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Trends. An International Criminal Court: Incompetence to Assess Another Kind of Competence

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Last week IBPP(5(1)) carried an article on difficulties in establishing the competence to stand trial of alleged perpetrators of acts falling under the purview of an international criminal court. Another kind of competence comprises the motives and abilities of those representatives of government and nongovernmental organizations who are deliberating on establishing such a court.

There are two crucial criteria that must be met to establish this latter competence. First, are the representatives' recommendations for various court responsibilities and procedures based on the proximal consequence of justly adjudicating the criminal acts falling under the court's purview and on the distal consequence of deterring such acts? Second, are the representatives' cognitive complexity necessary and sufficient to discriminate among ethical, moral, and legal domains on the one hand, and to conflate these domains as necessary as they converge on justly adjudicating and deterring criminal acts on the other.

Unfortunately, neither of the two criteria of competency can as yet be validly assessed. Both suffer from the same fallacies of logic, rationality, and judgment that render one person's freedom fighter as another's terrorist. One can engage in terrorism for freedom or for some other objectives. One can fight for freedom employing terrorism or some other fighting technique. So, too, one person's ethnic cleansing is another's purely defensive maneuver against a dire and legitimate security threat. One can ethnically cleanse to remove a dire and legitimate security threat or for many other purposes including purely gratuitous ethnocentrism. One can remove a dire and legitimate security threat through ethnic cleansing or through other military, political, social, cultural, or economic interventions.

Ultimately, controversy over what qualifies as a criminal act--viz., behaviors exemplifying genocide, war crimes, and crimes against humanity--and as just adjudication is resolved by the power of the victors, of whatever passes for military and cultural strength at any moment in time. As admirable as the intent to adjudicate and deter evil may be, and as politically incorrect as it may seem to point out, deliberations about establishing an international criminal court is really about a historical revisionism of the future. (See Competency To Stand Trial: An International Challenge. (July 3, 1998). IBPP, 5(1); Greenwald, A. (1980). The totalitarian ego: Fabrication and revision of personal history. *American Psychologist*, 35, 603-618; Rouhana, N.N., Korper, S.H. (1996). Dealing with the dilemmas posed by power asymmetry in intergroup conflict. *Negotiation Journal*, 12, 353-366; Sebek, M. (1995). Nadja v post-totalitnim svete (Superego in the post-totalitarian world). *Ceskoslovenska Psychologie*, 39, 550-558.) (Keywords: Competence, Crime, International Criminal Court, Terrorism.)