Participating in the crime of waging an aggressive war

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Participation in the crime of waging aggressive war is participation in organized murder carried on under the official auspices of the State waging such a war in violation of int. law. The aggressive character of the war serves to deprives it of all shadow of legality and there is no protection to the individual who engages in it with knowledge of its illegal or aggressive character. Similarly the law (both the
Charter & Countrol Law No. 10) seeks to reach the **** or stage at which the application of the sanction of criminality may operate as a deterrent. Planning or preparation of a war of aggression becomes likewise the planning and preparation for an organized series of crimes as the legal protection to the individual inherent in the old conception of international law has now been completely withdrawn. We may properly apply simple a simple analogy from the common law relative to murder to this altered situation.
It is well recognized that if an individual performs an act with knowledge that it will probably cause death or serious bodily harm it is no defense in a criminal prosecution to assert that there was no actual subjective intention to injure the victim. The actor may even wish the contrary. Thus a leading authority in American criminal law points out:

"xxx if a man recklessly throws from the roof into a crowded
street a heavy piece of timber, which kills a person in the street, he is guilty of murder. So, if a person intentionally fires a pistol in a crowded street, and kills another, this is murder." (Miller on Criminal Law p 268)

Criminal responsibility may flow from a general recklessness which disregards all consequences, if the circumstances are such that a reasonable man would have known the natural and probable consequences of the act. There is no sound reason to
deny vitality to that principle as applied to the facts of this case. Logic would require that, the more dangerous the instrumentality, the greater should be the degree of care society should exact of the individuals in regard thereto. *** Rearmament and mobilization of the war potential must in the interest of world security be definitely placed in this category.