

Basics and Application of International Criminal Law

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In the face of complex and highly-publicized national and international trials, in addition to immense responses globally to blatant violations of international law from multiple countries in war along with other worldwide developments, it is one of the most efficient and productive things a person can do to stay informed and understand the law in order to promote justice and hold nations, individuals, and organizations accountable for their actions, not to mention helping form the basis for their stances and ideas on current issues. Let us first begin by building the basis for international criminal law in addition to winding in the U.S. and its complex relations to international legal entities, then transition into the applications relating to relatively current issues involving both the International Criminal Court and its relations to South American countries and their apparent violations of the law, in addition to actual warrants made for the world's leaders. If there is a question in your mind about why you should care or why this topic is even remotely relevant to you, simply remember that all of the decisions made by the world's leaders and governing organizations both directly and indirectly affect you.

To put it simply, international criminal law is a field of law that regulates crime across countries' boundaries. In addition, it governs commissions of serious crimes in a sovereign state for crimes including crimes against humanity, genocide, war crimes, or other similar violations. The field of law is both prosecuted and practiced within two tribunals: permanent and temporary (or ad-hoc). The permanent tribunal consists exclusively of the International Criminal Court. It investigates and prosecutes cases worldwide, although its jurisdiction is limited: only the countries that have accepted it are under its jurisdiction— and the United States is one of those countries that has not accepted its jurisdiction (which we will go into detail more about later). The second type of jurisdiction within international criminal law are the temporary tribunals. These have so-called “temporary mandates” and are dissolved after their objectives are complete. As per an example that falls within the temporary mandates category, the historical Military Tribunal of Nuremberg can be used; this tribunal both condemned and further prosecuted the German military and political leaders after the second World War. Briefly, and just as a simple clarifying point, you may have heard of the International Court of Justice and wondered what the difference is between it and the International Criminal Court. To put it simply (without much further explanation), the ICJ can only consider a question of whether a state has committed genocide, while the ICC has three other categories it may consider. On the other hand, the ICJ does have more member states and resolves more country disputes as opposed to the direct prosecution of an individual.

The United States has interesting relations with the International Criminal Court— they are long and historically quite interesting. In itself, there are 123 states apart of the Court, while the U.S., India, Indonesia, and China are not. Let us first take a look at the Rome Statute in itself, which was adopted by the United Nations General Assembly in 1998 and signed by 120 countries. This Statute adopted the International Criminal Court as a means of international justice and accountability, and was supported by Bill Clinton along with many other country leaders. As for the U.S. and its relations to the statue, in 2000, the Rome Statute was signed but it was later withdrawn in 2002. Bill Clinton was the president to initially sign the treaty, although that had no legal obligation, in 2000. He stated that before he sent it to the Senate for both advice and further ratification, he wanted the U.S. government to assess the Court’s functions. Clinton believed in the power of the court to hold human rights abuses to account in addition to maintaining discussions with other countries that were both productive and efficient. This course of action changed as George W. Bush’s administration came into play– the new president stated that the U.S. did not intend to ratify the Statute. Defense Secretary Donald Rumsfeld called attention to the Court and its potential faults, stating that, "a number of serious objections to the [International Criminal Court] - among them, the lack of adequate checks and balances on powers of the [Court's] prosecutor and judges; the dilution of the U.N. Security Council's authority over international criminal prosecutions; and the lack of any effective mechanism to prevent politicized prosecutions of American service members and officials." Stated simply, many opposed believed that the Court was unfair politically. Although we will not go further into different opinions of the ICC and contrasting support during different future presidencies, it is important to note the history of the United States in relation to the ICC, as it has implications for present and future policies and opinions.

Let us take the basic knowledge established about the International Criminal Court and apply it to current events involving countries accused of crimes against humanity: one of the four umbrellas that the ICC has jurisdiction over. Recently, a case involving the country of Venezuela has been brought to the attention of the world and publicized on media. Nicolás Maduro, the current president of the country, has been accused of crimes against humanity during his crackdown of protests nearly eight years ago. Although Venezuela is against this case and has stated that “nothing happened” and that this case is neither “necessary nor appropriate”, the ICC is still continuing this investigation at this time. Backlash including the apparent “manipulation” by the ICC has been cited; however, this case has provided a beacon of hope to victims and others affected by this.

Although less recent, a main example of another individual being prosecuted for a crime involves President Vladimir Putin of Russia. Just over a year ago in March of 2023, a warrant was issued of the arrest for Putin, relating to his own war crimes of both unlawful deportation and transfer of children from areas in Ukraine to Russia, which is contrary to article 8(2)(a)(vii) and article 8(2)(b)(viii) of the Rome Statute. Aside form the immense amount of both backlash

and support that this case and warrant caused, it in simple terms means that if Putin steps foot on the territory of one of the 124 member states of the ICC, he will be detained (alongside another individual, Maria Lvova-Belova who has been held responsible for the same crime yet we will not get into the details of).

Both of these examples of current (or semi-current) events, in addition to the U.S.'s stance on the International Criminal Court, hopefully bring questions to your mind about the role of the ICC in terms of what countries view and consider it as, in addition to the complexities of enforcement and the general processes by which these international systems run. The ICC's mission of bringing justice and prosperity to the world is powerful and, although there is debate surrounding it, the court has truly had a powerful impact on grave crimes that our world continuously faces.

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