

# INTERNATIONAL CRIMINAL COURT



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# HISTORY

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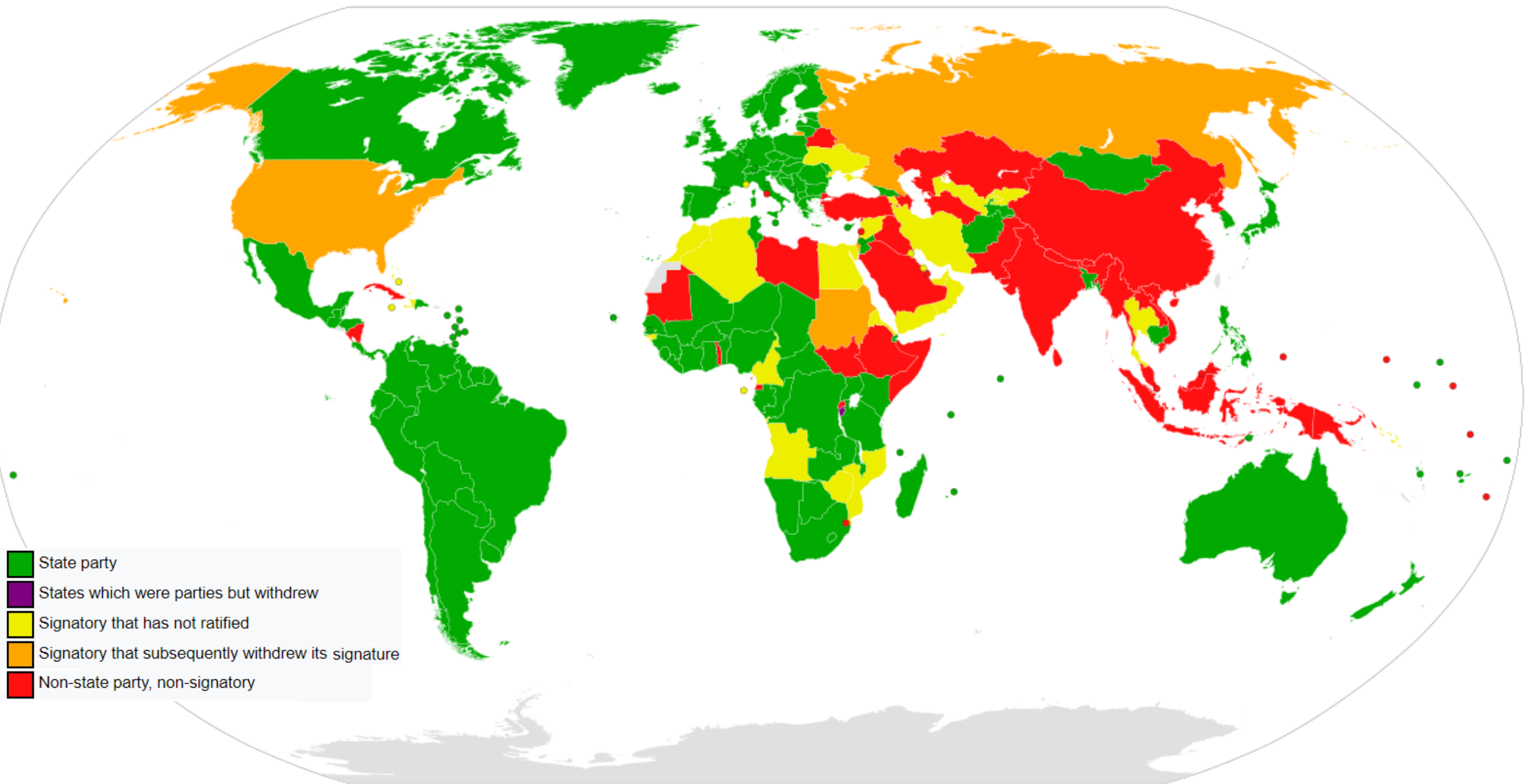
establishment of *ad hoc* international tribunals (e.g. the International Military Tribunal)

art. 6 of the Convention on the Prevention and Punishment of the Crime of Genocide (1948)

works of International Law Commission (1950s-1990s)

establishment of the Preparatory Committee on the Establishment of the ICC

the Rome conference and adoption of **THE ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT** (17 July 1998)



- State party
- States which were parties but withdrew
- Signatory that has not ratified
- Signatory that subsequently withdrew its signature
- Non-state party, non-signatory

# STRUCTURE

# STRUCTURE

PRESIDENCY

JUDICIAL  
DIVISIONS

(pre-trial, trial and appeal)

OFFICE OF THE  
PROSECUTOR

REGISTRY

# STRUCTURE

## PRESIDENCY

- composed of the President and the First and the Second Vice-presidents
- elected by absolute majority of judges for 3 years term (possible one re-election)
- functions:
  - conducts external relations with States,
  - coordinates judicial matters such as assigning judges, situations and cases to divisions,
  - oversees the Registry's administrative work.



Silvia Fernández de Gurmendi

# STRUCTURE

## JUDICIAL DIVISIONS

(pre-trial, trial and appeal)

- composed of the 18 judges for 9 year term (no possibility of re-election!)
- must be nationals of States Parties to the Rome Statute, and no two judges may be nationals of the same State
- must be *"persons of high moral character, impartiality and integrity who possess the qualifications required in their respective States for appointment to the highest judicial offices"*
- shall be independent in the performance of their functions



# STRUCTURE

## JUDICIAL DIVISIONS

(pre-trial, trial and appeal)

- **PRE-TRIAL DIVISION** - composed of the President and 4 other judges (proceeding is held in full chamber)
- **TRIAL DIVISION** – composed of not less than 6 judges (proceeding is held by a chamber of 3 judges)
- **APPEAL DIVISION** -composed of not less than 6 judges (proceeding is held by a chamber of 3 judges or a single judge)

# STRUCTURE

## OFFICE OF THE PROSECUTOR



Fatou Bensouda

- composed of approximately 380 staff members, headed by the Chief Prosecutor assisted by one or more Deputy Prosecutors (chosen for 9 years term)
- has to act independently (instructions from governments or other organizations are forbidden)
- responsible for examining situations under the jurisdiction of the Court appear to have been committed, and carrying out investigations and prosecutions against the individuals who are allegedly most responsible for those crimes.

# STRUCTURE

## THE CHIEF PROSECUTOR



Fatou Bensouda

The Prosecutor may open an investigation under three circumstances:

- 1) when a situation is referred to him or her by a State Party;
- 2) when a situation is referred to him or her by the United Nations Security Council, acting to address a threat to international peace and security; or
- 3) when the Pre-Trial Chamber authorises him or her to open an investigation on the basis of information received from other sources, such as individuals or non-governmental organisations.

# STRUCTURE

## REGISTRY



Herman von Hebel

- headed by Register chosen by judges for 5 years term
- functions:
  - judicial support e.g. general court management and court records, translation and interpretation, counsel support, legal aid, support for victims to participate in proceedings and apply for reparations;
  - external affairs;
  - management, including security, budget, finance, human resources and general services.

# JURISDICTION

# TYPES OF JURISDICTION

*ratione  
materiae*

*ratione  
personae*

*ratione loci*

*ratione  
temporis*

# SUBJECT-MATTER JURISDICTION

# SUBJECT-MATTER JURISDICTION

GENOCIDE

CRIMES  
AGAINST  
HUMANITY

WAR  
CRIMES

CRIMES OF  
AGRESSION



# SUBJECT MATTER JURISDICTION

## GENOCIDE (art. 6)

# SUBJECT MATTER JURISDICTION

## GENOCIDE (art. 6)

on the basis of the Convention on the Prevention and Punishment of the Crime of  
Genocide of 1948

# SUBJECT MATTER JURISDICTION

## GENOCIDE (art. 6)

any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- 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.

# SUBJECT MATTER JURISDICTION

## CRIMES AGAINST HUMANITY (art. 7)

# SUBJECT MATTER JURISDICTION

## CRIMES AGAINST HUMANITY (art. 7)

on the basis of:

- the Statute of the International Military Tribunal at Nuremberg
- the Statute of the International Criminal Tribunal for the former Yugoslavia
- the Statute of the International Criminal Tribunal for Rwanda

# SUBJECT MATTER JURISDICTION

## CRIMES AGAINST HUMANITY (art. 7)

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 as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court;
- 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.

# SUBJECT MATTER JURISDICTION

## WAR CRIMES (art. 8)

# SUBJECT MATTER JURISDICTION

## WAR CRIMES (art. 8)

on the basis of, inter alia:

- the Geneva Conventions (1949) with their additional protocols (1977)
  - on Wounded and Sick in Armed Forces in the Field
  - on Wounded, Sick and Shipwrecked of Armed Forces at Sea
  - on Prisoners of War
  - on Civilians
- the first Hague Convention concerning Expanding Bullets (1899)
- the second Hague Convention respecting the Laws and Customs of War on Land (1907)
- the Geneva Protocol for the Prohibition of the Use in War of chemical and biological weapons (1925)



# SUBJECT MATTER JURISDICTION

## WAR CRIMES (art. 8)

### INTERNATIONAL ARMED CONFLICT

- grave breaches of 1949 Geneva conventions
- other serious violations of laws and customs

### INTERNAL ARMED CONFLICT

- serious violations of Common Article 3
- other serious violations of laws and customs

# SUBJECT MATTER JURISDICTION

## WAR CRIMES

### Int' - GRAVE BREACHES OF 1949 GENEVA CONVENTIONS (art. 8.2 (a) )

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

# SUBJECT MATTER JURISDICTION

## WAR CRIMES

Int' - OTHER SERIOUS VIOLATIONS OF LAWS AND CUSTOMS (art. 8.2 (b) )

about 26 acts written in the Rome Statute, e.g.:

- intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;
- intentionally directing attacks against civilian objects, that is, objects which are not military objectives;
- killing or wounding treacherously individuals belonging to the hostile nation or army;
- declaring that no quarter will be given;
- destroying or seizing the enemy's property unless such destruction or seizure be imperatively demanded by the necessities of war;

# SUBJECT MATTER JURISDICTION

## WAR CRIMES

Int' - OTHER SERIOUS VIOLATIONS OF LAWS AND CUSTOMS (art. 8.2 (b) )

about 26 acts written in the Rome Statute, e.g.:

- pillaging a town or place, even when taken by assault;
- employing poison or poisoned weapons;
- employing asphyxiating, poisonous or other gases, and all analogous liquids, materials or devices;
- committing outrages upon personal dignity, in particular humiliating and degrading treatment;
- utilizing the presence of a civilian or other protected person to render certain points, areas or military forces immune from military operations;
- conscripting or enlisting children under the age of fifteen years into the national armed forces or using them to participate actively in hostilities.

# SUBJECT MATTER JURISDICTION

## WAR CRIMES

### non Int' - SERIOUS VIOLATIONS OF COMMON ARTICLE 3 (art. 8.2 (c) )

- violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
- committing outrages upon personal dignity, in particular humiliating and degrading treatment;
- taking of hostages;
- the passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court, affording all judicial guarantees which are generally recognized as indispensable.

# SUBJECT MATTER JURISDICTION

## WAR CRIMES

non Int' - OTHER SERIOUS VIOLATIONS OF LAWS AND CUSTOMS (art. 8.2 (d) )

about 15 acts written in the Rome Statute, e.g.:

- intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;
- pillaging a town or place, even when taken by assault;
- killing or wounding treacherously a combatant adversary;
- employing poison or poisoned weapons;
- employing bullets which expand or flatten easily in the human body, such as bullets with a hard envelope which does not entirely cover the core or is pierced with incisions.

# SUBJECT MATTER JURISDICTION

## CRIMES OF AGRESSION (art. 8 *bis*)

# SUBJECT MATTER JURISDICTION

## CRIMES OF AGGRESSION (art. 8 *bis*)

**The Rome Statute of the International Criminal Court included aggression as an atrocity crime -Cf. Rome Statute art. 5(2)**

*The Court shall exercise jurisdiction over the crime of aggression once a provision is adopted in accordance with articles 121 and 123 defining the crime and setting out the conditions under which the Court shall exercise jurisdiction with respect to this crime. Such a provision shall be consistent with the relevant provisions of the Charter of the United Nations.*

**The Kampala Conference, 2010 passed an amendment defining aggression**



# SUBJECT MATTER JURISDICTION

## CRIMES OF AGGRESSION (art. 8 *bis*)

the planning, preparation, initiation or execution, by a person in a position effectively to exercise control over or to direct the political or military action of a State, of an act of aggression which, by its character, gravity and scale, constitutes a manifest violation of the Charter of the United Nations

the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations.

(reference to the United Nations General Assembly resolution 3314 (XXIX) of 14 December 1974)

# SUBJECT MATTER JURISDICTION

## CRIMES OF AGGRESSION (art. 8 *bis*)

- invading another State;
- bombing another State;
- blockading the ports or coastlines of another State;
- attacking the land, sea, or air forces, or marine or sea fleets of another State;
- violating a status of forces agreement;
- using armed bands, groups, irregulars or mercenaries against another State;
- allowing territory to be used by another State to perpetrate an act of aggression against a third State

# PERSONAL JURISDICTION

# PERSONAL JURISDICTION (art. 12)

all natural persons who commit crimes, regardless of where they are located or where the crimes were committed, as long as those individuals are nationals of either

State that is party to  
the Rome Statute

State that has accepted  
the Court's jurisdiction  
by filing a declaration  
with the Court

# TERRITORAL JURISDICTION

# TERRITORIAL JURISDICTION (art. 12)

covers territory, registered vessels, and registered aircraft of states which have either

is a party to the Rome Statute

accepted the Court's jurisdiction by filing a declaration with the Court

# TEMPORAL JURISDICTION

# TEMPORAL JURISDICTION (art. 11)

- only with respect to crimes **committed after the entry into force of this Statute**
- if a State becomes a Party to this Statute after its entry into force, the Court may exercise its jurisdiction only with respect to crimes committed after the entry into force of this Statute for that State, unless that State has made a proper declaration



# PROCEEDINGS

# PROCEEDINGS

Preliminary examinations



Investigations



Pre-Trial stage



Trial stage



Appeals stage



Enforcement of sentence

LESX

