

Houston Area Model United Nations Specialized Committee

LEGAL



Chair | Bobby Youstra
Topic A: Enforcing of International Laws
Houston Area Model United Nations 49
February 1 & 2, 2024

Note to Delegates

Delegates,

Welcome to the 49th annual Houston Area Model United Nations conference! I hope you are all ready for an exciting weekend of discussion and diplomacy. My name is Bobby Youstra, and I am very excited to be serving as your Chair for the LEGAL committee.

I am a junior undergrad at UT Austin majoring in Computer Science and Geography from the San Francisco Bay Area. At UT Austin, I have participated in CTMUN since freshman as a crisis staffer and crisis director, and outside of MUN I am a president of EGaDS, a game development centered student org. My interests beyond college are working on games, game engines, and geeking out about public transit and trains. This is my third year staffing MUN conferences, and my second time chairing at HAMUN (I also chaired LEGAL last year as well!). I really enjoyed in high school learning about international relations through MUN, and it's been really fun to learn that from the staffing angle in college!

The LEGAL committee deals deeply with the relationship of international laws and how each legal system meshes together to enforce and/or contradict each other. To that end, we are focusing on the enforcement of international laws for our Topic A, and Political Asylum and Foreign Arrest Warrants for our Topic B. This is a complex issue that requires not only acknowledging and dealing with individual countries' sovereignty, the application of international law, and dealing with people which one country considers criminals and another country could consider freedom fighters. As a result, any solution to this problem must acknowledge all the challenges facing such an issue and thus should aim at all the elements of the problem.

I look forward to seeing you in committee!

Bobby Youstra
Chair of Legal



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Background Information

The enforcement of international laws through the UN has become a critical issue, especially with the many global conflicts and tensions we see today. However, despite the UN having bodies relating to the enforcement of international law, namely the ICJ (international court of justice) and ICC (international criminal court), these bodies have notable flaws. Firstly, in response to the UN, political decisions are either poorly implemented or outright ignored by international powers. For example, despite the ICC putting out an arrest warrant for Vladimir Putin in response to war crimes in Ukraine, he has still not been detained under ICC custody[1]. Additionally, many of these bodies cannot enforce international law against corporations or are significantly limited in doing so. Finally, critics of these bodies often argue that UN enforcement infringes on individual nations' sovereignty and authorizes unqualified judges.

Consequences of UN insufficiencies include counterproductivity, inefficiency, and regression from the goal; for instance, similar to the aforementioned example, the UN may intend to neutralize a war criminal but effectively just dissuade the criminal from standing down[2].

Outside of the direct jurisdiction of the United Nations but closely related in its enforcement of international law is INTERPOL (International Criminal Police Organization), whose mission is "preventing and fighting crime through enhanced cooperation and innovation on police and security matters"[3]. INTERPOL is represented within the UN as a Permanent Observer and collaborates with the UN on issues such as counter terrorism, cybercrime and human trafficking[4][5].

However, despite its existence outside the UN, it is not free of criticism, with many focusing on the lack of accountability behind INTERPOL's Red Notice (a designation similar to an arrest warrant) system leading to misuse of the designation for political purposes[6].

As a result, any solution to this difficult problem will require delicate consideration balancing the importance of international law enforcement and concerns over sovereignty, qualifications, unintended consequences, and abuse.

History

The history of enforcement of international law has its roots in the Lieber code, the first formal wartime rules written by Francis Lieber, which, although it contains rules that would not be permissible today (such as starving civilians), formed the basis of international humanitarian law during times of war.

This includes stressing a balance between “military necessity” and “humanity,” prohibiting the use of cruelty or “any act of hostility which makes the return to peace unnecessarily difficult,” and creating an official designation for prisoners of war that should be “treated with humanity”[8]. The Lieber code formed the basis for the Hague conventions, which in turn influenced the Geneva conventions, which governs the rules of war today[7].

The first prominent body setup to deal with the enforcement of international laws was INTERPOL, established on September 7th 1923 in Vienna, more than two decades before the end of WWII and the establishment of the United Nations. INTERPOL served as a key tool for communication and coordination of policing and recordkeeping before its headquarters was seized by Nazi Germany in 1938 and came under Nazi control until the end of WWII. After the end of WWII INTERPOL was reorganized into the current system used today[9].

However, at the end of WWII, enforcement of international humanitarian law came to the forefront during the Nuremberg Trials and the Tokyo Trial (known formally as the International Military Tribunal and the International Military Tribunal for the Far East).



The Nuremberg Trials, established by the London Agreement, defined three different types of crimes: crimes against peace, crimes against humanity, and war crimes, prosecuting over 199 defendants, of which 161 were convicted[10][11]. The Tokyo Trial followed that same model, with both serving as defining moments for international law, particularly with respect to armed conflict. While criticized for marking some Soviet atrocities as German ones and lacking an appeal process, the Nuremberg Trials were the first time international law governed by treaties was used to prosecute individuals[12].

Around this time the United Nations was established through the United Nations charter in San Francisco, California on the 26th of June 1945. The UN charter laid the groundwork for the International Court of Justice, or the ICJ. The ICJ's scope is limited to solving international disputes between countries and issuing advisory opinions based on international law to UN agencies[13].

This body heard its first case in the United Kingdom of Great Britain and Northern Ireland v. Albania, otherwise known as the Corfu Channel case, which defined ICJ's jurisdiction as requiring unanimous consent of both parties involved, established a standard for not knowingly injuring another state, and had a huge impact on international law through "innocent passage," acknowledging the great strategic interests in free navigation in seas[14]. The ICJ has continued to rule in such a way ever since, with cases including nuclear testing, disputes over Japanese whaling, and very recently an in-progress case involving accusations of genocide committed by Russia in the Ukraine conflict[15].

Later, outside of the United Nations, after the Cold War and in an era of much change in terms of European powers, the Rome Statute was drafted in 1998 and then came into force later in 2002 after 60 parties ratified the statute. The Rome Statute created one of the most important bodies for the enforcement of international law today: the International Criminal Court. While the International Criminal Court cooperates extensively with the United Nations, it functions as an independent body separate from the UN.



Unlike the ICJ of the UN, the ICC has a direct power to prosecute individuals in countries who are party to the agreement who commit, as defined by the Statute, acts of genocide, crimes against humanity, war crimes, or crimes of aggression[16]. <add some more details about the ICC>.

ICC and the Conflict in Ukraine

On February 24th, 2022, Vladimir Putin announced a “special military operation” on Ukraine, and after months of rising tensions between western powers and Russia over Ukraine, Russia had finally launched an invasion over the large 603,550 square kilometer nation[17][18]. In the aftermath and immediately following the beginning of Russia’s invasion of Ukraine, western powers expressed outrage and imposed a litany of sanctions in response[19]. However, beyond that economic response over 39 countries referred the matter to the ICC, with the ICC prosecutor opening an investigation into the Ukraine Conflict days later.

A little more than a year later in March 17th, 2023, the ICC issued two pretrial arrest warrants for Vladimir Putin and Maria Lvova-Belova over war crimes from deporting children from Ukraine to Russia[20][21].

Despite this, Russian officials have refused to recognize the legitimacy of these arrest warrants, stating that any prosecutorial efforts the ICC takes are “legally null and void for us.” This process has revealed one of the ICC’s biggest shortcomings: in order to enforce its judicial process, it relies on governments which are party to the Rome statute and other allies to arrest and bring them to trial[1]. That year, South Africa, a party to the Rome Statute, despite its obligations to the ICC to detain Vladimir Putin under the Statute, decided to grant diplomatic immunity to all who visited in a BRICS summit held in the country. This is in an effort to use Article 98 of the Statute, which provides an exception for diplomatic immunity, in order to shield Putin from his ICC arrest warrant[22]. While Putin ultimately did not attend the BRICS summit held in South Africa in person[23], the whole situation undermined the legitimacy of the court and its ability to prosecute or even hold a trial for a given arrest warrant, and stresses the importance of understanding the issues with jurisdiction of enforcement of international law.



INTERPOL and the Red Notice System

INTERPOL, in fulfilling its goal of communication between police agencies around the world, has developed a notice system with different levels for different threats around the world. The most prominent of these notices is the Red Notice, which “are issued for fugitives wanted either for prosecution or to serve a sentence in relation to serious ordinary law crimes such as murder, rape and fraud”[24]. As a result, the Red Notice system is used as a way for governments to report crimes to others in order to apprehend the suspects under the reporting country’s/tribunal’s legal system. While there are many limitations on the types of crimes that countries can report through this system (e.g. non-ordinary crimes like political crimes), there has been much criticism with INTERPOL Red Notices being abused by authoritarian governments like China and Russia[25].

This includes William Browder, a prominent Russian critic responsible for the Magnitsky Act, was detained shortly in Spain under an invalid Red Notice issued by the Russian government for tax evasion in 2018[26]. INTERPOL has an established review taskforce which is supposed to vet these Red Notices to prevent situations like the aforementioned from happening, but critics argue that it is understaffed and inexperienced[6]. As a result, any solution for enforcement of law across borders involving any sort of database must take into account the possibility of bad actors and abuse by state-level actors.



Questions to Consider

- How can we enforce international law in a way that upholds human rights as defined by the Universal Declaration of Human Rights while respecting state sovereignty?
- Who has jurisdiction to prosecute international crimes?
- Does that jurisdiction require state actions?
- How can we allow communication of ordinary crimes and arrest warrants for those crimes between nations without the risk of countries abusing those warrants for political purposes?
- How do we ensure countries follow international treaties pertaining to the enforcement of international law?

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These links referenced in the background guide can be explored further as an aid for position papers and in committee.

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