

## **LESSON 3: Is the International Criminal Court (ICC) the proper venue for holding individuals accountable for these crimes?**

### **OVERVIEW:**

In this activity, students will research several different kinds of mass atrocities, and be able to differentiate between the definitions of genocide, ethnic cleansing, crimes against humanity and war crimes via a Frayer Model. Students will apply their knowledge to one of six case studies of post-Holocaust crimes of mass atrocities. Students will complete the activity by presenting their case study findings to the class, applying the vocabulary correctly, and drawing conclusions about differentiating crimes of atrocities while citing evidence.

### **STANDARDS:**

PS3.c.h: Power in government: Evaluate the structure and functions of governments at the local, state, tribal, national, and global levels. Evaluate the purpose of political institutions at the local, state, tribal, national, global, and supranational or non-government organization (NGO) levels distinguishing their roles, powers, and limitations.

SS.PS4.a.h Create arguments by researching and interpreting claims and counterclaims.

### **OBJECTIVES:**

Students will be able to:

- I. Continue constructing the definitions of genocide, war crimes and crimes against humanity in relation to the Holocaust and post-World War Two conflicts.
- II. Engage in a case study of one of three different post-Holocaust tribunals for holding suspects accountable, making comparisons to the Nuremberg Trials, and present findings to the class.
- III. Research the creation of the ICC and critique its effectiveness at the implementation of the Rome Statute
- IV. Draw conclusions about the effectiveness of the ICC in holding criminals accountable
- V. Construct an argument as to whether the ICC is the proper venue for holding individuals accountable for genocide, war crimes and crimes against humanity

**ESSENTIAL KNOWLEDGE:** Students should be able to define and begin to find the significance of:

Genocide  
Ethnic Cleansing  
Crimes Against Humanity  
War Crimes  
International Criminal Court (ICC)  
ICC Prosecutor

**DURATION:** 7 class periods

**MATERIALS (one per student):**

- Student handouts or notes from previous work on the Nuremberg Trials
- One laptop or Chromebook
- One copy of **Handout 1: Holding Criminals Accountable – Background**
- One copy of **Handout 2: Holding Criminals Accountable – Case Study – Group Notes**
- One copy of **Handout 3: Resources**
- One copy of **Handout 4: Holding Criminals Accountable – ICC**
- One copy of **Handout 5: Holding Criminals Accountable – Argument**
- One copy of the article “International Criminal Court” from the International Committee of the Red Cross web site

**PROCEDURE – DAY 1:**

- I. Ask students to recall the work they have completed on the Holocaust, the Nuremberg Trials and other post-World War Two conflicts. This is a time to bring up vocabulary or topics that students have some small recall knowledge of.
- II. Remind students that while international laws, treaties and conventions have been put in place post-World War Two, conflicts of mass atrocities have continued. Teachers can bring in additional historical examples and content to highlight this point.
- III. Hypothesize with students what would be the best method of executing international law to bring about justice in convicting individuals for crimes such as genocide or war crimes. This could be accomplished through an individual written entrance ticket or whole class brainstorm.
- IV. Inform the class that they will be researching three post-Holocaust methods for holding suspects accountable for crimes of atrocities: a domestic trial, an ad hoc tribunal and the International Criminal Court. Teachers can form groups or students can self-select groups and topics. At the conclusion for their research, students will produce a visual product sharing their information with the class.
- V. Give the students the remainder of the class to read the **Handout 1: Holding Criminals Accountable – Background** and start using **Handout 2: Holding Criminals Accountable – Case Study – Group Notes**. Refer students to the remaining **Handouts** for guidance. Remind students that while there are many resources on **Handout 3: Resources**, it should be seen as a beginning and not an end. There are many more resources to find on these topics – if they have questions about the authenticity of them, they should share them with the teacher.

- VI. Give students the remainder of the class to begin their research. Conclude class by reminding students of the days ahead for research, work time, product construction and class presentation.

### **PROCEDURE – DAY 2:**

- I. Begin class by reviewing student work from yesterday and answering questions about class expectations.
- II. Students should use this day as an in-class work day to take notes on their topic and work with their group to achieve better understanding. Students should work in their groups, sharing notes and discussing the handouts. Groups that are further ahead can start strategizing how they will create their final product.
- III. Since these case studies are quite complex, students should use this time to search for understanding and ask each other questions. Teachers should be sure to walk around to all of the groups and assess for understanding, remind students of specific content to apply, and answer clarifying questions.
- IV. Conclude class by reminding students of the days ahead and answering questions.

### **PROCEDURE – DAY 3:**

- I. Begin class by reviewing student work from yesterday and answering questions about class expectations.
- II. Students should use this day as an in-class work day to take their case study notes and use them create an authentic product (ex. Google Slides Presentation, poster) for class presentation. Students should work in their groups, sharing notes and discussing the handouts.
- III. Teachers should be sure to walk around to all of the groups and assess for understanding, remind students of specific content to apply, and answer clarifying questions.
- IV. Conclude class by reminding students that their final product will be due tomorrow at the start of class.

### **PROCEDURE – DAY 4:**

- I. Begin class by asking students to get into their groups and prepare for their presentations. Any students that need to have their project displayed on a projection screen should share the file with the teacher.

- II. Students will present their product to the class. Their presentations should be able to answer all of the topics detailed in **Handout 2: Holding Criminals Accountable – Case Study – Group Notes**. Teachers and students should be ready with questions.
- III. Teachers should judge the time appropriately. Students put a lot of work into a very difficult topic, and class discussion and student engagement is encouraged. Plan ahead for two days of presentations if necessary so students have time to demonstrate mastery and the rest of the class can reflect and apply the work.
- IV. While groups are presenting, other students should be engaged and taking notes on **Handout 2: Holding Criminals Accountable – Case Study – Group Notes**.
- V. Wrap-up class with a discussion about these crises. Ask students for their thoughts on the effectiveness of these different courts to hold those accountable for the atrocities. This can be done in the form of a reflective exit ticket.
- VI. Preview to the class that they will be engaging in a deeper analysis of the International Criminal Court. Ask if there are any particular topics that students would like to discuss about the ICC. Assign students the article “International Criminal Court” from the International Committee of the Red Cross for background reading in anticipation for the work for tomorrow.
- VII. Conclude class by thanking the students for their work and preparing them for future work on the ICC.

## **PROCEDURE – DAY 5:**

- I. Before class, assign the article “International Criminal Court” for background reading: “International Criminal Court.” International Committee of the Red Cross  
<https://www.icrc.org/en/document/international-criminal-court>
- II. Remind students of the work they have already done on different types of international trials and the ICC. With their background reading in hand, ask students to assess the positive contributions of the ICC. Students can bring in past work on this from previous lessons.
- III. After this discussion, show the video from NowThisWorld via YouTube ““Is The International Criminal Court Effective?” (play time 2:48):  
“Is The International Criminal Court Effective?” *YouTube*  
<https://www.youtube.com/watch?v=rLqIeWnD3VM>

- IV. With this new information, return to a full class discussion and ask students to review the content in the video and discuss potential negatives, hardships, or problems with the ICC. Students can bring in past work on this from previous lessons.
  
- V. Tell the class that they will engage in a deep dive activity into the International Criminal Court. This meant to accomplish several things:
  - A. To review, compare/contrast and connect back to past lessons on the Nuremberg Trials and other forms of international tribunals
  - B. To assess the ICC's ability to prosecute effectively, enforce international law and seek justice for victims
  - C. To compose an original argument about the effectiveness of the ICC in relation to past research you've done
  - D. To preview a future activity where students themselves will conduct an ICC simulation based on a real-world crisis
  
- VI. Give students **Handout 4: Holding Criminals Accountable – ICC**. Students will have the rest of the class period to complete the activity, finding key content information about the ICC in preparation for a future simulation. Refer students to **Handout 3: Resources** for additional help. Inform the class that their activity should be completed to the best of their ability and ready for class tomorrow.
  
- VII. Conclude class by reminding them that the **Handout 4: Holding Criminals Accountable – ICC** should be complete with answers by the start of tomorrow's class and students should be prepared to discuss their thoughts on the ICC. Inform them that this will help with a future student-generated product assessing the effectiveness of the ICC.

## **PROCEDURE – DAY 6:**

- I. Begin class by reviewing student work from yesterday, which should be completed to the best of student ability and ready for class discussion.
  
- II. Teacher and students will go over the answers from **Handout 4: Holding Criminals Accountable – ICC** and discuss them as a class. Teachers may wish to embed additional videos, case examples or content throughout this exercise. Consult the CNN Editorial Research “International Criminal Court Fast Facts” for some potential topics.

Special points of emphasis and complex topics that teachers may wish to spend additional time on include:

- A. Review of the Rome Statute & the main charges it can levy on a suspect
  - 1. Genocide
  - 2. Crimes Against Humanity
  - 3. War Crimes
- B. Ways that cases get to the ICC

1. From a state party or state that accepts ICC jurisdiction
  2. From the UN Security Council
- C. The changing relationship between the United States and the ICC
1. Clinton signing but treaty never ratified
  2. Bush and Bilateral Immunity Agreements
  3. Trump and sanctions on ICC personnel
  4. Potential investigation in Afghanistan
- D. Reasons why the United States and other countries (ex. China, Israel) have not joined or do not recognize ICC legitimacy
- E. The Court's inability to arrest & send suspects to The Hague
- F. The status of Armenia & Azerbaijan as far as being signatories to the Rome Statute or recognizing its jurisdiction
- G. Similarities/Differences with the ICC &
1. Past cases
    - a. Nuremberg
    - b. Cambodia
    - c. Rwanda
  2. Other tribunals
    - a. Former Yugoslavia
    - b. Rwanda
    - c. Chile
- H. Predictions for how the ICC could do with present conflicts
1. Rohingya in Myanmar (Burma)
  2. Uighurs in China
- III. Wrap up the lesson by asking students if they have any remaining questions or providing lesson clarity.
- IV. Inform students that tomorrow's class will involve students creating a unique argument about the effectiveness of the ICC. It is up to the teacher's discretion whether to give now or at the start of tomorrow's class. Teachers also have discretion on whether or not to allow students to use notes or other materials in completing tomorrow's lesson.

## **PROCEDURE – DAY 7:**

- I. Give students **Handout 5: Holding Criminals Accountable – Argument**. Students will create an authentic original argument concerning their views about the role and effectiveness of the International Criminal Court in holding those responsible for committing crimes of atrocities. This is meant to be a culminating activity allowing students to apply their knowledge from past activities and give their own authentic opinion on the ICC.
- II. **Handout 5** lends itself to having students generate an argumentative essay to complete the lesson. However, teacher have wide discretion in assigning how the students demonstrate their argument and content mastery. Visual products or student performance work to show their mastery may take more than

one class period for work time and demonstration – teachers should adjust accordingly.

- III. Preview to the class that this lesson will help form a foundation for an in-class ICC simulation that all students will participate in. Students will take the roles of attorneys, judges and witnesses in a case involving a real-world crisis.
  
- IV. Conclude class by thanking the students for their work.

## **Handout 1: Holding Criminals Accountable – Background**

If the phrase “NEVER AGAIN” is used in reference to international atrocities, how successful has the world been at holding international criminals accountable? What methods exist for bringing these criminals to justice? What problems have arisen?

The International Criminal Court (ICC) was created in 2002 to prosecute individuals accused of committing the worst crimes imaginable. Is the ICC the proper venue for holding individuals accountable for these crimes?

Below are three recent methods that have been used to prosecute individuals for mass atrocities. Your group will research one of these three methods to:

- I. Describe the background of the conflict, case, charges and result
- II. Examine the positive and negative aspects of charging a person with these crimes in this specific way

The three methods for prosecuting individuals for genocide, crimes against humanity and war crimes that we will investigate – with three case studies that illuminate these methods - include:

<b><u>Domestic Trial</u></b>	<b><u>Special Ad Hoc Tribunal</u></b>	<b><u>International Criminal Court</u></b>
Chile & Augusto Pinochet: 1998 – 2006	Former Yugoslavia, International Tribunal for the Former Yugoslavia & Radovan Karadzic & Ratko Mladic: 1993 - 2017	Sudan & Omar Hassan Ahmad al-Bashir: 2009 -

Your group will engage in a case study of these particular cases and make a determination as to the effectiveness of this type of trial.

After your initial research these different types of courts, you’ll engage in a more focused look at the ICC, including its current work on prosecuting suspects, the relationship between the ICC and the United States, and relevant praise and criticisms for the work it has undertaken. Use the Handout 3: Resources

Upon completing the case study research and your work on the International Criminal Court, you will construct an argument as to which type of prosecution of these criminal suspects is best:

- I. Prosecuting individuals through the ICC,
- II. Prosecuting individuals through special ad hoc tribunals,
- III. Prosecuting individuals via domestic trial, or
- IV. A different option

## Handout 2: Holding Criminals Accountable – Case Study – Group Notes

<b><u>Domestic Trial</u></b> <b><u>Chile &amp; Augusto Pinochet: 1998 - 2006</u></b>	<b><u>Background:</u></b>	<b><u>What was the result?:</u></b>
	<b><u>Positives to this type of trial:</u></b>	<b><u>Negatives to this type of trial:</u></b>

<b><u>Special Ad Hoc Tribunal</u></b> <b><u>Former Yugoslavia, International</u></b> <b><u>Tribunal for the Former</u></b> <b><u>Yugoslavia &amp; Radovan Karadzic &amp;</u></b> <b><u>Ratko Mladic: 1993 - 2017</u></b>	<b><u>Background:</u></b>	<b><u>What was the result?:</u></b>
	<b><u>Positives to this type of trial:</u></b>	<b><u>Negatives to this type of trial:</u></b>

<b><u>International Criminal Court</u></b> <b><u>Sudan &amp; Omar Hassan Ahmad al-</u></b> <b><u>Bashir</u></b>	<b><u>Background:</u></b>	<b><u>What was the result?:</u></b>
	<b><u>Positives to this type of trial:</u></b>	<b><u>Negatives to this type of trial:</u></b>

## **Handout 3: Resources**

### **Holding Criminals Accountable – Case Study**

#### **Overview**

CBS News. “Modern Leaders Accused of War Crimes.” *CBS News*  
<https://www.cbsnews.com/media/modern-leaders-accused-of-war-crimes/>

Felter, Claire. “Leaders Facing Justice.” *Council on Foreign Relations*  
<https://www.cfr.org/timeline/leaders-facing-justice>

“International Criminal Justice: The Institutions.” *International Committee on the Red Cross*  
<https://www.icrc.org/en/download/file/1103/international-criminal-justice-institutions-icrc-eng.pdf>

#### **Pinochet & Domestic Trial**

“Chile: Pinochet Indicted for Human Rights Crimes.” *Human Rights Watch*  
<https://www.hrw.org/news/2004/12/13/chile-pinochet-indicted-human-rights-crimes>

“Film Description | The Judge and the General | POV | PBS.” *POV | American Documentary Inc*  
<http://archive.pov.org/judgeandthegeneral/film-description/>

Gjelten, Tom. “Augusto Pinochet: Villain to Some, Hero to Others.” *NPR*  
<https://www.npr.org/templates/story/story.php?storyId=6606013>

Pike, John. “The Trials of Augusto Pinochet.” *GlobalSecurity.Org*  
<https://www.globalsecurity.org/military/world/chile/president-pinochet-trials.htm>

#### **Karadzic/Mladic & Special Ad Hoc Tribunal**

Andersen, Erik. “Former Bosnian Serb Leader Found Guilty of Genocide.” *PBS NewsHour*  
<https://www.pbs.org/newshour/world/former-bosnian-serb-leader-found-guilty-of-genocide>

“Bosnia and Herzegovina, 1992–1995.” *United States Holocaust Memorial Museum*  
<https://www.ushmm.org/genocide-prevention/countries/bosnia-herzegovina/case-study/background/1992-1995>

“International Criminal Tribunal for the former Yugoslavia (ICTY).” *YouTube*  
<https://www.youtube.com/ICTYtv>

“Timeline: Ratko Mladić and His Role in War Crimes During the Bosnian War.” *FRONTLINE*  
<https://www.pbs.org/wgbh/frontline/article/timeline-ratko-mladic-and-his-role-in-war-crimes-during-the-bosnian-war/>

“The Trial of Ratko Mladić.” *PBS.Org*  
<https://www.pbs.org/video/the-trial-of-ratko-mladic-zuejmz/>

## **al-Bashir & International Criminal Court**

BBC News. "Omar Al-Bashir: Will Genocide Charge against Sudan's Ex-President Stick?" *BBC News*  
<https://www.bbc.com/news/51489802>

"Case Information Sheet - The Prosecutor vs. Omar Hassan Ahmad al-Bashir." *International Criminal Court*  
<https://www.icc-cpi.int/CaseInformationSheets/albashirEng.pdf>

Felter, Claire. "The Role of the International Criminal Court." *Council on Foreign Relations*  
<https://www.cfr.org/background/role-international-criminal-court>

"How the Court Works." *International Criminal Court*  
<https://www.icc-cpi.int/about/how-the-court-works>

"How the ICC Works." *ABA Center For Human Rights*  
<https://how-the-icc-works.aba-icc.org/>

"Prosecutor (2010)." *IMDb*  
<https://www.imdb.com/title/tt1754383/>

"Sudan." *United States Holocaust Memorial Museum*  
<https://www.ushmm.org/genocide-prevention/countries/sudan>

"Why Former Sudan President Omar Al-Bashir Must Not Escape Justice." *Amnesty International*  
<https://www.amnesty.org/en/latest/news/2019/04/why-former-sudan-president-omar-al-bashir-must-not-escape-justice/>

## **Holding Criminals Accountable – ICC**

Carvajal, Doreen. "Accused of War Crimes, and Living With Perks." *The New York Times*  
<https://www.nytimes.com/2010/06/04/world/europe/04iht-hague.html>

CNN Editorial Research. "International Criminal Court Fast Facts." *CNN*  
<https://www.cnn.com/2016/07/18/world/international-criminal-court-fast-facts/index.html>

"How the Court Works." *International Criminal Court*  
<https://www.icc-cpi.int/about/how-the-court-works>

"International Criminal Court." International Committee of the Red Cross  
<https://www.icrc.org/en/document/international-criminal-court>

"Is The International Criminal Court Effective?" *YouTube*  
<https://www.youtube.com/watch?v=rLqIeWnD3VM>

"Q&A: The International Criminal Court and the United States." *Human Rights Watch*  
<https://www.hrw.org/news/2020/09/02/qa-international-criminal-court-and-united-states>

"United States and the International Criminal Court." *Global Issues*  
<https://www.globalissues.org/article/490/united-states-and-the-icc>

"What Does the International Criminal Court Do?" *BBC News*  
<https://www.bbc.com/news/world-11809908>

"Why Is the International Criminal Court under Attack? - BBC News." *YouTube*  
<https://www.youtube.com/watch?v=CxfHYjg6MOU>

## **Handout 4: Holding Criminals Accountable – ICC**

Use the **Handout 3: Resources** to help you answer background questions on the International Criminal Court.

1. What date did the ICC begin operations and where is the location of the court?
2. What is the name of the adopted treaty that created the ICC?
3. What is the purpose of the ICC?
4. How is the ICC different from a domestic tribunal or ad hoc tribunal in its operations?
5. How many countries are currently full members of the ICC?
6. Is the ICC an official organ or branch of the United Nations?
7. How does a case get referred to the ICC?
8. What is the American position on the ICC?
9. What countries have expressed concerns about the ICC, and what are those concerns?
10. In your opinion, what are some positives to the use of, or action taken by, the ICC to bring justice to these atrocities?
11. In your opinion, what are some negatives to the use of, or action taken by, the ICC to bring justice to these atrocities?

## **Handout 5: Holding Criminals Accountable – Argument**

Develop an argument as to whether the International Criminal Court (ICC) the proper venue for holding individuals accountable for crimes of mass atrocities.

In your argument, be sure to:

- A. Include background on the International Criminal Court
- B. Assess recent actions taken by the ICC
- C. Critique its ability to apply and enforce international law
- D. Compare and contrast with at least one alternative to the ICC