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Crimes against humanity

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Crimes against humanity, as defined by the [Rome Statute of the International Criminal Court](#) Explanatory Memorandum, "are particularly odious offenses in that they constitute a serious attack on [human dignity](#) or grave humiliation or a degradation of one or more human beings. They are not isolated or sporadic events, but are part either of a government policy (although the perpetrators need not identify themselves with this policy) or of a wide practice of atrocities tolerated or condoned by a government or a de facto authority. Murder; extermination; torture; rape; political, racial, or religious persecution and other inhumane acts reach the threshold of crimes against humanity only if they are part of a widespread or systematic practice. Isolated inhumane acts of this nature may constitute grave infringements of human rights, or depending on the circumstances, [war crimes](#), but may fall short of falling into the category of crimes under discussion."^[1]

Contents

[\[hide\]](#)

- [1 Historical development](#)
 - [1.1 Nuremberg trials](#)
 - [1.2 Tokyo trials](#)
 - [1.3 Apartheid](#)
 - [1.4 Ad hoc International Criminal Tribunals](#)
 - [1.4.1 International Criminal Tribunal for Yugoslavia](#)
 - [1.4.2 International Criminal Tribunal for Rwanda](#)
- [2 United Nations](#)
- [3 UN Security Council responsibility](#)
- [4 International Criminal Court](#)
- [5 Council of Europe](#)
- [6 See also](#)
- [7 References](#)
- [8 Further reading](#)
- [9 External links](#)

[\[edit\]](#) Historical development

In 1860 the American National Republican Convention included in their electoral platform, on which Abraham Lincoln stood for President, the following statement: "...we allow the recent re-opening of the African Slaves burning shame to our country and age". In 1890, [George Washington Williams](#) used the phrase to describe the treatment of Africans in the [Congo Free State](#) under [King Leopold II](#) of [Belgium](#).^[2] Another very significant early use of the phrase "crimes against humanity" came during the first world war when, on May 24, 1915, the [Allies of World War I](#), [Britain](#), [France](#), and [Russia](#), jointly issued a statement explicitly announcing, for the first time, the commission of a "crime against humanity" in response to the [Armenian Genocide](#) and warned of personal responsibility for members of the [Ottoman Government](#) and their agents.^[3] At the conclusion of the war, an international war crimes commission recommended the creation of a tribunal to try "violations of the laws of

humanity". However, the US representative objected to references to "law of humanity" as being imprecise and insufficiently developed at that time and the concept was not pursued.^[4]

[\[edit\]](#) Nuremberg trials

See also: [Nuremberg Trials](#)

In the aftermath of the Second World War, The [London Charter of the International Military Tribunal](#) was the decree that set down the laws and procedures by which the post-[World War II](#) Nuremberg trials were to be conducted. The drafters of this document were faced with the problem of how to respond to the [Holocaust](#) and grave crimes committed by the [Nazi regime](#). A traditional understanding of [war crimes](#) gave no provision for crimes committed by a power on its own citizens. Therefore, Article 6 of the Charter was drafted to include not only traditional [war crimes](#) and [crimes against peace](#), but in paragraph 6.c, Crimes Against Humanity defined as

"[Murder](#), [extermination](#), [enslavement](#), [deportation](#), and other [inhumane](#) acts committed against any [civilian](#) population, before or during the war, or persecutions on political, racial or religious grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated".^{[5][6]}

In the Judgment of the International Military Tribunal for the Trial of German Major War Criminals it was also stated:

The Tribunal therefore cannot make a general declaration that the acts before 1939 were crimes against humanity within the meaning of the Charter, but from the beginning of the war in 1939 war crimes were committed on a vast scale, which were also crimes against humanity; and insofar as the inhumane acts charged in the Indictment, and committed after the beginning of the war, did not constitute war crimes, they were all committed in execution of, or in connection with, the aggressive war, and therefore constituted crimes against humanity.^[7]

[\[edit\]](#) Tokyo trials

See also: [International Military Tribunal for the Far East](#)

The International Military Tribunal for the Far East (IMTFE), also known as the Tokyo Trial, was convened to [try](#) the leaders of the [Empire of Japan](#) for three types of crimes: "Class A" ([crimes against peace](#)), "Class B" ([war crimes](#)), and "Class C" (crimes against humanity), committed during [World War II](#).

The legal basis for the trial was established by the Charter of the International Military Tribunal for the Far East (CIMTFE) that was proclaimed on 19 January 1946. The tribunal convened on May 3, 1946, and was adjourned on November 12, 1948.

A panel of eleven [judges](#) presided over the IMTFE, one each from victorious Allied powers ([United States](#), [Republic of China](#), [Soviet Union](#), [United Kingdom](#), the [Netherlands](#), [Provisional Government of the French Republic](#), [Australia](#), [New Zealand](#), [Canada](#), [British India](#), and the [Philippines](#)).

But in the Tokyo Trial, Crimes against Humanity (Class C) was not applied for any Suspect of War Crime^[8]. Sometimes [Nanking Massacre](#) is considered to be applied by "the Crime against Humanity", but in fact, Nanking Massacre was prosecuted for infringement upon the [Laws of War](#) and not applied by "the Crime against Humanity"^[9].

War crimes charges against more junior personnel were dealt with separately, in other cities throughout [Far East](#) Asia, such as the [Nanjing War Crimes Tribunal](#) and the [Khabarovsk War Crimes Trials](#).

[[edit](#)] **Apartheid**

Main article: [Crime of apartheid](#)

The systematic persecution of one racial group by another, such as occurred during the [South African apartheid](#) government, was recognized as a crime against humanity by the [United Nations General Assembly](#) in 1976.^[10] The [Charter of the United Nations](#) (Article 13, 14, 15) makes actions of the General Assembly advisory to the Security Council.^[11] In regard to apartheid in particular, the UN General Assembly has not made any findings, nor have apartheid-related trials for crimes against humanity been conducted.

[[edit](#)] **Ad hoc International Criminal Tribunals**

[[edit](#)] *International Criminal Tribunal for Yugoslavia*

Main article: [International Criminal Tribunal for Yugoslavia](#)

[[edit](#)] *International Criminal Tribunal for Rwanda*

Main article: [International Criminal Tribunal for Rwanda](#)

[[edit](#)] **United Nations**

The United Nations has been primarily responsible for the prosecution of crimes against humanity since it was chartered in 1948.^[12] The [International Criminal Court](#) (ICC) was organized by the [Rome Statute](#) and the UN has delegated several crimes against humanity cases to the ICC.^[13] Because these cases were referred to the ICC by the UN, the ICC has broad authority and jurisdiction for these cases.^[citation needed] The ICC acting without a UN referral lacks the broad jurisdiction to prosecute crimes against humanity, and cannot prosecute many cases, particularly if they occur outside of ICC-member nations. The most recent 2005 UN referral to the ICC of Darfur resulted in an indictment of Sudanese President [Omar al-Bashir](#) for genocide, crimes against humanity and war crimes in 2008.^[14] The first person to be handed over to the ICC was [Thomas Lubanga](#).^[15] His trial has still not been completed. The ICC is still seeking [Joseph Kony](#).^[15] When the ICC President reported to the UN regarding its progress handling these crimes against humanity case, Judge Phillipe Kirsch said "The Court does not have the power to arrest these persons. That is the responsibility of States and other actors. Without arrests, there can be no trials."^[16] The UN has not referred any further crimes against humanity cases to the ICC since March 2005.^[citation needed]

A report on the 2008-9 [Gaza War](#) accused Palestinian and Israeli forces of possibly committing a crime against humanity.^[17]

[[edit](#)] **UN Security Council responsibility**

[UN Security Council Resolution 1674](#), adopted by the [United Nations Security Council](#) on 28 April 2006, "reaffirms the provisions of paragraphs 138 and 139 of the 2005 [World Summit Outcome Document](#) regarding the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity".^[18] The [resolution](#) commits the Council to action to protect civilians in armed conflict.

[[edit](#)] **International Criminal Court**

In 2002, the [International Criminal Court](#) (ICC) was established in [The Hague](#) (Netherlands) and the [Rome Statute](#) provides for the ICC to have jurisdiction over [genocide](#), crimes against humanity and [war crimes](#). The definition of what is a "crime against humanity" for ICC proceedings has significantly broadened from its original legal definition or that used by the UN,^[19] and Article 7 of the treaty stated that:

For the purpose of this Statute, "crime against humanity" means 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:^[20]

- (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.

The [Rome Statute](#) Explanatory Memorandum states that crimes against humanity

are particularly odious offenses in that they constitute a serious attack on human dignity or grave humiliation or a degradation of one or more human beings. They are not isolated or sporadic events, but are part either of a government policy (although the perpetrators need not identify themselves with this policy) or of a wide practice of atrocities tolerated or condoned by a government or a de facto authority. However, murder, extermination, torture, rape, political, racial, or religious persecution and other inhumane acts reach the threshold of crimes against humanity only if they are part of a widespread or systematic practice. Isolated inhumane acts of this nature may constitute grave infringements of human rights, or depending on the circumstances, war crimes, but may fall short of meriting the stigma attaching to the category of crimes under discussion. On the other hand, an individual may be guilty of crimes against humanity even if he perpetrates one or two of the offences mentioned above, or engages in one such offense against only a few civilians, provided those offenses are part of a consistent pattern of misbehavior by a number of persons linked to that offender (for example, because they engage in armed action on the same side or because they are parties to a common plan or for any similar reason.) Consequently when one or more individuals are not accused of planning or carrying out a policy of inhumanity, but simply of perpetrating specific atrocities or vicious acts, in order to determine whether the necessary threshold is met one should use the following test: one ought to look at these atrocities or acts in their context and verify whether they may be regarded as part of an overall policy or a consistent pattern of an inhumanity, or whether they instead constitute isolated or sporadic acts of cruelty and wickedness.^[1]

[\[edit\]](#) Council of Europe

The [Committee of Ministers](#) of the [Council of Europe](#) on 30 April 2002 issued a recommendation to the member states, on the protection of women against violence. In the section "Additional measures concerning violence in conflict and post-conflict situations", states in paragraph 69 that member states should: "penalize rape, sexual slavery, forced pregnancy, enforced sterilization or any other form of sexual violence of comparable gravity as an intolerable violation of human rights, as crimes against humanity and, when committed in the context of an armed conflict, as war crimes;"^[21]

In the Explanatory Memorandum on this recommendation when considering paragraph 69:

Reference should be made to the [Statute of the International Criminal Tribunal](#) adopted in Rome in July 1998. Article 7 of the Statute defines rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization

or any other form of sexual violence of comparable gravity, as crimes against humanity. Furthermore, Article 8 of the Statute defines rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization or any other form of sexual violence as a serious breach of the Geneva Conventions and as war crimes.^[22]

To fall under the Rome Statute, a crime against humanity which is defined in Article 7.1 must be "part of a widespread or systematic attack directed against any civilian population". Article 7.2.a states "For the purpose of paragraph 1: "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." This means that an individual crime on its own, or even a number of such crimes, would not fall under the Rome Statute unless they were the result of a State policy or an organizational policy. This was confirmed by [Luis Moreno Ocampo](#) in an open letter publishing his conclusions about allegations of crimes committed during the invasion of Iraq in March 2003 which might fall under the [ICC](#). In a section entitled "Allegations concerning Genocide and Crimes against Humanity" he states that "the available information provided no reasonable indicator of the required elements for a crime against humanity," i.e. 'a widespread or systematic attack directed against any civilian population'.^[23]

The [Holodomor](#) has been recognized as a crime against humanity by the [European Parliament](#).^[24]

[\[edit\]](#) See also



[Genocide portal](#)

- [Charter of the United Nations](#)
- [Command responsibility](#)
- [Council of Europe](#)
- [Crimes against humanity under communist regimes](#)
- [Customary international law](#)
- [International humanitarian law](#)
- [Universal jurisdiction](#)
- [Vienna Declaration and Programme of Action](#)
- [Democide](#)
- [Ethnic cleansing](#)
- [Geneva Conventions](#)
- [George Washington Williams](#)
- [Historical revisionism \(negationism\)](#)
- [Human rights](#)
- [Inter-American Commission on Human Rights](#)
- [Interpol](#)
- [Mass murder](#)
- [Honor killing](#)
- [Rule of Law in Armed Conflicts Project \(RULAC\)](#)
- [Terrorism](#)
- [Torture](#)
- [Victor's justice](#)
- [War crimes](#)

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 - [Affirmation of the United States Record on the Armenian Genocide Resolution \(Introduced in House of Representatives\)](#) 109th Congress, 1st Session, [H.RES.316](#), June 14, 2005. 15 September 2005 House Committee/Subcommittee: International Relations actions. Status: Ordered to be Reported by the Yeas and Nays: 40–7.
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 10. [^] [International Convention on the Suppression and Punishment of the Crime of Apartheid](#) adopted and opened for signature, ratification by General Assembly resolution 3068 (XXVIII) of 30 November 1973. Entry into force 18 July 1976, in accordance with article X (10)
 11. [^] [Charter of the United Nations](#)
 12. [^] <http://daccessdds.un.org/doc/RESOLUTION/GEN/NR0/044/31/IMG/NR004431.pdf?OpenElement>
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 22. [^] [Committee of Ministers](#) of the [Council of Europe](#): [Recommendation \(2002\) 5](#) Paragraph 100
 23. [^] [Luis Moreno Ocampo OTP letter to senders re Iraq](#) 9 February 2006. Page 4
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[[edit](#)] Further reading

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- Schabas, William A. (2000). *Genocide in International Law: The Crimes of Crimes*. New York: Cambridge University Press. [ISBN 0521782627](#).

[[edit](#)] External links

- [Crimes of War project](#)
- [Rule of Law in Armed Conflicts Project](#)
- [What is a Crime Against Humanity?](#) - an online video.

- [Genocide & Crimes Against Humanity](#) - a learning resource, highlighting the cases of Myanmar, Bosnia, the DRC, and Darfur