

Troubled Ideas: A Nuremberg Tribunal for Putin

By [Dr. Binoy Kampmark](#)

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In a good number of Western states, the ruling classes, former and current, have lost their heads. Bugbear and boogiemanager Vladimir Putin’s efforts in Ukraine have lent themselves to some rather extreme suggestions, ranging from assassination to potential war crimes trials. This is not to say that the Russian leader has nothing to account for. As ever, it all depends on who is making the accusation, and who is seeking retribution.

Trying leaders for war crimes does not lack merit, even if law remains, at best, a blunt instrument all too readily concealing a vengeful motive. Butchers should never escape under the comfortable veil of state responsibility, claiming sovereignty as an all-dispensing reason to commit atrocities. But any war crimes procedures are riddled with claims of bias, partisanship and self-interest.

Many voices from the noisy tribes of accountability are calling for Putin to face legal proceedings as soon as possible. Former UK Prime Ministers Gordon Brown and Sir John Major have added their names [to a petition](#) calling for a Nuremberg-styled model similar to that used in 1945 by the victorious Allies against Nazi Germany.

Paving is being added to the proposition with [remarks](#) by US President Joe Biden that the Russian president is a war criminal. US Secretary of State Antony Blinken [agreed](#). “Intentionally targeting civilians is a war crime.” A unanimous resolution by the US Senate has also condemned the Russian leader for “alleged war crimes”.

The International Criminal Court [is already seized](#) of the matter. But on the issue of the crime of aggression, otherwise known as the crime against peace in the charter of the International Military Tribunal, the ICC would need a referral from the UN Security Council, something that Russia will most likely veto.

The choristers for a war crimes tribunal seem an odd bunch. Some are individuals who themselves have committed, or approved of, acts of war that would qualify them for that very same process they now demand. Gordon Brown may not have liked being a part of the unlawful attack on Iraq in 2003, but as Chancellor of the Exchequer, he was the man

overlooking the purse strings of Britain's war effort. The masterminds of *that* crime of aggression in Mesopotamia – US President George W. Bush, UK Prime Minister Tony Blair, Australia's John Howard – were far from Brown's mind [as he told](#) BBC Radio 4's program that a "message" had to be "sent out" that such aggression would be judicially punished.

Writing in the *Daily Mail*, Brown [attempted a sketch](#) for the prosecution. Putin was the "ringleader" of murderous efforts against opponents in the UK. He invaded Georgia in 2008; annexed Crimea in 2014 and naughtily supported the Assad regime in Syria. But the Ukraine War stood out. "Aggression is Putin's original crime: the planning, initiation and pursuit of a policy to declare and prosecute an invasion of Ukraine." At Nuremberg, Nazi war criminals were held to account. "Eight decades on, we must ensure there will be a day of reckoning for Putin."

Had these people consulted their history on this troubled subject, they would be aware that the tyrant-in-the-dock motif is a precarious one. The original suggestion of a tribunal to try leaders for war crimes, specifically Germany's Kaiser Wilhelm II, [was opposed](#) by President Woodrow Wilson for one fundamental reason: US presidents might find themselves facing a prosecutor's brief at some point in the future. The motive was selfish but at least showed an awareness that such a course of action risked having a boomerang effect.

The issue did not go away during the Second World War. As discussions about a proposed war crimes process at war's end began to take place, George Orwell [penned](#) a characteristically devastating and clear-eyed piece on its weaknesses in an October 1943 issue of the *Tribune*. In reviewing a work advocating Benito Mussolini's trial, Orwell was firm. "In power politics there are no crimes, because there are no laws."

Even if so, who could actually sit in judgment of him? True, the list of atrocities, brutalities and broken treaties were undeniable, the cruelty even admitted. "The only troublesome question is: How can something that was praiseworthy at the time you did it – ten years ago, say – suddenly become reprehensible now?"

Were Mussolini to call witnesses at his trial, he would find many on the side of the Allies impressed and even supportive of his various ghastly deeds. Lord Rothermere, for instance, in 1928, [called](#) the Italian leader "the antidote to a deadly poison." Lord Mottistone in 1935 on the barbarous Italian action in Abyssinia was all approving: "I wanted to dispel the ridiculous notion that it was a nice thing to sympathise with the underdog." It was the Abyssinians, "cruel" and "brutal" who were facing "others who are playing an honourable part." The gassed natives got what they deserved.

In the witness box, Orwell declares, any number of individuals would be able to testify that Mussolini's actions, from stomping on the Italian trade unions to using mustard gas on the Abyssinians and even building a navy against Britain, had the support of the British government "through thick and thin."

At Nuremberg, the grounds for an indivisible international morality for leaders was proposed. Critics smelt a legally attired rat: What would this mean for the future of state craft and power politics? The righteous US Supreme Court justice and prosecutor at Nuremberg, Robert H. Jackson, with an almost puritan certitude, [stated the case for the prosecution](#). All, including state leaders, would be equal in the dock as personally responsible for war crimes. "The principle of personal liability is a necessary as well as

logical one if international law is to render real help to the maintenance of peace.”

It is a view that has proven itself to be manifestly untrue in practice. Justice and accountability are divisible. Power politics continues to supply room for criminal conduct and excuse viciousness. Individuals such as former US Secretary of State Henry Kissinger, his blood spattered finger prints criss-crossing continents, hold sway [with their view](#) that international tribunals are unaccountable bodies dolling out unjust rulings against noble leaders. President Donald Trump, in this true Kissingerian spirit, went so far as to [directly sanction](#) members of the ICC for daring to investigate potential US war crimes in Afghanistan.

Since 1945, the leaders tried for war crimes and crimes against humanity, be they in the international criminal tribunals for former Yugoslavia and Rwanda, or the International Criminal Court, have tended to come from a broken and defeated side. In some cases, the defeated, such as the UK and United States, have simply gone home to forget or justify their unlawful adventurism. Bush decided to take up painting. Blair decided to become a global consultant to dubious regimes. They only meant well. The Ukraine War promises to be no different for those in the Kremlin.

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Dr. Binoy Kampmark was a Commonwealth Scholar at Selwyn College, Cambridge. He currently lectures at RMIT University. He is a regular contributor to Global Research and Asia-Pacific Research. Email: bkampmark@gmail.com

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