

SRMUN Charlotte 2015
Preserving Fundamental Human Rights:
Our Responsibility to Protect
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Addendum to the International Criminal Court

The simulation of the International Criminal Court (ICC) offers delegates a truly unique and dynamic experience, unlike any other committee. The ICC is a small, intimate committee that will require a high level of preparation and engagement from every participant, regardless of the role assigned. In order to deliver this unique experience at SRMUN, the structure of the Court will operate differently than any other committee at SRMUN. One of the primary differences of the ICC from the other committees represented at SRMUN is the potential for delegates to serve in multiple roles which change with each new case presented before the Court.

For the purposes of this simulation, participants of the ICC shall adhere to all expectations outlined in this *Addendum* as well as the *SRMUN ICC Rules of Procedure and Evidence*. Any rules of decorum not specified by the *SRMUN ICC Rules of Procedure and Evidence* will fall under the auspices of the general *SRMUN Rules of Procedure*; however, the *SRMUN ICC Rules of Procedure and Evidence* shall take precedence for the duration of the simulation.

Roles of Participants within the ICC

Brief Overview:

The ICC will be comprised of a maximum total of nine delegates (with a minimum of six) who must debate two cases. There are four roles within the ICC: *Prosecutor*, *Defense Counsel*, *Victim's Advocate*, and *Judge*.

Assuming the committee has a total of nine participants, each participant of the Court will serve as Judge for at *least* one case; however, three participants will serve as Judge for *both* cases. The remaining six participants will alternate the role of Judge with either the role of Prosecutor, Defense Counsel, or Victim's Advocate for one of the two cases.

Those acting as Judges will listen to and question the arguments presented by the Prosecutor, Defense Counsel, and Victim's Advocate and will deliberate on the Opinions of the Court. Judges should represent their own legal mind as residents of their Member State but should *NOT* represent the interests of their government. The other roles of the Court will similarly represent the professional individuals assigned to the case, not a government entity.

Prosecutor:

The role of Prosecutor will be assigned based on applicant qualifications; two Prosecutors will be selected, one Prosecutor for each of the two cases. Throughout the duration of the simulation, the Prosecutor will present arguments, offer evidence, and answer questions in order to establish the criminality of the accused. **The Prosecutor will be responsible for preparing opening and closing statements, as well as presenting all evidence against the accused.** Prosecutors must be able to apply relevant international law to the facts of the case. Prior to the conference, Prosecutors must submit an indictment in place of a position paper.

Defense Counsel:

The role of Defense Counsel will be assigned based on applicant qualifications; two Defense Counsels will be selected, one Defense Counsel for each of the two cases. Throughout the duration of the simulation, **the Defense Counsel will present arguments, offer evidence, and answer questions in order to defend the accused against the criminal accusations presented before the Court. The Defense Counsel will also be responsible for preparing opening and closing statements, as well as presenting all evidence to defend the accused.** Defense Counsels must be able to apply relevant international law to the facts of the case. Prior to the conference, Defense Counsels must submit a legal brief in place of a position paper.

Victim's Advocate:

The role of Victim's Advocate will be assigned based on applicant qualifications; two Victim's Advocates will be selected, one Advocate for each of the two cases. **Victim's Advocates will act as the legal representative of their clients, rather than acting as the actual victim(s). Throughout the duration of the simulation, the Victim's Advocate will present arguments, offer evidence, and answer questions in order to establish that his/her client(s) has succumbed to damage, loss, or injury at the hands of the accused.** It is vital that arguments presented by the Victim's Advocate do not impede upon the rights of the accused to a fair and impartial trial. Prior to the conference, Victim's Advocates must submit a legal brief in place of a position paper.

Judge:

The role of Judge will be assigned based on applicant qualifications. Each of the nine participants of the Court will act as Judge for at least one case; three participants will act as Judge for both cases. **Judges will hear the arguments and evidence presented before them and will deliberate each case to reach a decision.** Whereas the Trial Chambers of the ICC normally sit only three Judges, SRMUN Charlotte will simulate the ICC with six Judges presiding over each case and will draft opinions following their deliberations. Judges must approach each case objectively and remain impartial to the arguments presented by all members of the Court. Throughout the duration of the simulation, Judges of the Court are required to ensure that their opinions, questions, and eventual judgments pertaining to both cases are given without bias towards the interests of any state or entity - even the state in which the Judge resides. The three participants *assigned to be a judge for both cases* will submit preliminary opinions for both cases in place of a position paper.

Position Papers for the ICC

The International Criminal Court is a court that brings cases against individuals for crimes against humanity, genocide, and/or war crimes. In this simulation, the outcome of each case will be based on how well the facts of the case are presented and how well the *Rome Statute* is interpreted within arguments. Thus, it is critical that delegates thoroughly prepare the statement of facts and the application of criminal law within their position papers. Please take the time to research and present these sections in a concise and effective manner, as position papers should be detailed and informative. **The formatting for position papers should abide by the established SRMUN guidelines; however, participants of the ICC have the option to submit position papers up to four pages. Position papers should not exceed four pages.** Please note, evidence, witness list, and witness questions do not count towards the four page limitation, but will be submitted in addition to position papers.

All ICC position papers MUST be emailed by Wednesday, 1 April 2015 at 11:59 p.m. EST to icc_charlotte@srmun.org.

In order to properly prepare for the simulation, each member of the Court will produce a position paper based on their assigned roles. All members are encouraged to develop their arguments and present their evidence by incorporating details of the *Rome Statute* and the *Elements of Crimes*. Excerpts of the *Rome Statute* relevant to the crimes charged in this year's cases may be located in the final topic of this addendum.

The entire *Rome Statute* is available online [here](#).

The ICC's *Elements of Crimes* is available online [here](#).

Due to the varying nature of each role within the Court, there will be three different types of position papers accepted for the ICC: *Preliminary Opinions*, *Indictments*, and *Legal Briefs*. Delegates that are assigned to serve as a Judge for *both* cases will write Preliminary Opinions (one page for each case). Delegates that are assigned to serve as Prosecutors will write Indictments for their designated cases (Prosecutors do not have to write Preliminary Opinions for the alternate case in which they will serve as a Judge). Delegates assigned to serve as the Defense Counsel and the Victim's Advocate will submit Legal Briefs for their designated cases (the Defense Counsel and Victim's Advocates do not have to write Preliminary Opinions for the alternate case in which they will serve as Judges). For example, a delegate assigned to serve as the Defense Counsel for case I and a Judge for case II will solely submit a Legal Brief for case I. Remember, each position paper may not exceed two pages.

*Please note this setup is based on the maximum capacity of nine participants with six members alternating roles between the two cases.

Preliminary Opinions:

Only delegates that are assigned to serve as Judges for *BOTH* cases will submit Preliminary Opinions as their position paper. Preliminary Opinions should be written on both cases before the Court and should reflect the opinions of the Judge based on their assessment of the research, not of any Member State. Preliminary Opinions should clearly state the facts of the case and any application of the Rome Statute or the ICC's Elements of Crime. The purpose of the Preliminary Opinion is to familiarize the Judge with the details of the case so that he/she may approach arguments with an objective view of the facts. Judges must draft the Preliminary Opinions with absolute objectivity while assessing the facts of the case.

Indictments and Legal Briefs:

Prosecutors will submit Indictments only. The Defense Counsel and Victim's Advocates will submit Legal Briefs only. Indictments and Legal Briefs should detail the arguments/positions for each side by including valid evidence and the application of international law. It is critical that Indictments and Legal Briefs are factual, well organized, and comprehensively address all charges against the accused. Delegates should incorporate aspects of the Rome Statute and the ICC's Elements of Crime in developing their arguments and should also prepare for any potential counter argument. Indictments and Legal Briefs may not impede upon the rights of the accused to a fair and impartial trial and must utilize the facts of the case in accordance to the law.

While each member of the Court will submit position papers based on their selected role, the structure should similarly include the following sections: the statement of facts, the application of criminal law, and the request of the Court. Each section should reflect the language and tone relevant to the delegate's assigned role of the Court.

1. ***Statement of Facts:*** This section should detail the facts of the case. Delegates should identify what the facts are for the case as well as the possible legal standards that should be applied. It should be presented in a manner that looks most favorably on your argument/position. However, for Judges, it should be written with objectivity and reflect on the preliminary findings of fact and law, rather than on actual positions of the case.
2. ***Application of Criminal Law:*** This section should provide the provisions of the *Rome Statute* that are applicable to the case at hand. In this section, arguments should be outlined to include the precedents that inform the applicable provisions and their interpretation that is most favorable to the argument. Each crime has several elements, all of which must be proven to convict. A well-written prosecution indictment will lay out the elements of each crime charged and use the facts of the case to prove that the elements have been satisfied. A well-written defense brief will also lay out the elements of each crime charged, but will use the facts of the case to disprove any element in accordance with international law. The key is to do what any proficient criminal lawyer does—apply the facts of the case to the elements of the law. In interpreting the law, consult the ICC's *Elements of Crimes*. A strong application should also provide counter arguments to the anticipated arguments from the opposing side. Victim's Advocates should specifically prove damages, loss, or injury at the hands of the accused in accordance with international law. Judges should remain unbiased, by simply laying out the elements of the crimes that must be presented in order to make a judgment. **Members of the Court should include the primary evidence of their argument in this section of the position paper; however, any evidence not included in the position paper that is intended to be brought before the Court must be submitted, in addition to the position paper, by 1 April via email submission to icc_charlotte@srmun.org.**
3. ***Request of the Court:*** This section should outline the specific requests of the Court: a conviction or acquittal. Victims' Representatives will be expected to provide specific details of their request for reparations in the case of a conviction. Rather than writing a specific request, judges should just provide their expectations of the court of each member and explain how they will formulate their final decision.

Format specifications, citations, and plagiarism guidelines should follow the [SRMUN Position Paper Guidelines](#).

* Please note, position papers and evidence will be shared to all members of the Court, excluding the Judges of the relevant case, prior to the conference.

Overview of Simulation:

***** Please note, for the purposes of the simulation at SRMUN Charlotte, the ICC will be conducted within the auspices of the Trial Chambers.** It is to be assumed that the jurisdiction of both cases before the Court have been confirmed within the Pre-Trial Chamber. **It is also important to note that neither the characters of the accused will be present during the simulation and will solely be represented by the Defense Counsel.**

The dais of the ICC will be comprised of the Director of the committee, who will act as the Presiding Judge of the ICC, with the assistance of the Assistant Director, or Registrar. The Presiding Judge and Registrar will facilitate the flow of the Court docket and will maintain order throughout the simulation. For the purposes of this simulation, the Presiding Judge and Registrar will discharge all judicial functions unless insisted upon by the majority of the Court.

Delegates must be keenly aware that time limits have been set in order to procure efficient debate and adjudication. The timeliness of each segment must be respected and upheld in order to allow ample time for each member of the Court to present their necessary arguments and to permit the opportunity for Judges to deliberate such materials thoroughly.

I. Convening of the Court:

All members of the Court must be present during the first session of the simulation. The Presiding Judge will declare the Court in session after the following sequence:

- Introduction to the session;
- Administration of Oath;
- Establish the docket;
- Open the first case.

II. Opening Statements: (Maximum time of 20 minutes for Prosecutor/Defense Counsel/Victim's Advocate)

Each member of the Court will be allotted a maximum time of 20 minutes for opening statements with no possibility for extension. The Prosecutor will deliver the first opening statements followed by the Victims' Advocate and the Defense Counsel. Opening statements should present the facts of the case and an overview of the evidence to be expanded upon during the presentation of the case. Delegates should include the application of relevant law and incorporate the Rome Statute and the Elements of Crimes. Opening statements set the tone for the Court proceedings; however, delegates are expected to carry themselves with respect and professionalism. Delegates are welcome to have prepared notes at the time of presentation but are encouraged to be well rehearsed prior to the conference. It is warranted to entertain a motion for a suspension of the meeting if so ruled by a majority vote at any time before or after an opening statement. No motions will be accepted during any formal presentation of opening statements.

III. Presentation of Arguments: (Maximum time of 45 minutes for Prosecutor/Defense Counsel/Victim's Advocate)

Each member of the Court will be allotted a maximum time of 45 minutes to present their arguments with the possibility of a 15 minute extension at the request of a member of the Court. The Prosecutor will present the first arguments followed by the Victims' Advocate and the Defense Counsel. Presentations should elaborate in detail the arguments presented in the opening statements as well as closely mirror the position papers submitted prior to the conference. During the presentation of the case, all parties should present the conclusions drawn from legal and relevant evidence to the case. *****All evidence to be presented before the Court *MUST* be included with the submission of the delegate's position paper or be previously approved by the Directors General prior to the conference. Position Papers and evidence submissions should be emailed to icc_charlotte@srmun.org by Wednesday, 1 April 2015 by 11:59pm. All evidence will be physically printed by conference staff in order to present before the Court prior to the opening statements of the case,** Delegates are welcome to have prepared notes at the time of presentation but are encouraged to be well rehearsed prior to the conference. It is warranted to entertain a motion for a suspension of the meeting if so ruled by a majority vote at any time before or after a presentation of arguments. No motions will be accepted during any formal presentation of opening statements except for extension.

During the Presentation of Arguments, the Prosecutor, Defense Counsel, and Victims' Advocate may be permitted to call up to three witnesses to be questioned before the Court. Members of the Court will be provided with a list of witnesses pre-approved by the Presiding Judge and the Director's General that they will be allowed to choose from. **Only witnesses included on the provided list will be permitted before the Court. Members of the Court will also draft a list of questions that they intend to ask each witness that must be submitted to the Presiding Judge and the Director's General at the same time all evidence is submitted on Wednesday, 1 April 2015.** During examinations, members of the Court must adhere to the questions that were submitted and preapproved by the Presiding Judge and Director's General. Please refer to rule 20 of the ICC Rules of Procedure for further information.

IV. Deliberations:

The first phase of deliberations will take place following the presentation of arguments. Once the Court has entered into deliberations, it will be conducted in closed session without the presence of the Prosecutor, Defense Counsel, or Victims' Advocate. Deliberations do not have a set time limit but can be limited by the Presiding Judge if necessary. Deliberations are meant to allow Judges the opportunity to review all materials before the Court including Indictments and Legal Briefs. During this time, Judges should discuss any areas of concern and compile a list of questions to be asked of the Prosecutor, Defense Counsel, and/or Victims' Advocate. Judges should consider all evidence and arguments provided during the presentations of the case in order to proceed towards a final decision.

V. Questioning of Arguments: (Maximum time of 60 minutes)

Once the Judges have concluded their first session of deliberations, the Prosecutor, Defense Counsel, and Victim's Advocate will be asked to re-enter the Court for a 60 minute period of questioning. The time allotted for the questioning of arguments will be equally divided between all Judges with the possibility of a 15 minute extension at the request of a member of the Court. The Presiding Judge and Registrar will facilitate the questioning session and maintain order of the Court. Judges will utilize their given time to ask specific questions in order to clarify any facts of the case or rules of law. Judges will direct their questions individually to the Prosecutor, Defense Counsel, or Victim's Advocate, who will then answer the question immediately. The time limit to the responses will be decided upon by the Court and may be restricted by the Presiding Judge if necessary.

VI. Closing Arguments: (Maximum time of 30 minutes for Prosecutor/Defense Counsel/Victim's Advocate)

Each member of the Court will be allotted a maximum time of 30 minutes to present their closing statements with the possibility of a 10 minute extension at the request of a member of the Court. The Prosecutor will present the first closing statements followed by the Victims' Advocate and the Defense Counsel. Closing statements provide the members of the Court the opportunity to present any rebuttal to arguments previously made. Delegates should conclude with a summary of their evidence and all legal conclusions.

Once each side has provided its closing remarks, the Prosecutor, Defense Counsel, and Victims' Advocate will present *ALL* evidence to the Judges for examination during deliberations. The Presiding Judge will then close the open session and proceed to deliberations.

VII. Deliberations:

At the conclusion of closing arguments, the Court will once again enter into closed session and the Prosecutor, Defense Counsel, and Victims' Advocates will be vacated in order for the Judges to enter further deliberations. The second phase of deliberations does not have a time limit but will be conducted in 20 minute intervals until the Judges have reached a final decision. Judges must consider all materials presented before the Court and should work together to understand each Judges' opinions in attempt to achieve unanimity in their final decision. Once opinions have been formulated, the Judges will begin drafting necessary judgments or opinions on each count contained in the indictment against the accused. The Court will decide upon each indictment by means of a majority vote to determine if guilt has been proven beyond reasonable doubt. If the accused is found guilty, the Judges must decide what penalty will be imposed and determine if any reparations are necessary. A

Judge may decide to draft an opinion if he/she disagrees with the judgment adopted by the majority of the Court. All opinions must be submitted to the Presiding Judge in proper format.

VIII. Judgment:

Once deliberations have concluded and all judgments and opinions have been adopted/submitted to the Presiding Judge, the Prosecutor, Defense Counsel, and Victims' Advocate will be informed and asked to reappear before the Court. The Presiding Judge will read the final verdict aloud to the Court. Once the judgment has been read, each Judge will sign the order of the Court and it will become binding on the accused. At this point, it is warranted to entertain a motion for a suspension of the meeting, if so desired by the Court, in order to allow the participants of the next case to briefly prepare their opening statements before reconvening on the next case.

FOR YOUR REFERENCE

Excerpts of the Rome Statute for the ICC Trial-Chamber

Article 7—Crimes against humanity

1. 'Crimes against humanity includes 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.
2. For the purpose of paragraph 1:
 - (a) 'Attack directed against any civilian population' means a course of conduct involving the multiple commission of acts referred to in paragraph 1 against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack;
 - (b) 'Extermination' includes the intentional infliction of conditions of life, inter alia the deprivation of access to food and medicine, calculated to bring about the destruction of part of a population; 'Enslavement' means the exercise of any or all of the powers attaching to the right of ownership over a person and includes the exercise of such power in the course of trafficking in persons, in particular women and children;
 - (c) 'Deportation or forcible transfer of population' means forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law;
 - (d) 'Torture' means the intentional infliction of severe pain or suffering, whether physical or mental, upon a person in the custody or under the control of the accused; except that torture shall not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions;
 - (e) 'Forced pregnancy' means the unlawful confinement of a woman forcibly made pregnant, with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law. This definition shall not in any way be interpreted as affecting national laws relating to pregnancy;

- (f) 'Persecution' means the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity;
 - (g) 'The crime of apartheid' means inhumane acts of a character similar to those referred to in paragraph 1, committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime;
 - (h) 'Enforced disappearance of persons' means the arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time.
3. For the purpose of this Statute, it is understood that the term 'gender' refers to the two sexes, male and female, within the context of society Article 55 of the Rome Statute ensures that the rights of individuals are protected throughout the ICC Prosecutor's investigations.

Article 8—War crimes

1. The Court shall have jurisdiction in respect of war crimes in particular when committed as part of a plan or policy or as part of a large-scale commission of such crimes.
2. For the purpose of this Statute, 'war crimes' means:
 - (a) Grave breaches of the Geneva Conventions of 12 August 1949, namely, any of the following acts against persons or property protected under the provisions of the relevant Geneva Convention:
 - (i) Wilful killing;
 - (ii) Torture or inhuman treatment, including biological experiments;
 - (iii) Wilfully causing great suffering, or serious injury to body or health;
 - (iv) Extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly;
 - (v) Compelling a prisoner of war or other protected person to serve in the forces of a hostile Power;
 - (vi) Wilfully depriving a prisoner of war or other protected person of the rights of fair and regular trial;
 - (vii) Unlawful deportation or transfer or unlawful confinement;
 - (viii) Taking of hostages.
 - (b) Other serious violations of the laws and customs applicable in international armed conflict, within the established framework of international law, namely, any of the following acts:
 - (i) Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;
 - (ii) Intentionally directing attacks against civilian objects, that is, objects which are not military objectives;
 - (iii) Intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict;
 - (iv) Intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated;
 - (v) Attacking or bombarding, by whatever means, towns, villages, dwellings or buildings which are undefended and which are not military objectives;
 - (vi) Killing or wounding a combatant who, having laid down his arms or having no longer means of defence, has surrendered at discretion;
 - (vii) Making improper use of a flag of truce, of the flag or of the military insignia and uniform of the enemy or of the United Nations, as well as of the distinctive emblems of the Geneva Conventions, resulting in death or serious personal injury;

- (viii) The transfer, directly or indirectly, by the Occupying Power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory;
 - (ix) Intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives;
 - (x) Subjecting persons who are in the power of an adverse party to physical mutilation or to medical or scientific experiments of any kind which are neither justified by the medical, dental or hospital treatment of the person concerned nor carried out in his or her interest, and which cause death to or seriously endanger the health of such person or persons;
 - (xi) Killing or wounding treacherously individuals belonging to the hostile nation or army;
 - (xii) Declaring that no quarter will be given;
 - (xiii) Destroying or seizing the enemy's property unless such destruction or seizure be imperatively demanded by the necessities of war;
 - (xiv) Declaring abolished, suspended or inadmissible in a court of law the rights and actions of the nationals of the hostile party;
 - (xv) Compelling the nationals of the hostile party to take part in the operations of war directed against their own country, even if they were in the belligerent's service before the commencement of the war;
 - (xvi) Pillaging a town or place, even when taken by assault;
 - (xvii) Employing poison or poisoned weapons;
 - (xviii) Employing asphyxiating, poisonous or other gases, and all analogous liquids, materials or devices;
 - (xix) 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;
 - (xx) Employing weapons, projectiles and material and methods of warfare which are of a nature to cause superfluous injury or unnecessary suffering or which are inherently indiscriminate in violation of the international law of armed conflict, provided that such weapons, projectiles and material and methods of warfare are the subject of a comprehensive prohibition and are included in an annex to this Statute, by an amendment in accordance with the relevant provisions set forth in articles 121 and 123;
 - (xxi) Committing outrages upon personal dignity, in particular humiliating and degrading treatment;
 - (xxii) Committing rape, sexual slavery, enforced prostitution, forced pregnancy, as defined in article 7, paragraph 2 (f), enforced sterilization, or any other form of sexual violence also constituting a grave breach of the Geneva Conventions;
 - (xxiii) Utilizing the presence of a civilian or other protected person to render certain points, areas or military forces immune from military operations;
 - (xxiv) Intentionally directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law;
 - (xxv) Intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including wilfully impeding relief supplies as provided for under the Geneva Conventions;
 - (xxvi) Conscripting or enlisting children under the age of fifteen years into the national armed forces or using them to participate actively in hostilities.
- (c) In the case of an armed conflict not of an international character, serious violations of article 3 common to the four Geneva Conventions of 12 August 1949, namely, any of the following acts committed against persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention or any other cause:
- (i) Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
 - (ii) Committing outrages upon personal dignity, in particular humiliating and degrading treatment;
 - (iii) Taking of hostages;

- (iv) 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.
- (d) Paragraph 2 (c) applies to armed conflicts not of an international character and thus does not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence or other acts of a similar nature.
- (e) Other serious violations of the laws and customs applicable in armed conflicts not of an international character, within the established framework of international law, namely, any of the following acts:
 - (i) Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;
 - (ii) Intentionally directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law;
 - (iii) Intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict;
 - (iv) Intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives;
 - (v) Pillaging a town or place, even when taken by assault;
 - (vi) Committing rape, sexual slavery, enforced prostitution, forced pregnancy, as defined in article 7, paragraph 2 (f), enforced sterilization, and any other form of sexual violence also constituting a serious violation of article 3 common to the four Geneva Conventions;
 - (vii) Conscripting or enlisting children under the age of fifteen years into armed forces or groups or using them to participate actively in hostilities;
 - (viii) Ordering the displacement of the civilian population for reasons related to the conflict, unless the security of the civilians involved or imperative military reasons so demand;
 - (ix) Killing or wounding treacherously a combatant adversary;
 - (x) Declaring that no quarter will be given;
 - (xi) Subjecting persons who are in the power of another party to the conflict to physical mutilation or to medical or scientific experiments of any kind which are neither justified by the medical, dental or hospital treatment of the person concerned nor carried out in his or her interest, and which cause death to or seriously endanger the health of such person or persons;
 - (xii) Destroying or seizing the property of an adversary unless such destruction or seizure be imperatively demanded by the necessities of the conflict;
 - (xiii) Paragraph 2 (e) applies to armed conflicts not of an international character and thus does not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence or other acts of a similar nature. It applies to armed conflicts that take place in the territory of a State when there is protracted armed conflict between governmental authorities and organized armed groups or between such groups.
- (f) Nothing in paragraph 2 (c) and (e) shall affect the responsibility of a Government to maintain or re-establish law and order in the State or to defend the unity and territorial integrity of the State, by all legitimate means.

Article 9—Elements of Crimes

1. Elements of Crimes shall assist the Court in the interpretation and application of articles 6, 7 and 8. They shall be adopted by a two-thirds majority of the members of the Assembly of States Parties.
2. Amendments to the Elements of Crimes may be proposed by:
 - (a) Any State Party;
 - (b) The judges acting by an absolute majority;

- (c) The Prosecutor.

Such amendments shall be adopted by a two-thirds majority of the members of the Assembly of States Parties.

3. The Elements of Crimes and amendments thereto shall be consistent with this Statute.

Article 10

Nothing in this Part shall be interpreted as limiting or prejudicing in any way existing or developing rules of international law for purposes other than this Statute.

Article 13—Exercise of Jurisdiction

1. The Court may exercise its jurisdiction with respect to a crime referred to in article 5 in accordance with the provisions of this Statute if:
 - (a) A situation in which one or more of such crimes appears to have been committed is referred to the Prosecutor by a State Party in accordance with article 14;
 - (b) A situation in which one or more of such crimes appears to have been committed is referred to the Prosecutor by the Security Council acting under Chapter VII of the Charter of the United Nations; or
 - (c) The Prosecutor has initiated an investigation in respect of such a crime in accordance with article 15.

Article 21—Applicable Law

1. The Court shall apply:
 - (a) In the first place, this Statute, Elements of Crimes and its Rules of Procedure and Evidence;
 - (b) In the second place, where appropriate, applicable treaties and the principles and rules of international law, including the established principles of the international law of armed conflict;
 - (c) Failing that, general principles of law derived by the Court from national laws of legal systems of the world including, as appropriate, the national laws of States that would normally exercise jurisdiction over the crime, provided that those principles are not inconsistent with this Statute and with international law and internationally recognized norms and standards.
2. The Court may apply principles and rules of law as interpreted in its previous decisions.
3. The application and interpretation of law pursuant to this article must be consistent with internationally recognized human rights, and be without any adverse distinction founded on grounds such as gender as defined in article 7, paragraph 3, age, race, colour, language, religion or belief, political or other opinion, national, ethnic or social origin, wealth, birth or other status.

Article 22—Nullum crimen sine lege

1. A person shall not be criminally responsible under this Statute unless the conduct in question constitutes, at the time it takes place, a crime within the jurisdiction of the Court.
2. The definition of a crime shall be strictly construed and shall not be extended by analogy. In case of ambiguity, the definition shall be interpreted in favour of the person being investigated, prosecuted or convicted.
3. This article shall not affect the characterization of any conduct as criminal under international law independently of this Statute.

Article 23—Nulla poena sine lege

A person convicted by the Court may be punished only in accordance with this Statute.

Article 25—Individual criminal responsibility

1. The Court shall have jurisdiction over natural persons pursuant to this Statute.
2. A person who commits a crime within the jurisdiction of the Court shall be individually responsible and liable for punishment in accordance with this Statute.
3. In accordance with this Statute, a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Court if that person:
 - (a) Commits such a crime, whether as an individual, jointly with another or through another person, regardless of whether that other person is criminally responsible;
 - (b) Orders, solicits or induces the commission of such a crime which in fact occurs or is attempted;
 - (c) For the purpose of facilitating the commission of such a crime, aids, abets or otherwise assists in its commission or its attempted commission, including providing the means for its commission;
 - (d) In any other way contributes to the commission or attempted commission of such a crime by a group of persons acting with a common purpose. Such contribution shall be intentional and shall either:
 - (i) Be made with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of a crime within the jurisdiction of the Court; or
 - (ii) Be made in the knowledge of the intention of the group to commit the crime;
 - (e) In respect of the crime of genocide, directly and publicly incites others to commit genocide;
 - (f) Attempts to commit such a crime by taking action that commences its execution by means of a substantial step, but the crime does not occur because of circumstances independent of the person's intentions. However, a person who abandons the effort to commit the crime or otherwise prevents the completion of the crime shall not be liable for punishment under this Statute for the attempt to commit that crime if that person completely and voluntarily gave up the criminal purpose.
4. No provision in this Statute relating to individual criminal responsibility shall affect the responsibility of States under international law.

Article 28—Responsibility of commanders and other superiors

In addition to other grounds of criminal responsibility under this Statute for crimes within the jurisdiction of the Court:

- (a) A military commander or person effectively acting as a military commander shall be criminally responsible for crimes within the jurisdiction of the Court committed by forces under his or her effective command and control, or effective authority and control as the case may be, as a result of his or her failure to exercise control properly over such forces, where
 - (i) That military commander or person either knew or, owing to the circumstances at the time, should have known that the forces were committing or about to commit such crimes; and
 - (ii) That military commander or person failed to take all necessary and reasonable measures within his or her power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.
- (b) With respect to superior and subordinate relationships not described in paragraph (a), a superior shall be criminally responsible for crimes within the jurisdiction of the Court committed by subordinates under his or her effective authority and control, as a result of his or her failure to exercise control properly over such subordinates, where:
 - (i) The superior either knew, or consciously disregarded information which clearly indicated, that the subordinates were committing or about to commit such crimes;
 - (ii) The crimes concerned activities that were within the effective responsibility and control of the superior; and
 - (iii) The superior failed to take all necessary and reasonable measures within his or her power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.

Article 29—Non-applicability of statute of limitations

The crimes within the jurisdiction of the Court shall not be subject to any statute of limitations.

Article 30—Mental element

1. Unless otherwise provided, a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Court only if the material elements are committed with intent and knowledge.
2. For the purposes of this article, a person has intent where:
 - (a) In relation to conduct, that person means to engage in the conduct;
 - (b) In relation to a consequence, that person means to cause that consequence or is aware that it will occur in the ordinary course of events.
3. For the purposes of this article, ‘knowledge’ means awareness that a circumstance exists or a consequence will occur in the ordinary course of events. ‘Know’ and ‘knowingly’ shall be construed accordingly.

Article 31—Grounds for excluding criminal responsibility

1. In addition to other grounds for excluding criminal responsibility provided for in this Statute, a person shall not be criminally responsible if, at the time of that person's conduct:
 - (a) The person suffers from a mental disease or defect that destroys that person's capacity to appreciate the unlawfulness or nature of his or her conduct, or capacity to control his or her conduct to conform to the requirements of law;
 - (b) The person is in a state of intoxication that destroys that person's capacity to appreciate the unlawfulness or nature of his or her conduct, or capacity to control his or her conduct to conform to the requirements of law, unless the person has become voluntarily intoxicated under such circumstances that the person knew, or disregarded the risk, that, as a result of the intoxication, he or she was likely to engage in conduct constituting a crime within the jurisdiction of the Court;
 - (c) The person acts reasonably to defend himself or herself or another person or, in the case of war crimes, property which is essential for the survival of the person or another person or property which is essential for accomplishing a military mission, against an imminent and unlawful use of force in a manner proportionate to the degree of danger to the person or the other person or property protected. The fact that the person was involved in a defensive operation conducted by forces shall not in itself constitute a ground for excluding criminal responsibility under this subparagraph;
 - (d) The conduct which is alleged to constitute a crime within the jurisdiction of the Court has been caused by duress resulting from a threat of imminent death or of continuing or imminent serious bodily harm against that person or another person, and the person acts necessarily and reasonably to avoid this threat, provided that the person does not intend to cause a greater harm than the one sought to be avoided. Such a threat may either be:
 - (i) Made by other persons; or
 - (ii) Constituted by other circumstances beyond that person's control.
2. The Court shall determine the applicability of the grounds for excluding criminal responsibility provided for in this Statute to the case before it.
3. At trial, the Court may consider a ground for excluding criminal responsibility other than those referred to in paragraph 1 where such a ground is derived from applicable law as set forth in article 21. The procedures relating to the consideration of such a ground shall be provided for in the Rules of Procedure and Evidence.

Article 32—Mistake of fact or mistake of law

1. A mistake of fact shall be a ground for excluding criminal responsibility only if it negates the mental element required by the crime.
2. A mistake of law as to whether a particular type of conduct is a crime within the jurisdiction of the Court shall not be a ground for excluding criminal responsibility. A mistake of law may, however, be a ground for excluding criminal responsibility if it negates the mental element required by such a crime, or as provided for in article 33.

Article 33—Superior orders and prescription of law

1. The fact that a crime within the jurisdiction of the Court has been committed by a person pursuant to an order of a Government or of a superior, whether military or civilian, shall not relieve that person of criminal responsibility unless:
 - (a) The person was under a legal obligation to obey orders of the Government or the superior in question;
 - (b) The person did not know that the order was unlawful; and
 - (c) The order was not manifestly unlawful.
2. For the purposes of this article, orders to commit genocide or crimes against humanity are manifestly unlawful.

Article 66—Presumption of innocence

1. Everyone shall be presumed innocent until proved guilty before the Court in accordance with the applicable law.
2. The onus is on the Prosecutor to prove the guilt of the accused.
3. In order to convict the accused, the Court must be convinced of the guilt of the accused beyond reasonable doubt.

Article 67—Rights of the accused

1. In the determination of any charge, the accused shall be entitled to a public hearing, having regard to the provisions of this Statute, to a fair hearing conducted impartially, and to the following minimum guarantees, in full equality:
 - (a) To be informed promptly and in detail of the nature, cause and content of the charge, in a language which the accused fully understands and speaks;
 - (b) To have adequate time and facilities for the preparation of the defence and to communicate freely with counsel of the accused's choosing in confidence;
 - (c) To be tried without undue delay;
 - (d) Subject to article 63, paragraph 2, to be present at the trial, to conduct the defence in person or through legal assistance of the accused's choosing, to be informed, if the accused does not have legal assistance, of this right and to have legal assistance assigned by the Court in any case where the interests of justice so require, and without payment if the accused lacks sufficient means to pay for it;
 - (e) To examine, or have examined, the witnesses against him or her and to obtain the attendance and examination of witnesses on his or her behalf under the same conditions as witnesses against him or her. The accused shall also be entitled to raise defences and to present other evidence admissible under this Statute;
 - (f) To have, free of any cost, the assistance of a competent interpreter and such translations as are necessary to meet the requirements of fairness, if any of the proceedings or documents presented to the Court are not in a language which the accused fully understands and speaks;
 - (g) Not to be compelled to testify or to confess guilt and to remain silent, without such silence being a consideration in the determination of guilt or innocence;
 - (h) To make an unsworn oral or written statement in his or her defence; and
 - (i) Not to have imposed on him or her any reversal of the burden of proof or any onus of rebuttal.
2. In addition to any other disclosure provided for in this Statute, the Prosecutor shall, as soon as practicable, disclose to the defence evidence in the Prosecutor's possession or control which he or she believes shows or tends to show the innocence of the accused, or to mitigate the guilt of the accused, or which may affect the credibility of prosecution evidence. In case of doubt as to the application of this paragraph, the Court shall decide.

Article 69—Evidence

1. Before testifying, each witness shall, in accordance with the Rules of Procedure and Evidence, give an undertaking as to the truthfulness of the evidence to be given by that witness.

2. The testimony of a witness at trial shall be given in person, except to the extent provided by the measures set forth in article 68 or in the Rules of Procedure and Evidence. The Court may also permit the giving of viva voce (oral) or recorded testimony of a witness by means of video or audio technology, as well as the introduction of documents or written transcripts, subject to this Statute and in accordance with the Rules of Procedure and Evidence. These measures shall not be prejudicial to or inconsistent with the rights of the accused.
3. The parties may submit evidence relevant to the case, in accordance with article 64. The Court shall have the authority to request the submission of all evidence that it considers necessary for the determination of the truth.
4. The Court may rule on the relevance or admissibility of any evidence, taking into account, inter alia, the probative value of the evidence and any prejudice that such evidence may cause to a fair trial or to a fair evaluation of the testimony of a witness, in accordance with the Rules of Procedure and Evidence.
5. The Court shall respect and observe privileges on confidentiality as provided for in the Rules of Procedure and Evidence.
6. The Court shall not require proof of facts of common knowledge but may take judicial notice of them.
7. Evidence obtained by means of a violation of this Statute or internationally recognized human rights shall not be admissible if
 - (a) The violation casts substantial doubt on the reliability of the evidence; or
 - (b) The admission of the evidence would be antithetical to and would seriously damage the integrity of the proceedings.
8. When deciding on the relevance or admissibility of evidence collected by a State, the Court shall not rule on the application of the State's national law.

Article 74—Requirements for the decision

1. All the judges of the Trial Chamber shall be present at each stage of the trial and throughout their deliberations. The Presidency may, on a case-by-case basis, designate, as available, one or more alternate judges to be present at each stage of the trial and to replace a member of the Trial Chamber if that member is unable to continue attending.
2. The Trial Chamber's decision shall be based on its evaluation of the evidence and the entire proceedings. The decision shall not exceed the facts and circumstances described in the charges and any amendments to the charges. The Court may base its decision only on evidence submitted and discussed before it at the trial.
3. The judges shall attempt to achieve unanimity in their decision, failing which the decision shall be taken by a majority of the judges.
4. The deliberations of the Trial Chamber shall remain secret.
5. The decision shall be in writing and shall contain a full and reasoned statement of the Trial Chamber's findings on the evidence and conclusions. The Trial Chamber shall issue one decision. When there is no unanimity, the Trial Chamber's decision shall contain the views of the majority and the minority. The decision or a summary thereof shall be delivered in open court.

Article 75—Reparations to victims

1. The Court shall establish principles relating to reparations to, or in respect of, victims, including restitution, compensation and rehabilitation. On this basis, in its decision the Court may, either upon request or on its own motion in exceptional circumstances, determine the scope and extent of any damage, loss and injury to, or in respect of, victims and will state the principles on which it is acting.
2. The Court may make an order directly against a convicted person specifying appropriate reparations to, or in respect of, victims, including restitution, compensation and rehabilitation. Where appropriate, the Court may order that the award for reparations be made through the Trust Fund provided for in article 79.

3. Before making an order under this article, the Court may invite and shall take account of representations from or on behalf of the convicted person, victims, other interested persons or interested States.
4. In exercising its power under this article, the Court may, after a person is convicted of a crime within the jurisdiction of the Court, determine whether, in order to give effect to an order which it may make under this article, it is necessary to seek measures under article 93, paragraph 1.
5. A State Party shall give effect to a decision under this article as if the provisions of article 109 were applicable to this article.
6. Nothing in this article shall be interpreted as prejudicing the rights of victims under national or international law.

Article 76—Sentencing

1. In the event of a conviction, the Trial Chamber shall consider the appropriate sentence to be imposed and shall take into account the evidence presented and submissions made during the trial that are relevant to the sentence.
2. Except where article 65 applies and before the completion of the trial, the Trial Chamber may on its own motion and shall, at the request of the Prosecutor or the accused, hold a further hearing to hear any additional evidence or submissions relevant to the sentence, in accordance with the Rules of Procedure and Evidence.
3. Where paragraph 2 applies, any representations under article 75 shall be heard during the further hearing referred to in paragraph 2 and, if necessary, during any additional hearing.
4. The sentence shall be pronounced in public and, wherever possible, in the presence of the accused.

Article 77—Applicable penalties

1. Subject to article 110, the Court may impose one of the following penalties on a person convicted of a crime referred to in article 5 of this Statute:
 - (a) Imprisonment for a specified number of years, which may not exceed a maximum of 30 years; or
 - (b) A term of life imprisonment when justified by the extreme gravity of the crime and the individual circumstances of the convicted person.
2. In addition to imprisonment, the Court may order:
 - (a) A fine under the criteria provided for in the Rules of Procedure and Evidence;
 - (b) A forfeiture of proceeds, property and assets derived directly or indirectly from that crime, without prejudice to the rights of bona fide third parties.

Article 78—Determination of the sentence

1. In determining the sentence, the Court shall, in accordance with the Rules of Procedure and Evidence, take into account such factors as the gravity of the crime and the individual circumstances of the convicted person.
2. In imposing a sentence of imprisonment, the Court shall deduct the time, if any, previously spent in detention in accordance with an order of the Court. The Court may deduct any time otherwise spent in detention in connection with conduct underlying the crime.
3. When a person has been convicted of more than one crime, the Court shall pronounce a sentence for each crime and a joint sentence specifying the total period of imprisonment. This period shall be no less than the highest individual sentence pronounced and shall not exceed 30 years imprisonment or a sentence of life imprisonment in conformity with article 77, paragraph 1 (b).