

118TH CONGRESS
1ST SESSION

S. RES. 227

Calling on the President to support the creation of an international special tribunal to prosecute Russia's aggression against Ukraine.

IN THE SENATE OF THE UNITED STATES

MAY 31 (legislative day, MAY 30), 2023

Mr. CARDIN (for himself and Mr. KAINE) submitted the following resolution;
which was referred to the Committee on Foreign Relations

RESOLUTION

Calling on the President to support the creation of an international special tribunal to prosecute Russia's aggression against Ukraine.

Whereas, on February 24, 2022, Russia unleashed a full-scale invasion of Ukraine in contravention of international law and the Charter of the United Nations;

Whereas the Russian Armed Forces committed mass atrocities in Bucha, Irpin, Kherson, Izyum, Mariupol, Dnipro, and Ukrainian towns occupied by the Russian Federation, including rape, summary execution, and unlawful violence and threats against civilians;

Whereas the Russian Armed Forces deliberately choose to target civilian infrastructure to terrorize Ukrainian citizens;

Whereas, on September 21, 2022, Ukrainian President Volodymyr Zelensky stated to the United Nations General Assembly that an aggression tribunal must be established as a “signal to all ‘would-be’ aggressors, that they must value peace or be brought to responsibility by the world”;

Whereas, on January 19, 2023, the European Parliament, by a vote of 472 to 19, called for the establishment of “a special international criminal tribunal for the crime of aggression against Ukraine” in order to “send a very clear signal to both Russian society and the international community that Putin and the Russian political and military leadership can be convicted for the crime of aggression in Ukraine”;

Whereas, on March 27, 2023, the United States Ambassador-at-Large for Global Criminal Justice, Dr. Beth Van Schaack, stated, “There is no question that Russia’s aggression against Ukraine is a manifest violation of the UN Charter.”;

Whereas Article 2(4) of the Charter of the United Nations states, “All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.”;

Whereas United Nations General Assembly Resolution 3314 (XXIX), adopted by the United Nations General Assembly on December 14, 1974, defines aggression as “the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations, as set out in this Definition”;

Whereas Article 8 of the Rome Statute of the International Criminal Court, as amended by Resolution RC/Res. 6, adopted by the Review Conference at the 13th plenary meeting on June 11, 2010, states, in part: “For the purpose of this Statute, ‘crime of aggression’ means the planning, preparation, initiation or execution, by a person in a position effectively to exercise control over or to direct the political or military action of a State, of an act of aggression which, by its character, gravity and scale, constitutes a manifest violation of the Charter of the United Nations.”;

Whereas, on March 17, 2023, the Pre-Trial Chamber of the International Criminal Court issued arrest warrants for President Vladimir Putin and Russian Commissioner for Children’s Rights Maria Lvova-Belova for their responsibility in the war crimes of unlawful deportation and transfer of children, and the International Criminal Court continues to investigate other international crimes within its jurisdiction that have been committed in Ukraine;

Whereas the International Criminal Court has jurisdiction over war crimes, crimes against humanity, and genocide in Ukraine, but it does not have jurisdiction over crimes of aggression in Ukraine because neither Ukraine nor the Russian Federation have ratified the Rome Statute and its amendments related to the crime of aggression;

Whereas the Russian Federation has committed manifest aggression against the Ukrainian State for which its leadership must be held accountable;

Whereas the international community must hold those responsible for these atrocities to account for their actions,

including Russian President Putin and all of the Members of the Security Council of Russia; and

Whereas an international special tribunal must be based on the adoption of a United Nations General Assembly Resolution: Now, therefore, be it

1 *Resolved*, That the Senate—

2 (1) condemns, in the strongest terms, the Russian Federation's full-scale war and aggression
3 against Ukraine;

4 (2) regards the Russian Federation's aggression
5 in Ukraine as an affront to humanity and in contravention of international law;

6 (3) calls on the United States to use its voice
7 and vote in international institutions to support the
8 creation of a special international criminal tribunal
9 to hold accountable the leaders of the Russian Federation who led and sanctioned aggression in
10 Ukraine;

11 (4) states its expectation that such a tribunal
12 will be formed pursuant to a United Nations General
13 Assembly resolution put forward by friends of
14 Ukraine that would—

15 (A) direct the Secretary General of the
16 United Nations to negotiate with Ukraine the
17 terms of the tribunal's scope; and
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1 (B) ensure that the role of the United Na-
2 tions—

3 (i) would be complementary to the ju-
4 risdiction of the International Criminal
5 Court; and

6 (ii) would not limit or affect the juris-
7 diction of the International Criminal
8 Court, including its exercise of jurisdiction
9 over war crimes, crimes against humanity,
10 and possible genocide committed in the
11 context of Russia's ongoing aggression
12 against Ukraine; and

13 (5) stands with people of Ukraine in support of
14 their freedom and Ukraine's sovereignty against tyr-
15 anny.

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