

INTERNATIONAL CRIMINAL COURT

On July 17, 1998, the Statute of the International Criminal Court ("ICC") was adopted by the Diplomatic Conference in Rome, Italy. The ICC Statute will enter into force once it has been ratified by 60 states. The ICC will be complementary to national courts and will exercise jurisdiction where national courts are unable or unwilling to bring transgressors to justice.

The Court will have jurisdiction over genocide, war crimes and crimes against humanity (as well as the crime of aggression once a suitable definition is adopted). Significantly, the definition of "war crimes" includes war crimes committed during internal armed conflicts, which are the most prevalent and brutal conflicts in the modern world. The definitions of crimes are derived from existing customary international law.

The Court has "automatic jurisdiction", which means that all state parties recognize the jurisdiction of the Court over these crimes, without any need for case-by-case consent. A transitional provision allows states parties to withhold automatic consent to jurisdiction over war crimes for a one-time period of seven years.

Proceedings may be initiated by a state party, by the UN Security Council, or by the Prosecutor. The ability of the independent Prosecutor to initiate proceedings is essential, as states parties and the Security Council may be reluctant to refer serious situations for political reasons. In order to prevent frivolous prosecutions, the Prosecutor is subject to checks and balances, such as the need for judicial approval.

The Court has a constructive relationship with the Security Council, which may refer situations to the Court and require cooperation from all UN member states. In exceptional circumstances, the Security Council may request a twelve-month deferral of Court proceedings where Chapter VII measures are underway to promote international peace and security.

The Statute contains a number of provisions to address the plight of women and children in armed conflict. The Statute recognizes rape, sexual slavery and other forms of sexual violence as a war crime and a crime against humanity, and also recognizes the enlistment or use of children under 15 in armed conflicts as a war crime. Provisions in the Statute ensure that the Court will have advisers on violence against women and children and will take these concerns into account.

Canada is pleased with the outcome of the negotiations. The