

# The International Criminal Court (ICC) and Core Crimes Defined in the Rome Statute

As of July 2018, 26 cases have been brought before the International Criminal Court (ICC), with some cases having more than one suspect. Fourteen of the 123 state parties to the Rome Statute (states that have ratified it) are located in Asia—Afghanistan, Bangladesh, Cambodia, Cyprus, Timor-Leste, Georgia, Japan, Jordan, South Korea, Maldives, Mongolia, Palestine, Philippines, and Tajikistan. In recent years, some state parties have withdrawn from the ICC (i.e., Burundi), begun the withdrawal process (i.e., the Philippines), or threatened to withdraw (i.e., South Africa, Gambia).

## Jurisdiction of the ICC

The ICC can obtain jurisdiction over a situation in three ways:

- a state party may refer a situation to the court;
- the UN Security Council may refer a situation to the court, including a situation involving a state that is a member of the UN, but not party to the Rome Statute; or
- the ICC Prosecutor may initiate an investigation of crimes alleged to have occurred in the territory of a state party or to have been committed by nationals of a state party. The ICC may exercise jurisdiction where genocide, crimes against humanity, or war crimes were committed on or after 1 July 2002. As of 17 July 2018, the Security Council could refer to the ICC cases in which an act of aggression seemed to have occurred whether or not it involved a state party.

## Definition of crimes under the ICC's jurisdiction

**Genocide:** The crime of genocide is any of the following acts committed with intent to destroy, in whole or in part, a national, ethnic, racial, or religious group:

- a. killing members of the group
- b. causing serious bodily or mental harm to members of the group
- c. deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part
- d. imposing measures intended to prevent births within the group
- e. forcibly transferring children of the group to another group.

**Crimes Against Humanity:** Crimes against humanity are any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

- a. murder
- b. extermination
- c. enslavement

- d. deportation or forcible transfer of population
- e. imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law
- f. torture
- g. rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity
- h. persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender, or other grounds that are universally recognized as impermissible under international law
- i. enforced disappearance of persons
- j. the crime of apartheid
- k. other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

**War Crimes:** War crimes are any of the following breaches of the four Geneva Conventions of 12 August 1949, perpetrated against any persons or property:

- a. willful killing
- b. torture or inhuman treatment, including biological experiments
- c. willfully causing great suffering or serious injury to body or health
- d. extensive destruction and appropriation of property not justified by military necessity and carried out unlawfully and wantonly
- e. compelling a prisoner of war or other protected person to serve in the forces of a hostile power
- f. willfully depriving a prisoner of war or other protected person of the rights of fair and regular trial
- g. unlawful deportation or transfer, or unlawful confinement
- h. taking of hostages.

Under the definition of war crimes, the ICC will also have jurisdiction over the most serious violations of the laws and customs applicable in international armed conflict within the established framework of international law. These violations are defined extensively in Article 8(b) of the Rome Statute. In the case of armed conflict that is not of an international character, the Court's jurisdiction will cover breaches of Article 3 common to the Geneva Conventions of 12 August 1949.

#### **Amendments to extend the elements of crimes**

Under Article 9 of the Rome Statute, amendments to the elements of crimes that assist the ICC in the interpretation and application of crimes under its jurisdiction may be proposed by any state party, by the judges acting by an absolute majority, or by the prosecutor for the Court. All proposed amendments are subject to the approval of two-thirds majority of the members of the Assembly of States Parties.

While not a United Nations organization, the ICC has a cooperation agreement with the United Nations. When a situation is not otherwise within the Court's jurisdiction, the UN Security Council can refer the situation to the ICC granting it jurisdiction.

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