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International Criminal Court

Guideline

Written by: Carmina Gómez Urquijo

I. COMMITTEE BACKGROUND

The International Criminal Court - ICC for short - is an international court established by the Rome Statute. Therefore, although it aligns itself with the UN, it is a separate independent judicial body. Its purpose is to complement national Courts and pursue countries to join the fight against impunity. By doing so, perpetrators who have committed the gravest crimes of concern for the international community can be brought to justice. Moreover, the ICC fights to prevent future happenings of such crimes.

As of today, the ICC is made up of an estimate of 900 staff members from across 100 states with 6 official languages - English, French, Arabic, Chinese, Russian and Spanish. Although it is big in numbers, the ICC counts with only one headquarter in The Hague, the Netherlands.

II. HISTORY OF THE INTERNATIONAL CRIMINAL COURT

The International Criminal Court was established by the Rome Statute in 1998; however, it was until 60 countries had ratified – July 1 of 2002 – that sittings first began. As of now, around 120 countries all over the globe have signed and ratified. The primal purpose of the ICC is to investigate and prosecute individuals who have committed serious crimes of international concern. It is the first permanent international court to be instituted, protecting people worldwide from crimes against humanity, crimes of aggression, genocide and war crimes.

In the aftermath of the Second World War, The Nuremberg and Tokyo international tribunals were established in order to bring to justice political officials and military authorities that had committed wartime barbarities. It was during this time that the United Nations General Assembly acknowledged the need for a permanent international court. Nonetheless, due to growing conflicts, such as the Cold War, the idea of an international criminal court was made a reality some 50 years later, in the summer of 1998.

II. THE ROME STATUTE

The International Criminal Court is based upon a treaty signed on July 17 of 1998, called the Rome Statute. This document is the basis of operation for all activity, setting out the crimes that fall within jurisdiction, mechanisms for the State Parties to cooperate, and the rules of procedure. It is important to mention that the State Parties are countries who endorse the Court, accept its jurisdiction, and work to integrate its rules into their judicial systems.

III. CRIMES WITHIN JURISDICTION

The Court serves to give accountability to individuals that have committed serious crimes of international concern, namely the crimes against humanity, crimes of genocide, war crimes, and crimes of aggression. The

ICC does not prosecute any individual under the age of 18 and only crimes committed on or after July 1 of 2002 are of jurisdiction. Moreover, the crimes of the accused have to be committed by a State Party national, in the territory of a State Party or in a State that has accepted the Court.

A. Crimes Against Humanity

These crimes are described as any grave large-scale attack against the civilian population. The Rome Statute lists 15 forms of crimes against humanity; within them are offences such as rape, murder, sexual slavery, torture, enforced disappearances, imprisonment, apartheid and deportation.

B. Genocide

The crimes of genocide are any offense done so with the intent of eradicating an ethnic, national, religious or racial group. This can be achieved either by killing its members, causing them critical bodily or mental harm, imposing measures with the intent to prevent births, etc.

C. War Crimes

War Crimes are violations that took place during a period of conflict. These violations include: murder, taking hostages, mutilation, cruel treatment and torture, pillaging, any form of sexual violence, deliberately directing attacks at civilians or civic buildings, conscripting children under the age of 15 into armed forces.

D. Crimes of Aggression

This particular category only became official after the reviewing of the Rome Statute of 2010. Crimes of Aggression can be described as the use of armed forces against another state, such as bombing, invasion, military occupation, blockade of ports or coasts.

IV. STRUCTURE OF THE ICC

In accordance with the Rome Statute, the ICC is divided into 4 bodies: the Presidency, the Judicial Division, the Office of the Prosecutor and the Registry.

The purpose of the Presidency is to carry out external relations with the State Parties, serving as a representative of the Court to the outside world. Meanwhile, the Judicial Division – composed of judges – is in charge of debating whether the accused is innocent or guilty, an act which is done in accordance with the evidence presented by the Registry – Defense Counsel – and the OTP.

Judicial Divisions

Composed of 18 judges in 3 divisions – Pre-Trial, Trial and Appeals –, they administer the judicial proceedings.

OTP

Manage preliminary examinations, investigations, and prosecutions.

Registry

Manage non-judicial activities, including outreach, security, interpretation, support to Defense and victims' lawyers, etc.

V. COURT FUNCTION

A case is divided into 6 stages, these are

1. Preliminary examinations
2. Investigations
3. Pre-Trial Stage
4. Trial stage
5. Appeals stage
6. Enforcement of Sentence

The first stage – Preliminary Examination – consists of determining, by the Office of the Prosecutor, whether there is enough evidence of the crime with enough gravity that falls within jurisdiction. The OTP must also determine whether opening an investigation will favor the interest of the victims and of justice. Only following so, can the State Party call the Prosecutors for the investigation. During the investigation, the ICC judges will be requested to:

- a. Issue an arrest warrant; relying on countries to make arrests and relocate suspects to the ICC. This warrant of arrest shall contain the name of the person, the reference to the crimes, the accusation made to the subject and the rights of said subject.
- b. Issue a summons to appear; if the suspect does not show voluntarily, an arrest warrant may be issued.

The next face consists of the Pre-Trial Stage, in which the prosecutors must turn their information to the Pre-Trial Chamber. The judges will then confirm the suspects identity and ensure the subject comprehends the charges made against them. Nonetheless, if the Pre-Trial Chamber concludes that there is no reason to accuse the person, the prosecutors will not continue with the case, proceeding to another one.

The Trial Stage will be covered in the next section; briefly, the judges will consider the evidence and with so issue a verdict and a sentence – if needed.

During the Appeal, the Prosecutor, the Defense, the victims and the convicted person have the right to appeal a Trial Chamber's decision on the verdict and the sentence. 5 judges of the Appeals Chamber will determine the appeal; these judges cannot be the same judges as those who gave the original verdict. If the Appeals Chamber chooses to uphold the appealed decision, the enforcement of sentence will be carried out in countries that have agreed to enforce ICC sentences.

The Court shall apply the following:

1. The Rome Statute
2. Elements of Crimes and its Rules of Procedure and Evidence
3. When appropriate, applicable treaties, and the principles and rules of international law.

At the hearing, the accused may:

- A. Challenge the evidence.
- B. Present new evidence.
- C. Object the charges.

VI. PROCEDURE

The trial will take place in the following manner: firstly, a motion to open the session will be required. Once this takes place, each judge will be asked by the chair to present a concise background of themselves; it must contain their full name, place of birth, previous cases worked and date in which they became a judge. Subsequently, the accused will be shown through a video that includes who they are and what they are accused of. Each session – case – will take place in a chronological order. In every session, two witnesses will bring forward their testimonies, whereas the judges make motions to call in the prosecutors and the defense. It is key to mention that one witness will be in favor of the prosecutor while the other the latter and that only the defense or prosecutor can object to the witnesses. Once the witness finishes their testimony, the judges are allowed to make questions, comments and follow-ups.

In order to reach conclusions, and decide the verdict of the accused, a Close Chamber will be in order. When a Close Chamber is called, the Prosecution, and the Defense are required to leave the room, and the judges will debate the evidence.

During the course of the final session, the accused will come and give their last testimony – judges are allowed to state comments or ask questions.

Ultimately, the Registry, the OTP and the accused will leave the room in order for the judges to vote on the fate of the subject – innocent or guilty –.

In regards to the sentence, judges can sentence the accused to up to 30 years of imprisonment, and only under particular circumstances may a life sentence be applicable.

VII. EVIDENCE

The evidence brought to Court must be carried out by a real person in the scene. If the evidence or research done by the judges takes place outside of the committee, the information is not admissible. In regards to witnesses, they can either come to the Court to present their testimony or dispatch a file to the Court. Meanwhile, the defendant has the right to information in a language they fully understand; which is why the ICC conducts their cases in multiple languages, having six official languages and a team of interpreters/translators at work.

Based on a revision rendered in 2008, the Appeals Chamber bestowed victims the right to lead evidence challenging the verdict and the admissibility or relevance of evidence. Still, the appropriateness of the victims' request is a subject to the judges' evaluation.

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