

DISTINCTION AMONG THE DIFFERENT CRIMES

Genocide, crimes against humanity, war crimes, crimes of aggression – what is the difference?

At first glance, these concepts may appear synonymous and applicable to many global conflicts. In order to fully grasp the differences between them, it is important to understand their definitions and the legal grounds upon which they are based.

CRIME OF GENOCIDE

This term, used in the work of lawyer Raphael Lemkin, became codified for the first time in 1948. On December 9, 1948, the United Nations General Assembly adopted the *Convention on the Prevention and Punishment of the Crime of Genocide*.

Five distinct acts, committed with intent to destroy, in whole or in part, a national, ethnic, racial or religious group, constitute the crime of genocide. These acts are:

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

(See the Definition of Genocide analysis tool.)

CRIMES AGAINST HUMANITY

Eleven types of acts, committed as part of a widespread or systematic attack directed against any civilian population and with knowledge of the attack, can each be considered a crime against humanity. These acts are:

- // murder
- // extermination
- // enslavement
- // deportation
- // imprisonment in violation of fundamental rules of international law
- // torture
- // sexual violence
- // persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious or gender-related grounds
- // enforced disappearance of persons
- // the crime of apartheid
- // other inhumane acts causing great suffering

WAR CRIMES

The legal provisions with regard to war crimes differ, depending on whether an armed conflict is international or not. It is, however, important to mention that some of the same acts listed under both broad categories also constitute war crimes. For example, whether the armed conflict is international or not, intentionally directing attacks against the civilian population can be qualified as a war crime.

// In international armed conflicts involving any number of acts threatening human life, war crimes include:

- // grave breaches of the humanitarian rules contained in the four *Geneva Conventions* of August 12, 1949, with respect to the wounded, prisoners and the civilian population, including wilful killing, torture and the taking of hostages (see full list in Article 8 of the *Rome Statute*);
- // other serious violations of the laws and customs applicable in international armed conflicts, including acts such as intentionally directing attacks against the civilian population, and attacking or bombarding undefended locations which are not military objectives.

// In the case of armed conflicts not of an international character, war crimes include:

- // serious attacks (murder, torture) against persons taking no active part in hostilities, including members of armed forces who have laid down their arms
- // other violations of laws and customs applicable to non-international conflicts, including pillaging a town, committing rape and conscripting or enlisting children under the age of 15 into the armed forces

CRIMES OF AGGRESSION

The *Charter of the United Nations* empowers the UN Security Council to determine the existence of one or more of the seven acts that can be considered acts of aggression. These acts include, among others:

- // the invasion or attack by the armed forces of a State of the territory of another State
- // any military occupation, however temporary, resulting from such invasion or attack
- // any annexation by the use of force of the territory of another State or part thereof
- // the bombardment by the armed forces of a State against the territory of another State
- // the use of any weapons by a State against the territory of another State

It is important to mention that this notion has, to some extent, “replaced” that of “crimes against peace and against humanity,” which was defined in the *London Agreement* of August 8, 1945, for the International Military Tribunals in Nuremberg and Tokyo established after World War II.

UNIFORM LEGAL BASIS

The legal basis that defines all of these different notions is contained in a single text, the *Rome Statute of the International Criminal Court* (ICC) which, since July 17, 1998, punishes especially grave violations of human rights and international humanitarian law and defines core international crimes. Initially, three crimes were recognized in the Statute: genocide (Article 6), crimes against humanity (Article 7) and war crimes (Article 8). In 2010, the Rome Statute was amended, and the crime of aggression was added as the fourth core international crime (Article 8 bis). However, this change only came into force on June 26, 2016, when it was ratified by the 30th State.

The Rome Statute created the ICC in 2002 and conferred upon it the responsibilities for prosecuting parties accused of these crimes and punishing those who are found guilty. This Statute entered into force in 2002, after ratification by the 60th State. The ICC may initiate such a procedure if one of these three mechanisms is triggered:

- 1** A signatory State can submit a situation to the ICC.
- 2** The UN Security Council can forward a situation to the ICC.
- 3** The prosecution can act by virtue of its office.

CANADA'S ROLE IN THE PROCESS

In the 1990s, Canada chaired a coalition of States called “The Like-Minded Group” that helped to motivate the international community to adopt the *Rome Statute*.

On December 18, 1998, Canada became the 14th country to sign the *Rome Statute* of the ICC.

On June 29, 2000, Canada adopted the *Crimes Against Humanity and War Crimes Act*, thereby bringing Canadian law into line with the *Rome Statute*. Canada thus became the first country to adopt a law to implement the *Rome Statute*, a prerequisite to being able to ratify the Statute.

On July 7, 2000, Canada ratified the *Rome Statute*.

For more information:

To learn more about war crimes in summary form, read the four Geneva Conventions of August 12, 1949

[http://](#)

To learn more about Canada's role in creating and supporting the ICC, visit:

[http://](#)

To read more about the crimes' definition and prevention :

[http://](#)

[http://](#)

The distinction between signature and ratification of a document:

- Signing an international treaty means that the signatory State is making a moral commitment; it does not make the treaty legally binding upon that State.
- To become legally binding upon signatory States and entrenched in their legislation, the written agreement must be ratified by the competent authority of each State (head of State, parliament).