



Tom Lantos Human Rights Commission Hearing

**Accountability for Russia's War Crimes
and Aggression against Ukraine**

March 8, 2022

11:00 a.m.

Virtual via Cisco WebEx

Chaired by Rep. Chris Smith

Excerpt of Remarks

This hearing of the Tom Lantos Human Rights Commission—Accountability for Russia's War Crimes and Aggression against Ukraine—will come to order.

We are here to recommit to assisting Ukraine during its darkest hour and to honor those who are sacrificing their lives defending their beloved country from an unprovoked, barbaric invasion by Putin and the Russian Federation.

We are also here to Hold Putin and Russian officials to account.

We join the free world in honoring the extraordinary courage and tenacious leadership of President Volodymyr Zelensky.

As we all know, Ukraine is the victim of the largest and most lethal attack in Europe since World War II, and the world has been shocked by the massive death and destruction unleashed by Putin.

President Putin—and others responsible for this ongoing and ever-expanding mass murder, war crimes and crimes against humanity—must be held to account and prosecuted for their crimes.

Indeed, Putin needs to be prosecuted for the [crime of aggression](#) against another sovereign nation.

Clearly an aggressive effort to hold Putin personally accountable won't stop the onslaught overnight, but it must be part of a comprehensive strategy that includes robust humanitarian aid, sanctions including barring the importation of Russian oil, and military assistance in the type, quality and quantity that empowers Ukrainians to more effectively defend themselves.

The Russian military continues to use willful, deadly force to target civilians and non-military infrastructure such as residential buildings, hospitals, schools, and electricity grids, while also targeting humanitarian workers and ambulances—all with heavy artillery, missiles, or cluster munitions. Now, it is anticipated that Russia will use vacuum bombs, or thermobaric weapons, if it hasn't done so already.

Putin's invaders attacked and seized the largest nuclear power plant in Europe, which elevates risks to a whole new level, as does Putin's placing Russian nuclear forces on [elevated alert](#).

Deliberate acts to kill civilians, target noncombatant property, and to assault a nuclear power plant constitutes [war crimes](#) under the 1949 Geneva Conventions.

The use of cluster munitions and the potential use of vacuum bombs against non-military targets constitutes a horrific violation of customary international humanitarian law as these weapons use disproportionate, brutal force in an indiscriminate manner.

The Kremlin follows a reckless agenda to reconstitute a Soviet Empire with the blood of anyone who stands in the way—I was in Georgia in 2008 just a week after Putin invaded South Ossetia and Abkhazia—and that even includes Putin's own people who are victims of indoctrination and forced into this ugly war under the guise of a '[liberation mission](#).'

Which begs the question: how then to hold Putin and Russian Federation government officials to account?

As Russia sits on the U.N. Security Council in the position of permanent member, accountability via U.N. bodies poses special challenges, given the power to veto, possessed by both it and the People's Republic of China.

Although the [General Assembly passed a resolution](#) under the historic ‘Unity for Peace’ Framework with the U.S. and 140 other member states condemning the Russian invasion of Ukraine and calling upon Russian forces to withdraw unconditionally, Putin and his enablers have yet to be held accountable.

Putin—including Permanent Representative Vassily Nebenzia—have simply ignored the calls of the international community to respect Ukraine, its territorial integrity, and its independence, despite this being a clear violation of Article 2 (4) of the U.N. Charter.

And, irony upon irony, Russia sits on the UN Human Rights Council.

So, what mechanisms exist for holding the Russian Federation and Vladimir Putin accountable?

Can the [International Court of Justice \(ICJ\)](#) make any difference? In response to Russia’s absurd allegation that it is Ukraine—not Russia—that is committing genocide thus a pretext for invasion, Ukraine argued before the court on March 7th that “the Russian Federation shall immediately suspend the military operations commenced on 24 February 2022...” Russia was a no show.

Can the International Criminal Court (ICC) make any difference?

Maybe. The lead prosecutor is investigating.

Two decades after its founding in 2002, however, the [ICC has taken 30 cases](#) out of potentially thousands, and has indicted 44 individuals, with only five convictions as of February 2022, though [other sources](#) contend that 8 (or perhaps 9) people have been convicted.

With eighteen judges on the bench and an approved program budget of [154,855,000 euros](#) for 2022, [the Court](#) has issued only 36 arrest warrants dating back to the early 2000’s. Only seven individuals are in custody.

Can an international hybrid tribunal make any difference?

Yes, I believe this approach has real promise.

As early as 1998, I called on the international community to seek justice for crimes committed in the former Yugoslavia, including the horrific mass killings at Srebrenica.

On several occasions, I visited Serbia, Croatia, and Bosnia—including meetings in Belgrade with Slobodan Milosevic.

In addition to convening [a landmark hearing](#), I led a [Concurrent Resolution](#) to press for the investigation of criminal culpability and public indictment of Slobodan Milošević, the former Socialist President of Serbia in Yugoslavia.

Such calls ultimately led to the formation of an international criminal tribunal for the former Yugoslavia.

Courts have also been created for the genocide that took place in Rwanda, and a Special Court of Sierra Leone that convicted the first African head of state, Charles Taylor.

Indeed, we are fortunate to have with us as one of our witnesses the founding chief prosecutor for the Sierra Leone Special Court, David Crane who at great risk to his life, successfully prosecuted people who had committed atrocities.

And Congress has been active in calling for focused, *ad hoc* tribunals.

In 2013, for example, I [chaired a hearing at which David Crane also testified](#), that called for the collection of evidence of atrocities committed by Bashir al Assad and the Syrian government and the creation of a [Syrian War Crimes Tribunal](#), which was also the subject of a Resolution I introduced that passed the House.

Indeed, just last year [I chaired a hearing on the need for a War Crimes and Economic Crimes Court for Liberia](#).

While the United Nations can provide mechanisms for such focused, *ad hoc* tribunals, regional bodies such as the African Union or perhaps the Organization for Security and Cooperation in Europe can also play a role.

Such mechanisms need not be United Nations sponsored tribunals, especially given the positions Russia and the People's Republic of China hold—indeed, if Russia and the PRC block a way forward, we may wish to convene democratic nations of the world to create a new forum for accountability.

David Crane has suggested viable options including action by the UN General Assembly.

He will testify today: “A second possibility, would be the creation of an international tribunal created by the United Nations General Assembly using this tribunal to restore international peace and security. They could also create an international hybrid tribunal in association with the Ukraine. Ad hoc and hybrid tribunals have been successfully created before by the United Nations through its Security Council, yet it is not outside the authority of the General Assembly to do the same. They created the International, Independent, and Impartial Mechanism for Syria that now sits in Geneva.”

And regardless, nothing need stand in the way of collecting and preserving evidence.

Today, as the death tolls dramatically increases by the hour and as more than 1.3 million Ukrainians flee their homes since the invasion— with estimates by the [UNHCR](#) of up to 4 million people eventually fleeing—the need is immediate.

Poland has been especially welcoming as refugees seek safety and shelter.

Yesterday I introduced [H Res 966—a bipartisan Resolution with Representatives Kaptur, Wilson, Suozzi, Chabot, and Harris](#) urging the creation of appropriate regional or global justice mechanisms to immediately investigate and prosecute Putin and those responsible within the Russian Federation for war crimes and the potential crime of aggression.

The time to act for justice and accountability is now. “Justice delayed is justice denied.”