

Crimes Against Humanity and War Crimes Act

S.C. 2000, c. 24

Assented to 2000-06-29

An Act respecting genocide, crimes against humanity and war crimes and to implement the Rome Statute of the International Criminal Court, and to make consequential amendments to other Acts

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Short Title

Marginal note: Short title

1 This Act may be cited as the *Crimes Against Humanity and War Crimes Act*.

Interpretation

Marginal note: Definitions

- 2 (1) The definitions in this subsection apply in this Act.

conventional international law means any convention, treaty or other international agreement

- (a) that is in force and to which Canada is a party; or

- (b) that is in force and the provisions of which Canada has agreed to accept and apply in an armed conflict in which it is involved. (*droit international conventionnel*)

International Criminal Court means the International Criminal Court established by the Rome Statute. (*Cour pénale internationale*)

official, in respect of the International Criminal Court, means the Prosecutor, Registrar, Deputy Prosecutor and Deputy Registrar, and the staff of the organs of the Court. (*fonctionnaire*)

Rome Statute means the Rome Statute of the International Criminal Court adopted by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court on July 17, 1998, as corrected by the *procès-verbaux* of November 10, 1998, July 12, 1999, November 30, 1999 and May 8, 2000, portions of which are set out in the schedule. (*Statut de Rome*)

- Marginal note: Words and Expressions

(2) Unless otherwise provided, words and expressions used in this Act have the same meaning as in the *Criminal Code*.

Her Majesty

Marginal note: Binding on Her Majesty

3 This Act is binding on Her Majesty in right of Canada or a province.

Offences Within Canada

Marginal note: Genocide, etc., committed in Canada

- 4 (1) Every person is guilty of an indictable offence who commits

- (a) genocide;
- (b) a crime against humanity; or
- (c) a war crime.

- Marginal note: Conspiracy, attempt, etc.

(1.1) Every person who conspires or attempts to commit, is an accessory after the fact in relation to, or counsels in relation to, an offence referred to in subsection (1) is guilty of an indictable offence.

- Marginal note: Punishment

(2) Every person who commits an offence under subsection (1) or (1.1)

- (a) shall be sentenced to imprisonment for life, if an intentional killing forms the basis of the offence; and
- (b) is liable to imprisonment for life, in any other case.

- Marginal note: Definitions

(3) The definitions in this subsection apply in this section.

crime against humanity means murder, extermination, enslavement, deportation, imprisonment, torture, sexual violence, persecution or any other inhumane act or omission that is committed against any civilian population or any identifiable group and that, at the time and in the place of its commission, constitutes a crime against humanity according to customary international law or conventional international law or by virtue of its being criminal according to the general principles of law recognized by the community of nations, whether or not it constitutes a contravention of the law in force at the time and in the place of its commission. (*crime contre l'humanité*)

genocide means an act or omission committed with intent to destroy, in whole or in part, an identifiable group of persons, as such, that, at the time and in the place of its commission, constitutes genocide according to customary international law or conventional international law or by virtue of its being criminal according to the general principles of law recognized by the community of nations, whether or not it constitutes a contravention of the law in force at the time and in the place of its commission. (*génocide*)

war crime means an act or omission committed during an armed conflict that, at the time and in the place of its commission, constitutes a war crime according to customary international law or conventional international law applicable to armed conflicts, whether or not it constitutes a contravention of the law in force at the time and in the place of its commission. (*crime de guerre*)

- **Marginal note: Interpretation — customary international law**

(4) For greater certainty, crimes described in Articles 6 and 7 and paragraph 2 of Article 8 of the Rome Statute are, as of July 17, 1998, crimes according to customary international law. This does not limit or prejudice in any way the application of existing or developing rules of international law.

Marginal note: Breach of responsibility by military commander

- **Footnote*5 (1)** A military commander commits an indictable offence if
 - (a) the military commander
 - (i) fails to exercise control properly over a person under their effective command and control or effective authority and control, and as a result the person commits an offence under section 4, or
 - (ii) fails, after the coming into force of this section, to exercise control properly over a person under their effective command and control or effective authority and control, and as a result the person commits an offence under section 6;
 - (b) the military commander knows, or is criminally negligent in failing to know, that the person is about to commit or is committing such an offence; and
 - (c) the military commander subsequently
 - (i) fails to take, as soon as practicable, all necessary and reasonable measures within their power to prevent or repress the commission of the offence, or the further commission of offences under section 4 or 6, or
 - (ii) fails to take, as soon as practicable, all necessary and reasonable measures within their power to submit the matter to the competent authorities for investigation and prosecution.
- **Return to footnote***[Note: Section 5 in force October 23, 2000, *see* SI/2000-95.]

- **Marginal note: Breach of responsibility by a superior**

Footnote*(2) A superior commits an indictable offence if

- (a) the superior
 - (i) fails to exercise control properly over a person under their effective authority and control, and as a result the person commits an offence under section 4, or

- (ii) fails, after the coming into force of this section, to exercise control properly over a person under their effective authority and control, and as a result the person commits an offence under section 6;
 - (b) the superior knows that the person is about to commit or is committing such an offence, or consciously disregards information that clearly indicates that such an offence is about to be committed or is being committed by the person;
 - (c) the offence relates to activities for which the superior has effective authority and control; and
 - (d) the superior subsequently
 - (i) fails to take, as soon as practicable, all necessary and reasonable measures within their power to prevent or repress the commission of the offence, or the further commission of offences under section 4 or 6, or
 - (ii) fails to take, as soon as practicable, all necessary and reasonable measures within their power to submit the matter to the competent authorities for investigation and prosecution.
- [Return to footnote](#) [Note: Section 5 in force October 23, 2000, *see* SI/2000-95.]

- **Marginal note: Conspiracy, attempt, etc.**

(2.1) Every person who conspires or attempts to commit, is an accessory after the fact in relation to, or counsels in relation to, an offence referred to in subsection (1) or (2) is guilty of an indictable offence.

- **Marginal note: Punishment**

(3) Every person who commits an offence under subsection (1), (2) or (2.1) is liable to imprisonment for life.

- **Marginal note: Definitions**

(4) The definitions in this subsection apply in this section.

military commander includes a person effectively acting as a military commander and a person who commands police with a degree of authority and control comparable to a military commander. (*chef militaire*)

superior means a person in authority, other than a military commander. (*supérieur*)