
ANALYSIS OF THE UNITED STATES' LIABILITY FOR WAR CRIME IN AFGHANISTAN

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ABSTRACT

There is no statistical report about the war crime committed in Afghanistan from 1978- to 2021. This paper analyzes the United States' liability for war crimes in Afghanistan. This issue has been in public for over 20 years but has gained relevance in 2021 due to their decision to withdraw troops from the country. The Article analyzes what the ICC deems a war crime per the Rome statute. It involves a jurisprudential overview of various decisions of the ICC to develop a working understanding of war crimes. Similarly, it inquiries into specific actions carried out by the United States Government since the war in Afghanistan. Temporally this analysis is limited to the movement of the US since 2001 and will not account for actions before this date. This temporal limitation has been imposed owing to the widespread claim that the United States' formal involvement in the "War Against the Terror" began after the attack on 11 September 2001. Henceforth, the critical research question is whether the United States can be held responsible for carrying out war crimes in Afghanistan.

Keywords: War Crime, the Taliban, the United States in Afghanistan, US forces withdrawal

1.0 INTRODUCTION

Afghanistan has fallen into miseries, injustice, and innumerable human disasters in the last four decades, specifically since 1996, civilians were subjected to atrocities, oppression, extrajudicial killings, arbitrary killing, forced displacement, refugees, loss of family members, war crimes, destruction of public property, and devastation environment and closure and setting fire to schools and universities and impairment of many young males and females. The people have experienced historical struggles for peace and tried for Afghanistan's integrity and national sovereignty.

The United Nations Security Council, with the resolution of 1267 of 1999, formed a committee of sanctions on both the Taliban and Al- Qaida to impose sanctions on their funding, travel, and arms deliveries. On 9th September 2001, Ahmad Shah Massoud, commander of the Northern alliance anti-Taliban assassinated by Al-Qaida; in the expert view, his death assured Osama Binladin protection by the Taliban in Afghanistan and the Taliban 1.0, which rose from the ruins of post-Soviet civil war, provided sanctuaries and protection to Al- Qaida for the terrorist operations.

On 11 September 2001, Al- Qaida Operative hijacked four commercial airlines and crashed them into the World Trade Center, New York, and the Pentagon in Washington DC. On 18th September 2001, US former President George W. Bush signed a joint resolution that authorized force to counter-terrorism.¹ On 7th October 2001, the United States bombed the Taliban with the help of the United Kingdom, officially launched the operation continuing freedom, and received the pledge for future support of Germany, France, Canada, and Australia to combat the terrorists. The Taliban regime disentangled from north Afghanistan in mid of November 2001.

On 14th November 2001, the UN security council passed a resolution 1378 to establish transitional administration and invited member states to send peacekeeping forces to maintain peace and humanitarian assistance. The United Nations asked the major Afghan groups to a conference held at Bonn, Germany. The invitee signed an agreement on 5th December 2001; the

¹ **THE CONGRESS PUBLIC LAW 40**, the Join Resolution, available at <https://www.govinfo.gov/content/pkg/PLAW-107publ40/html/PLAW-107publ40.htm> last visited 5th November 2021.

UN SC endorsed the resolution of 1383. The agreement installed Hamid Karzai as the Head Administration of the Interim government and created an international peace-keeping force to maintain peace and security in Kabul. Following the Bonn Agreement on 20th December 2001, the UN security council passed Resolution 1386, which established the International Security Assistance Force or ISAF.

On 9th December 2001, the Taliban 1.0 collapsed, and the Taliban leader Mullah Omer fled the country. Based on the historical realities and the requirement of the current government, 502 Afghan representatives in the Loy Jirga on 3rd January 2004 adopted a new constitution, that contained the idea of republic, social, political, and economic justice, and ensured the attainment of democratic values based on the Art.6² protect basic rights and fundamental freedoms. Eventually, the government of Afghanistan, too, fight terrorism according to Article 7³, has entered into several international treaties and conventions to suppress the terrorist and maintain peace and security of the nation. The government of Afghanistan has enacted several domestic legislation to empower women and established separate women affairs ministers under women's leadership. On the arrival of the Taliban to power, the ministry has removed from the government structure. Women are subject to confinement at home.

2.0 UNDERSTANDING “WAR CRIMES”

Article 8 of the Rome Statute deals with war crimes, and the following are considered the breach the Geneva Convention of 12 August. 1949.⁴ International Humanitarian Law is based on humanity, impartiality, and the protection of civilians. The idea of the law of war conflict is based on protecting civilians.

² Art. 6 CONSTITUTION OF AFGHANISTAN (2004).

³ *Ibid* art.7 “The state shall observe the UN Charter, International treaties, conventions and the Universal Declaration of Human Rights and shall undertake to prohibit all types of terrorist activities in Afghanistan”

⁴ Rome Statute define war crime as

- i. Deliberate killing
- ii. Torture of insensitive dealing, including genetic trials
- iii. Deliberately triggering suffering or serious hurt to body or health
- iv. Widespread devastation and annexation of property, not defensible by military stipulation and carried out illegally and promiscuously
- v. Fascinating a prisoner of war and other protected person to serve in forces of antagonistic power
- vi. Willfully depriving a prisoner of war or other person of the rights of right and regular trail
- vii. Illegitimate extradition or handover or unlawful confinement
- viii. Taking prisoner

A war crime breaches the Geneva convention, of 1949, and violates Rome's statute and customs adopted during the armed conflict. The Rome Statute list out the activities that constitute war crimes including willful killings, torture, extensive destruction and appropriation, unlawful confinement in intentional attacks against civilian population and objects, vehicle, and personnel, delivering humanitarian assistance and pillage,⁵

War crimes apply to international and non-international armed conflicts; crimes against humanity may be committed during peacetime. The ICC prosecutor received the report by the UNAMA in 2009 and reported had indicated more than 26,500 were killed. Expressively, the request was made for the commencing an investigation into the types of crimes; a) war crimes and a crime against humanity committed by the Taliban and its allies b) crimes committed by the Afghan National Security force c) war crimes committed by the U.S. armed forces including Central Intelligence Agency (CIA) not only within Afghanistan but in the secret imprisonment homes facilities that CIA operated in Poland, Romania and Lithuania.

The ICC Prosecutor Fatou Bensouda contended that the US forces had committed 54 instances of crimes. The ICA achieved 24 additional samples on the territory of Afghanistan between 2003 and 2004. She argued that the CIA committed torture and sexual violence on Afghan nationals in its overseas detention facilities⁶

3.0 WAR CRIME IN AFGHANISTAN BY NATO UNDER U.S. COMMANDANT

War crime initiates the retro of arm conflict from 1979 to the present. Starting the USSR in 1979, 40 years of civil wars in various arrangements. All the parties have committed war crimes against the conflict parties. The Taliban has the highest figure for committing a crime against humanity. The insurgent groups have committed crimes⁷ since the 1990s, covering the

⁵ *Ibid* art. 8

⁶ ICC, the prosecutor of the International Criminal court, Fatou Bensouda, *requests judicial authorization to commence an investigation into the situation in Afghanistan*. <https://www.icc-cpi.int/pages/item.aspx?name=171120-otp-stat-afgh>. Visited 7th November 2021

⁷ Mike Corder, ICC Prosecutor seek to resume Afghanistan war crimes probe. <https://apnews.com/article/crime-courts-afghanistan-war-crimes-taliban-a758ac22703e13c37a58322f0c26c3f1> last visited 6th November 2021

extrajudicial killing of civilians, sexual violence, and execution of civilians during the war.⁸

The Rome Statute forming the ICC entered into force on July 1, 2002, and the court. The International criminal court is the apex adjudicating body established in 2002 to punish the people who committed atrocities in the countries that cannot or will not bring committers of a war crime to justice, known as the principles of complementarity.

Afghanistan became a state party to the Rome Statute on 10 May 2003. Based on numerous communications received from the Human rights organization by the Prosecutor (OTP) office about the commission of war crimes in Afghanistan, the situation prevailing during the armed conflict in Afghanistan, especially between pro-government and anti-government, the ranged commission of war crimes in Afghanistan.

The ICC has failed to punish the Afghan warlord firsthand, the Taliban, the Afghan arm force, and the International Security forces.

The severity, measure, and ongoing nature of so-called war crimes by the Taliban and the Islamic State covers the indiscriminating attack on civilians, embattled extrajudicial, torture of women and girls, crimes against children, and other forms of corruption affecting the civilian at large.

The ICC had passed 15 years to the aspect of war crime allegation in Afghanistan; the prosecutor had formerly also viewed into suspected of war crimes by U.S. forces and Afghan government troops and left due to lack of resources and nature of crime and jurisdiction the court. The court had found the reason to believe that war crimes had been committed between 2003 and 2014 among the Taliban, the Afghan government, and the U.S. forces⁹. The prosecutor will not take action in the new Afghanistan, and the United States is not the party to ICC.

⁸ UNAMA, *The Protection of Civilian in armed conflict, reported on 30 June 2021* retrieved on 6th November 2021. https://unama.unmissions.org/sites/default/files/unama_poc_midyear_report_2021_26_july.pdf

⁹ Anthony Deutsch and Stephanie van den Berg, Asia Pacific, Reuters, *War crimes prosecutor would not focus on US. Force in new Afghanistan probe*, available at <https://www.reuters.com/world/asia-pacific/icc-prosecutor-seeks-authorisation-resume-afghanistan-war-crimes-investigation-2021-09-27/> last visited 6th November 2021.

4.0 THE US'S ACTIONS IN AFGHANISTAN

There were as many as 2,500 U.S. forces in Afghanistan, along with 6,346 U.S. contractors. The American attained their primary objective of attacking Al- Qaida and tumbling the Taliban, uprooting the radicals from Afghanistan. In contrast, most Taliban leaders had fled to Pakistan and Iran, establishing a democratically based government. But the USA failed to penalize the Taliban in Pakistan and did not enter into counter-terrorism talks with the government of Pakistan.

On establishing the Taliban's political office in Doha, the US did not react to the Qatar government, legally asking how the Senior Taliban has entered Doha under which international documents and who facilitated the visa and entrance to Doha airport. The US failed to investigate to find out the departure of the Taliban and Al-Qaida and non-state fighters

The U.S. has created a vacuum in Afghanistan where neighbors will mobilize the terrorist for civil war and destroy natural resources. The Taliban and Al-Qaida celebrate their victory than defeating a superpower in the world, inspiring them to attack any neighbor. The region's security has fallen to danger; for instance, The Al- Qaida groups under the Haqqani network wish to take the Taliban and arm the conflict in Kashmir of India, in turn, leading to a civil war in the region.

The Taliban and Al Qaida give credit to themselves as they win the war against foreign forces in Afghanistan and have got enormous warfare for its future war in Afghanistan. The Taliban impose harsh Sharia laws throughout Afghanistan. Women activists were subject to death, and the women were confined to the home. The schools are closed on the girls, and freedom of speech and freedom of movement has been taken away. Overall the situation in Afghanistan deteriorates.

The human rights violation has been subject to transitional justice.¹⁰ The U.S. failed to put the victims of war in the Transnational justice domain. TJ in Afghanistan is inaccessible from a victim-centric approach. In 2001 during the government transition to democracy, i.e., UN – The

¹⁰ Kobra Moradi , *Sitting the Right precedent; victim centered justice in Afghanistan*, National Law University, Australia , <http://opiniojuris.org/author/kobra-moradi/> last visited 6th November 2021.

The Transitional Justice means the situation where the country come out of the oppression and violation of human rights'

funded Bonn agreement, a part was removed in the draft prohibiting amnesty for wartime crimes and established a precedent of peace over justice.

Both Hamid Karzai and Ghani forbade the publication of documents concerning war crimes in Afghanistan from 1978 to 2001 on the ground it will increase insecurity in Afghanistan. Those who committed war crimes will retaliate, and the International criminal court had jurisdiction to punish the perpetrators but has denied it.

In 2005 peace, settlement, and justice in Afghanistan, a framework was included and conceded the people's complaints to deal with the past. Still, it was never implemented in response to that. In 2008, the Afghan parliament passed the General Amnesty and national stability laws, and all warlords and belligerents went unpunished.

The law was aimed to build trust among the belligerent parties to end the war. It is to be understood it clear colorable legislation. The concept of pit and substance of coming to pictures.

The legislation made the law, but the same law granted the privilege and protections to war criminals.

The international criminal court has never punished any Afghan warlord who has committed war crimes in Afghanistan; The same usage is carried for the US forces in Afghanistan.

In January 2010, the government introduced the Afghanistan Peace and Reconciliations Program. It was focused on addressing insurgents' grievances unfortunately ignored the victims of war. The government of Afghanistan and the U.S. has failed to provide justice to victims of war. For instance, Burhanuddin Rabbani (killed by the suicide attack), who had a clear record of human rights violations and war crimes, was appointed as the chair of the High peace Council.

He was responsible for implementing the Afghanistan peace and Reconciliation Program (A.P.R.P). In 2020 president Ghani said, "I will not allow that past to destroy the present and future."

5.0 LIABILITY UNDER INTERNATIONAL CRIMINAL LAW

War crimes have been committed in Afghanistan against innocent people for four decades. It was committed by an Afghan warlord, Afghan government troops, and international forces under the leadership of the US.

The crime documented mass killings, enforced disappearances, summary execution of 10,000 Afghans, indiscriminate bombing and rocketing, torture, mass rape, and sexual and gender-based violence.¹¹ The fall of the Afghan government on 15th August 2021 and hurriedly U.S. risky withdrawal without any appropriate procedures led to chaotic and heard breaking scenes at Kabul airport; it was a painful and perplexing decision on the part of the U.S. and led to the death of as many of as 169 civilian Afghan in a suicide attack and many fallen from an airplane.

Critics have been raised that the against the Biden's Administration the withdrawal was rushed, off-color, prearranged, and chaotic evacuation that Afghan fled to a foreign country.¹² The legal question attracts the core attention under what authority of law and precedent did the U.S. intervene in the affairs of Afghanistan and withdrew its force facilitating the transfer of power to the hands of the Taliban.

In the light of international law, the issue of intervention has been written by many and found that international law is not a hard norm and does not have the binding character of binding the U.S. in the present study, we can refer to authoritative principles such as the "Responsibility to Rebuild as Part of Responsibility to protect."¹³

It is evident that President Biden addressed on 16th August 2021 on the withdrawal of forces from Afghanistan "Our mission in Afghanistan was the national interest and preventing the terrorist that attacks the U.S. not the nation-building or creating a unified and centralized democracy."¹⁴ International law is so disregarded and against the plan of peace, preventive

¹¹ Saumya Uma, *The Afghan Conflict and the Long Road to International Justice*, WIRE, <https://thewire.in/world/the-afghan-conflict-and-the-long-road-to-international-justice> last visited 6th November 2021.

¹² Isac Chotiner, How American failed in Afghanistan, New Yorker, (6th November 2021 4: 30 PM) <https://www.newyorker.com>

¹³ Prof. Peter Hilpold, *The Afghan war and the responsibility to rebuild*, EJEL:Talk (6th November 2021 10: 46 AM) <https://www.ejiltalk.org/>

¹⁴ Rachel Muller Heyndyk, *the U.S. initially sought to fight terrorism in its invasion of Afghanistan in 2001, But later switched to restoring peace*. Logically (6th November 2021 3: 04 PM) <https://www.logically.ai/factchecks/library/6f1dfb90>

diplomacy and peacemaking report of secretary-general of UN to Security Council A/47/277-S24111 dated 1st January 1992 and the principle of responsibility to protect (R2P) world summit 2005, was also diluted.

The rapid evacuation from Kabul invited the Afghan people to the airport, but many lives were in danger. It violated the human rights violations in the last weeks of August 2021.

In the last twenty years, the U.S. as an intervener in Afghanistan not only lost whatever civilian has achieved but also the U.S. did not work in Afghanistan to help in the eradication of corruption and mismanagement and were not capable of building up an Afghan army able to operate independently and without any foreign air support and help by contractors servicing helicopters and airplanes. The resource has been given to a few contractors and foreign and Afghan opportunists.

6.0 DOHA PEACE AGREEMENT BETWEEN U.S. AND TALIBAN

The United States of America and the Taliban have entered into a comprehensive peace agreement known as Doha Agreement between the USA and the Taliban¹⁵ signed bilaterally on 29 February 2020 in Doha. The core themes of the Doha Agreement are expressed in written form as ‘that the United States of America is not recognizing Islamic Emirate of Afghanistan as a state but the Taliban.’ The group has to guarantee that after the withdrawal of the foreign forces from Afghanistan, the Afghanistan soil shall not be used by any group or individual against the US security and its allies. After the complete withdrawal, the Taliban had to begin intra-negotiation with the Afghan Government as the deadline was 10 March 2020. The Taliban has to maintain the absolute ceasefire with the Afghan government as the main agenda of Afghan dialogue.

The content of the Agreement has put for discussion as follows in the first part, The United States has undertaken within fourteen months from the sign of the agreement to withdraw the civilian, contractors non-diplomats, advisors, and supporting the team from Afghanistan and

¹⁵ Mehdi Jalalddin Hakimi, *The U.S.- Taliban Agreement and the Afghan peace process*, Stanford Law School (6th November 2021 9:51 AM) <https://law.stanford.edu/2020/12/07/the-u-s-taliban-agreement-and-the-afghan-peace-process/>

within one hundred thirty-five (135) days in the first obligation will reduce the number of the coalition force to eight thousand six hundred (8600) and in the second parts of its responsibility within nine and half months (9.5) will withdraw the complete foreign force form Afghanistan, on the other hand, the United State has committed to releasing five thousand (5000) combatant and political prisoners from Afghanistan jail as the matter of confidence-building and release of one thousand (1000) in the progress of negotiations. In part of the agreement, the Taliban has assured the US that the Taliban will not allow any group, including al-, Qaida, to use the soil of Afghanistan against the US and its allies.

In the past three: the US has ensured the Taliban for recognizing the agreement by the UN security council and undertaken to seek economic cooperation to post negotiations and maintain positive relationships with the Taliban. The study found that the United States has entered into a mutual understanding with a group that twenty years called terrorists. Most of the members of the Taliban were under the United States blocklist. This agreement only protects the political strategies of the United States of America, and America has undermined at first the security of Afghanistan, next to the safety of the region, and finally the world security. The United States indirectly has given the freedom to the group that whatever the Taliban wants to do in Afghanistan, have absolute freedom to do. Still, the interest and security of the USA and its allies shall not be affected.

The United States has misused the amicable relationship and confidence-building that the Afghanistan government had. Indeed, this agreement was made arbitrarily contrary to international standards and customary rules of public international law. The principle of *Pacta Sunt Servanda* finally had undue influence and even coerced the Afghan government to release the Taliban fighters from the Pole Charkhee jail without any future anticipation. Even Afghan security forces were not aware of the terms of the agreement; this document has not been put for the referendum to the Afghan people.

According to Art. Eight of Montevideo convention which is the United States is the signatory does not have the right to interfere with Afghanistan's affairs. Similarly, according to Art. 2.4¹⁶ the state member state shall refrain in their international affairs to threaten or use force against

¹⁶ UNITED NATIONS CHARTER 26, June 1945

the sovereignty of other states, and Art.2.7¹⁷ accordingly clearly emphasizes the political independence of the member state that the UN shall not interfere with the domestic affairs of any country. The United States is liable for the war crime and responsible for empowering the Taliban through a colorable agreement. The United States had alternatives to seek peace in Afghanistan; this matter has not been addressed to the UN General Assembly for resolution and further discussion. The UN security council did not use any of the provisions of Chapter VII of the UN charter as the collective security measures to maintain peace and security to suppress the Terrorist in Afghanistan as a member of the UN since 1946.

Legally speaking, under what law did the US agree with the insurgents' group? Indeed, the US has violated international humanitarian laws. Violates the International human rights laws.

How was the Afghan government not the party to the Doha Agreement? The government of Afghanistan was called post-agreement. The questions arise: What was the USA's purpose in Afghanistan to eliminate the terrorist or empower the Taliban with sophisticated artilleries.

Based on various observations and studies, it is clearly shown that the US left Afghanistan to empower the Taliban to dissolve a stable democratic government, create security threats in the regional countries and build up a protective sanctuary to terrorists and their allied groups. In the presence of the US evacuation, the Kabul airport was subject to a suicide attack as a result of it, 13 US soldiers and 169 Afghan people were killed¹⁸; based on the terms of the agreement, the Taliban is liable to the USA if the USA does not play dual policy why does not take the Taliban responsible of for the terror attack.

EXTRATERRITORIAL HUMAN RIGHTS RESPONSIBILITIES IN AFGHANISTAN'S INTERMINABLE ARM CONFLICT

The endless war in Afghanistan is eventually focused on fundamental freedoms and human rights violations. Afghan civilians are trapped in the antagonism between global terrorism.

¹⁷ *Ibid* Art. 2.7

¹⁸ Sophie Williams, *War in Afghanistan*, the BBC 5th November 2021 available at <https://www.bbc.com/news/world-asia-58372458>

In Kandahar city, where the founder of the Taliban 1.0 had arisen, the Islamic State Khorasan (IS-K) exploded a bomb in a Shia mosque during Friday prayers, and 40 people were killed.¹⁹ It is a clear violation of human rights against minorities; in this case, the Taliban has breached their pledge, which is assured to international communities.

According to Art. 2 Para 1 of ICCPR²⁰, the scope and application of convention apply to all individuals within the member state's territory and those who are subject to its jurisdiction. In this context, during the evacuation in the Kabul airport, a bomb is set exploded killing many civilians. It is very clearly evident that the Taliban breached the pledge and the terms of the Doha commitment. So Why the US forces did not count them responsible for breach of their obligation? And to put it for further discussion, the US had jurisdiction over the Kabul airport, especially during the evacuation, but failed to prevent such gross human rights violations. The US added fuel to the fire instead of stopping the fire get spreading. On 29th August 2021, in response to the Kabul airport attack, the US forces used a drone strike to kill ten civilians. It is a human right violation and breaches international humanitarian laws. Accordingly, Articles 12, and 13²¹ prescribe for the protection of civilians, and specifically, those who are not taking part in the conflict shall not be targeted. Afghan civilians are subject to arms conflict, target killing of US forces, and compete for the same line. The Taliban commit murder, brutality, and torture of civilians who were never part of this proxy game. Based on theory, Art. 4 of Protocol II²², the person who did not participate in the hostilities shall be protected. On the other hand, in Afghanistan, non-combatant casualties were more than the combatant. In addition to this discussion, Art. 4²³ Children are protected and expatriated from the arm conflicts. In contrast, on 30th November 2018, the US forces could not kill the Taliban but could kill 23 children in the airstrike.

¹⁹ The BBC, Afghanistan: suicide attack hits Kandahar Mosque during prayers, <https://www.bbc.com/news/world-asia-58925863> last visited 6th November 2021

²⁰ International covenant on Civil and political Rights Art. 2 para 1 “ which says “ Each party to the present convention bound to respect and guarantee to all citizens of its country and those subjects to its jurisdictions and the right recognized in the present convention without any discrimination as to sex, race, language, religion and political or other opinion, national or social origin, birth, property and others .

²¹ The fourth Geneva Conventions of August 12, 1949 and additional protocol 1977 and 2005 and supplement the Geneva conventions.

²² *Ibid* art. 4

²³ *Ibid* art.4

According to the UNAMA²⁴ report of 2020, 44 percent of victims of arm conflict in Afghanistan were women and children during the nine months. It is a clear violation of humanitarian law in Afghanistan. According to Human right watch²⁵, on 12 May 2020 attack on the MSF²⁶ killed 24 people, including five women staff who had delivered babies. Art. 15²⁷ protection of wounded and sick in the event of conflicts in Afghanistan either has been killed or tortured by both the parties. Hence, the US forces violated their peers' International Human Rights and International Humanitarian laws. In this power play, only the civilians were the people to pay the cost of war. Afghan women and children are the primary victims of the armed conflicts differently.

The children either lost their father or targeted in US airstrikes or were subjected to the Taliban bomb in the school. The Afghan children did not enjoy a fundamental human right as human beings. On the other hand, the women lost their husbands or brothers, fathers, or other family members.

Conclusion

Based on experience in Afghanistan, close observation, and study of various international armed conflicts, one can conclude that the U.S. force operations did not suppress the terrorists. The US force and its allies were able to eliminate the Terrorist and their groups. The US force has claimed that we fight against those who threaten our securities and its partners; we also combat those who fund the give the sanctuaries to the terrorist networks. Osama Bin Laden, who put the foundation stone to the Islamist militant group and the founding father Al- Qaida was killed in Abbottabad, Pakistan, on 2nd May 2011 by the US Navy Special Warfare Development Group (DEVGRU or SEAL Team Six).

Indeed, the US did not put Pakistan responsible for sanctuaries to the terrorist leader for nine years. Pak- US benefits to Afghanistan is so complex, that the reality is easy to see out of the box. The US is the leading entrepreneur of arms in conflicted countries like Afghanistan.

²⁴ The United Nations Assistance Mission in Afghanistan

²⁵ Human Rights watch, *Afghanistan events of 2020 world report*, <https://www.hrw.org/world-report/2021/country-chapters/Afghanistan> last visited 6th November 2021.

²⁶ *Ibid* Meddcins Sans Frontiers at Dashtee Barchee, Kabul.

²⁷ The first Geneva convention for the amelioration of the condition of the wounded and sick in arm forces in the field of 22 August 1949. "Wounded and sick during war shall get adequate care and protection.

Suppose the US wished to eradicate the roots of terrorists. Failure to do such attracts torture, arbitrary killing, and even death penalties. Finally, the main cities of Afghanistan fall to the Taliban, fueled by the U.S.'s taking out of its force, and n. and new brutal episode of the armed conflict discloses humanitarian crises such as mass killing, heinous crimes, especially against women, dislocation of human gloom. Against this unpredictable and complex needlepoint, is a call for accountability for a crime committed against humanity in the past, now, and future.

REFERENCES:

- THE CONGRESS PUBLIC LAW 40, the Joint Resolution, available at <https://www.govinfo.gov/content/pkg/PLAW-107publ40/html/PLAW-107publ40.htm> last visited 5th November 2021.
- ICC, the prosecutor of the International Criminal court, Fatou Bensouda, *requests judicial authorization to commence an investigation into the situation in Afghanistan*. <https://www.icc-cpi.int/pages/item.aspx?name=171120-otp-stat-afgh>. Visited 7th November 2021
- Mike Corder, ICC Prosecutor seek to resume Afghanistan war crimes probe. <https://apnews.com/article/crime-courts-afghanistan-war-crimes-taliban-a758ac22703e13c37a58322f0c26c3f1> last visited 6th November 2021
- UNAMA, *The Protection of Civilian in armed conflict, reported on 30 June 2021* retrieved on 6th November 2021. https://unama.unmissions.org/sites/default/files/unama_poc_midyear_report_2021_26_july.pdf
- Anthony Deutsch and Stephanie van den Berg, Asia Pacific, Reuters, *War crimes prosecutor would not focus on the US. Force in new Afghanistan probe*, available at <https://www.reuters.com/world/asia-pacific/icc-prosecutor-seeks-authorisation-resume-afghanistan-war-crimes-investigation-2021-09-27/> last visited 6th November 2021.
- Kobra Moradi , *Sitting the Right precedent; victim-centered justice in Afghanistan*, National Law University, Australia , <http://opiniojuris.org/author/kobra-moradi/> last visited 6th November 2021.
- Saumya Uma, *The Afghan Conflict and the Long Road to International Justice*, WIRE, <https://thewire.in/world/the-afghan-conflict-and-the-long-road-to-international-justice> last visited 6th November 2021.

- Isac Chotiner, How American failed in Afghanistan, New Yorker, <https://www.newyorker.com> (6th November 2021 4: 30 PM)
- Prof. Peter Hilpold, *The Afghan war and the responsibility to rebuild*, EJEL: Talk <https://www.ejiltalk.org/> (6th November 2021 10: 46 AM)
- Rachel Muller Heyndyk, *the U.S. initially sought to fight terrorism in its invasion of Afghanistan in 2001*,
- *But later switched to restoring peace.* Logically, <https://www.logically.ai/factchecks/library/6f1dfb90>
- Mehdi Jalalddin Hakimi, *The U.S.- Taliban Agreement and the Afghan peace process*, Stanford Law School <https://law.stanford.edu/2020/12/07/the-u-s-taliban-agreement-and-the-afghan-peace-process/>
- Sophie Williams, *War in Afghanistan*, the BBC available at <https://www.bbc.com/news/world-asia-58372458>
- The BBC, *Afghanistan: suicide attack hits Kandahar Mosque during prayers*, <https://www.bbc.com/news/world-asia-58925863> last visited 6th November 2021
- The United Nations Assistance Mission in Afghanistan
- Human Rights watch, *Afghanistan events of 2020 world report*, <https://www.hrw.org/world-report/2021/country-chapters/Afghanistan> last visited 6th November 2021.