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As the war in Ukraine nears the one-year mark, we speak with veteran war crimes prosecutor Reed Brody about a growing movement to hold Russian President Vladimir Putin and his closest allies criminally responsible for the invasion. The Ukrainian government has called for a special tribunal to prosecute Russian leaders, modeled on the Nuremberg trials of Nazi officials after World War II. On Thursday, European Commission President Ursula von der Leyen announced the formation of an international center in The Hague for the prosecution of the crime of aggression in Ukraine. “Aggression is the worst international crime,” says Brody, who notes that there is currently no venue to prosecute crimes of aggression largely due to opposition from the United States and other victorious powers after World War II. “Let’s change the rules forever, so that aggression — not only by Russia against Ukraine but any cases of aggression — could be prosecuted.” Brody has been involved in several major war crimes cases, including against Chile’s former dictator Augusto Pinochet, Haiti’s Jean-Claude “Baby Doc” Duvalier and former Chadian dictator Hissène Habré.

AMY GOODMAN: This is *Democracy Now!*, [democracynow.org](#), *The War and Peace Report*. I’m Amy Goodman.

The European Commission has announced plans to launch a center to prosecute Russia at The Hague for the crime of aggression for invading Ukraine nearly a year ago. Ursula von der Leyen, the president of the European Commission, spoke Thursday.

URSULA VON DER LEYEN: Russia must be held accountable in court for its odious crimes. Prosecutors from Ukraine and the European Union are already working together. We are collecting evidence. And as a first step, I’m pleased to announce that an international center for the prosecution of the crime of aggression in Ukraine will be set up in The Hague. This center will coordinate the collection of evidence. It will be embedded in the joint investigation team, which is supported by our agency Eurojust. So, we will be ready to launch work very rapidly with Eurojust, with Ukraine, with the partners of our joint investigation team, as well as with the Netherlands. The perpetrator must be held accountable.

AMY GOODMAN: That was Ursula von der Leyen, the president of the European Commission.

We go now to longtime human rights attorney Reed Brody, who's brought historic legal cases against former Chilean dictator Augusto Pinochet, former Chadian dictator Hissène Habré and others, author of *To Catch a Dictator: The Pursuit and Trial of Hissène Habré*. He's joining us from Barcelona, Spain.

Welcome back to *Democracy Now!*, Reed. Can you talk about the significance of what's being set up —

REED BRODY: Thank you.

AMY GOODMAN: — and what you think needs to be understood?

REED BRODY: Well, the first thing to be understood is that there already is the largest war crimes investigation in history going on right now in Ukraine. Ukrainian prosecutors have opened tens of thousands of cases. The International Criminal Court has opened its largest field operation ever. You have 15 countries that have opened up their own investigations into war crimes. You have this joint investigative team of seven countries. Never in — but all these investigations are looking at war crimes and crimes against humanity. They are not looking at the crime of aggression. And so, the proposal has been made to create a special tribunal for the crime of aggression. And this announcement by Ursula von der Leyen is actually just a precursor to that. It is to set up a center to collect evidence on the crime of aggression.

Now, why is it that none of these massive investigations by Ukraine, by the International Criminal Court, by other countries into war crimes and crimes against humanity are looking at aggression? Well, it's because right now there is no court that has jurisdiction to — international court — to prosecute the crime of aggression. And why is that? At Nuremberg, the trial of Nazi leaders after World War II, the crimes against peace, aggression was considered to be the supreme international crime, the worst crime, the crime that paves the way for all the other crimes. But what happened is that in the aftermath, the big powers, the victorious powers of World War II — the Soviet Union, the United States — they didn't want to have the crime of

aggression. They didn't want their wars to go before an international court, to go before a judge. And so, the International Criminal Court, as it stands today, only has jurisdiction over war crimes, crimes against humanity and genocide, unless the alleged aggressor state both ratifies the ICC treaty and consents to ICC jurisdiction. And that carveout for the crime of aggression was specifically fought for and won by the United States, by France and by the United Kingdom. So the reason the ICC today cannot investigate the crime of aggression is because the U.S., France, the United Kingdom and others didn't want it to do so.

And now there's a call to have a special tribunal on aggression. Obviously, the — aggression is the worst international crime. And another attractiveness of the idea of a special tribunal for aggression is that it's a leadership crime. Right now the investigators who are looking at war crimes will also have to build the case to show that Russian leaders, including Vladimir Putin, have command responsibility for those crimes, that they either gave the orders for those crimes or they — with knowledge that the crimes were being committed, they didn't step in to stop those crimes. Aggression is a leadership crime. It goes straight to the top table. It's a very easy crime to prove. Russia has, I think we all can agree, illegally, in violation of the U.N. Charter, committed war of aggression against Ukraine. Vladimir Putin is the person who directed that aggression. So it's a fairly easy crime to prove.

Now, I think we can all agree that this is a crime that should be prosecuted. The question really is how. And many people are looking at the — including the former ICC prosecutor, who you had on your show, Luis Moreno Ocampo, are saying, "Wait a second. Let's not just make a special tribunal for Ukraine. If we're going to prosecute the crime of aggression, let's amend the rules of the International Criminal Court so that it can prosecute aggression the same way it prosecutes war crimes and crimes against humanity, regardless of whether the aggressor state has agreed to the statute of the

ICC

and consented to have its citizens come within the ICC's jurisdiction." So, the same way that the International Criminal Court is now looking at Russian crimes in Ukraine, even though Russia hasn't joined the

ICC

, or that it looked at, is looking at American crimes in Afghanistan, even though the U.S. hasn't joined the

ICC

, the argument is: Let's not change the rules just for this case. Let's change the rules forever, so that aggression — not only by Russia against Ukraine but any cases of aggression — could be prosecuted.

AMY GOODMAN: Finally, Reed, I wanted to go back to your example of the Nuremberg trial.

The U.S. prosecutor at Nuremberg in November 1945, Robert Jackson, said, “Let me make clear that while this law is first applied against German aggressors, the law includes, and if it is to serve a useful purpose it must condemn aggression by any other nations, including those which sit here now in judgment.” Why is the U.S. even allowing what’s taking place now to take place at The Hague, this proposal?

REED BRODY: Well, of course, I mean, this is one of the reasons the U.S. is not out in front on this proposal, because I think American policymakers understand that this could come back and bite them, and they understand the inherent double standards involved here. I mean, the ICC

, in general, and the whole international justice architecture, in general, is seen, particularly in the Global South, as being riddled with double standards. You know, I mean, the ICC

has opened up this massive — and welcome — investigation in Ukraine, but, you know, why don’t we see the same kind of massive investigations in other places? The case of alleged Israeli crimes in Palestine has been sitting on the table for several years, and it’s going nowhere. The alleged American crimes in Afghanistan, back from 2002, have been, quote, “deprioritized” by the ICC

. And, of course, the case of aggression, you know, I mean, we all, in thinking about this, think about the U.S. and British invasion of Iraq, which was considered by Kofi Annan and most legal scholars to be illegal. So, you do have this — I think, again, prosecute, investigate Vladimir Putin for war crimes, for aggression, but let’s do it in a way that ensures that these tools of international justice can also be used, when appropriate, against powerful Western actors.

AMY GOODMAN: Reed Brody, we want to thank you so much for being with us, war crimes prosecutor, has been involved with looking at war crimes in many different areas, author of *To Catch a Dictator: The Pursuit and Trial of Hissène Habré*

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with him on the book, go to democracynow.org. Reed was speaking to us from Barcelona, Spain.