking members of the [SS](#).
- [Wilhelm Keitel](#)—[Generalfeldmarschall](#), head of the [Oberkommando der Wehrmacht](#).
- [Erich Raeder](#)—[Großadmiral](#), Commander in Chief of the [Kriegsmarine](#).
- [Albert Speer](#)—Minister of Armaments and War Production in [Nazi Germany](#) 1942-45.
- [Ratko Mladić](#), indicted for genocide amongst other violations of humanitarian law during the [Bosnian War](#); he was captured in Serbia in May 2011 and has been extradited to face trial in The Hague,^[11]

[\[edit\]](#) Definition



Aftermath of the [Malmedy massacre](#) (1944)

War Crimes are those serious violations of the rules of customary and treaty law concerning [international humanitarian law](#) that have become accepted as criminal offences for which there is individual responsibility.^[12] Colloquial definitions of *war crime* include violations of established protections of the *laws of war*, but also include failures to adhere to norms of procedure and rules of battle, such as attacking those displaying a peaceful [flag of truce](#), or using that same flag as a [ruse of war](#) to mount an attack. Attacking enemy troops while they are being deployed by way of a parachute is not a war crime.^[13] However, Protocol I, Article 42 of the [Geneva Conventions](#) explicitly forbids attacking parachutists who eject from damaged airplanes, and surrendering parachutists once landed.^[14] War crimes include such acts as mistreatment of [prisoners of war](#) or civilians. War crimes are sometimes part of instances of [mass murder](#) and [genocide](#) though these crimes are more broadly covered under [international humanitarian law](#) described as [crimes against humanity](#).



Destruction of the [Adam Mickiewicz Monument, Kraków](#), Poland by German forces on August 17, 1940.

War crimes are significant in international [humanitarian law](#)^[15] because it is an area where international tribunals such as the [Nuremberg Trials](#) and [Tokyo trials](#) have been convened. Recent examples are the [International Criminal Tribunal for the Former Yugoslavia](#) and the [International Criminal Tribunal for Rwanda](#), which were established by the [UN Security Council](#) acting under Chapter VIII of the [UN Charter](#).

Under the [Nuremberg Principles](#), *war crimes* are different from [crimes against peace](#) which is planning, preparing, initiating, or waging a [war of aggression](#), or a war in violation of international treaties, agreements, or assurances. Because the definition of a state of "war" may be debated, the term "war crime" itself has seen different usage under different systems of international and military law. It has some degree of application outside of what some may consider to be a state of "war", but in areas where conflicts persist enough to constitute social instability.

The legalities of war have sometimes been accused of containing favoritism toward the winners ("[Victor's justice](#)"),^[16] as some controversies have not been ruled as war crimes. Some examples include the Allies' destruction of civilian Axis targets during World War II, such as the [firebombing](#) of the German city of [Dresden](#) and [the use of atomic bombs on Hiroshima and Nagasaki](#);^[17] the use of [Agent Orange](#) against civilian targets in the [Vietnam War](#);^[citation needed] the mass killing of Biharies by Kader Siddique and Mukti Bahini^[18] before or after

victory of [Bangladesh Liberation War](#) in Bangladesh between 1971 and 1972; and the [Indonesian](#) occupation of [East Timor](#) between 1976 and 1999.

Another example is the Allied re-designation of German [POWs](#) (under the protection of the Geneva conventions) into [Disarmed Enemy Forces](#) (allegedly unprotected by the Geneva conventions), many of which then were used for [forced labor](#) such as clearing minefields. By December 1945 it was estimated by French authorities that 2,000 German prisoners were being killed or maimed each month in mine-clearing accidents.^[19]

[\[edit\]](#) See also

Country listings

- [List of war crimes](#)
- [German war crimes](#)
- [Consequences of German Nazism](#)
- [Allied war crimes during World War II](#)
- [American war crimes](#)
- [War crimes of the Wehrmacht](#)
- [Soviet war crimes](#)
- [Japanese war crimes](#)
- [International Military Tribunal for the Far East](#)
- [United States Senate Committee on the Philippines](#)
- [1971 Bangladesh atrocities](#)
- [Armenian Genocide](#)

Legal issues

- [Rule of Law in Armed Conflicts Project \(RULAC\)](#)
- [Laws of war](#)
- [Command responsibility](#)
- [War Crimes Law \(Belgium\)](#)
- [Russell Tribunal](#)
- [The International Criminal Court and the 2003 invasion of Iraq](#)
- [Special Court for Sierra Leone](#)
- [American Service-Members' Protection Act](#)

Miscellaneous

- [Crime against humanity](#)
- [Crime against peace](#)
- [Doctors' Trial](#)
- [NKVD prisoner massacres](#)
- [Consequences of German Nazism](#)
- [Human shield](#)
- [International Criminal Court investigations](#)
- [Transitional justice](#)
- [Nazi human experimentation](#)
- [Nuremberg Principles](#)
- [Katyn massacre](#)
- [Srebrenica massacre](#)
- [Forensic archaeology](#)
- [Terror bombing](#)
- [Winter Soldier Investigation](#)



[\[edit\]](#) Footnotes

- ¹ ↑ Gary D. Solish (2010) *The Law of Armed Conflict: International Humanitarian Law in War*, Cambridge University Press ISBN 9780521870887 pp. 301-303
- ² ↑ "[The Avalon Project—Laws of War : Laws and Customs of War on Land \(Hague IV\); October 18, 1907](#)". Avalon.law.yale.edu. Retrieved 2010-05-03.
- ³ ↑ [Judgement: The Law Relating to War Crimes and Crimes Against Humanity](#) contained in the [Avalon Project](#) archive at [Yale Law School](#). "*but by 1939 these rules laid down in the [Hague] Convention [of 1907] were recognised by all civilized nations, and were regarded as being declaratory of the laws and customs of war*"
- ⁴ ↑ "[Report Of The Secretary-General Pursuant To Paragraph 2 Of Security Council Resolution 808 \(1993\)](#)". S/25704. United Nations. 3 MAY 1993. Retrieved 13 October 2010. "35. The part of conventional international humanitarian law which has beyond doubt become part of international customary law is the law applicable in armed conflict as embodied in: the Geneva Conventions of 12 August 1949 for the Protection of War Victims; The Hague Convention (IV) Respecting the Laws and Customs of War on Land and the Regulations annexed thereto of 18 October 1907; the Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948; and the Charter of the International Military Tribunal of 8 August 1945."
- ⁵ ↑ It may be pointless to try to establish which World War II Axis aggressor, Germany or Japan, was the more brutal to the peoples it victimised. The Germans killed six million Jews and 20 million Russians [i.e. Soviet citizens]; the Japanese slaughtered as many as 30 million Filipinos, Malays, Vietnamese, Cambodians, Indonesians and Burmese, at least 23 million of them ethnic Chinese. Both nations looted the countries they conquered on a monumental scale, though Japan plundered more, over a longer period, than the Nazis. Both conquerors enslaved millions and exploited

them as forced labourers—and, in the case of the Japanese, as [forced] prostitutes for front-line troops. Johnson, *Looting of Asia*

6. [^] [The evolution of individual criminal responsibility under international law](#) By Edoardo Greppi, Associate Professor of International Law at the [University of Turin, Italy](#), [International Committee of the Red Cross](#) No. 835, p. 531-553, October 30, 1999.
7. [^] [highlights the first international war crimes tribunal](#) by Linda Grant, Harvard Law Bulletin.
8. [^] ["Rome Statute of the International Criminal Court, 1998"](#). UN Treaty Organization. Retrieved 13 October 2010.
9. [^] [Rome Statute, Part II, Article 8.](#)
10. [^] <http://english.aljazeera.net/news/europe/2011/03/2011311172946791811.html>
11. [^] <http://www.bbc.co.uk/news/world-europe-13611645>
12. [^] Shaw, M.N (2008). *International Law*. Cambridge University Press. pp. 433–434. [ISBN 978-0-521-89929-1](#).
13. [^] From the [Library of Congress](#), Military Legal Resources.[\[1\]](#)
14. [^] *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflict*, International Committee of the Red Cross, Geneva, Switzerland.[\(Protocol I\)](#)
15. [^] The Program for Humanitarian Policy and Conflict Research, "Brief Primer on IHL" Accessed at <http://ihl.ihlresearch.org/index.cfm?fuseaction=page.viewpage&pageid=2083>
16. [^] Zolo, Danilo (November 2, 2009). *Victors' Justice: From Nuremberg to Baghdad*. Verso. [ISBN 9781844673179](#).
17. [^] [The Atomic Bombing, The Tokyo War Crimes Tribunal and the Shimoda Case: Lessons for Anti-Nuclear Legal Movements' by Yuki Tanaka and Richard Falk](#)
18. [^] Interview With History by [Oriana Fallaci](#)-
19. [^] S. P. MacKenzie "The Treatment of Prisoners of War in World War II" *The Journal of Modern History*, Vol. 66, No. 3. (Sep., 1994), pp. 487-520.

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- Human Rights First; [Command's Responsibility: Detainee Deaths in U.S. Custody in Iraq and Afghanistan](#)
- [TheRule of Law in Armed Conflicts Project](#)
- [Documents and Resources on War, War Crimes and Genocide](#)
- [Iraqi Special Tribunal](#)
- [Crimes of War Project](#)
- [Rome Treaty of the International Criminal Court](#)
- [Special Court for Sierra Leone](#)
- [UN International Criminal Tribunal for the former Yugoslavia](#)
- [UN International Criminal Tribunal for Rwanda](#)
- [Ad-Hoc Court for East Timor](#)
- [CBC Digital Archives -Fleeing Justice: War Criminals in Canada](#)

