

International Law

The Rome Statute Reading
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The following is an excerpt from the ICC website: The International Criminal Court was established by the Rome Statute of the International Criminal Court, so called because it was adopted in Rome, Italy on 17 July 1998 by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court. The Rome Statute is an international treaty, binding only on those States which formally express their consent to be bound by its provisions. These States then become “Parties” to the Statute. In accordance with its terms, the Statute entered into force on 1 July 2002, once 60 States had become Parties. Today, 105 States have become Parties to the Statute. The States Parties meet in the Assembly of States Parties which is the management oversight and legislative body of the Court.

Following the adoption of the Rome Statute, the United Nations convened the Preparatory Commission for the International Criminal Court. As with the Rome Conference, all States were invited to participate in the Preparatory Commission. Among its achievements, the Preparatory Commission reached consensus on the Rules of Procedure and Evidence and the Elements of Crimes. These two texts were subsequently adopted by the Assembly of States Parties. Together with the Rome Statute and the Regulations of the Court adopted by the judges, they comprise the Court’s basic legal texts, setting out its structure, jurisdiction and functions.

The Reading Assignment

The entire Rome Statute is approximately 85 pages long. I would like you to look at the following sections and answer the associated questions. You can download the full text of the Rome Statute at

http://www.icc-cpi.int/library/about/officialjournal/Rome_Statute_English.pdf

Table of Contents

1. What are the major sections (parts) of the document? Why does this document include all these sections? Briefly, what is the purpose of each of the 14 parts?

Preamble

2. What is the purpose of the preamble? What is the purpose of the ‘emphasizing’ section of the preamble?

Part I: Establishment of the Court

3. What is the purpose of Article 4? Why did the Court have to select a place to sit? Why The Hague?

Part II: Jurisdiction, admissibility and applicable law

4. Why did the Court restrict itself to these four crimes? What are the definitions of the four crimes? What must be proven to convict on the crime of genocide? Is the US invasion of Iraq an example of a War Crime? If so, who would be punished? What is Jurisdiction *ratione temporis*? Can anyone be tried in the ICC? What can the person’s state do to keep the trial from happening? Why would a state choose to allow an extra-territorial entity to usurp some of its sovereignty and allow the ICC to hear a case against one of its citizens?

Part IV: Composition and administration of the Court

5. Why is so much space given to selecting judges? Compare this with the selection of US Supreme Court justices. Why are there so many ‘official’ languages of the Court? Why is Portuguese not on the list? Why is Italian not on the list? Do all judges need to be fluent in each of the official languages?

Article 55: Rights of persons during an investigation

6. Would this article be acceptable in the United States? Explain.

Part VI: The trial

7. What parts of the trial would *not* fit with US legal philosophy?

Article 77: Applicable penalties

8. Why is the death penalty not allowable?