



Meaning ,Nature & Sources of International Criminal Law

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MEANING

It refers to a body of laws and rules that deal with the prosecution and punishment of individuals who have committed serious crimes that have an international impact.

ICL is a branch of public international law and is distinct from domestic criminal law.

International Criminal Law refers to a set of rules and norms that aim to hold individuals accountable for committing serious crimes that have an international dimension.

The concept of ICL emerged in the aftermath of World War II, when the international community recognized the need for a legal framework to prosecute individuals responsible for war crimes, crimes against humanity, and genocide.

Nature of International Criminal Law

- ICL is a relatively new field of law that has emerged in response to the need to address atrocities that have international ramifications, such as war crimes, crimes against humanity, and genocide.
- ICL is based on the principles of individual criminal responsibility, which means that individuals who commit these crimes can be held accountable, regardless of their official position or affiliation with a state.
- ICL is a branch of public international law that focuses on prosecuting individuals who have committed serious international crimes.
- Unlike domestic criminal law, which is enforced by individual states, ICL is enforced by international institutions such as the International Criminal Court (ICC) and ad hoc tribunals.
- ICL is founded on the principles of individual criminal responsibility, which means that individuals who commit these crimes can be held accountable, regardless of their official position or affiliation with a state.

Scope of International Criminal Law

The scope of ICL is broad and covers a range of offenses, including war crimes, crimes against humanity, genocide, and aggression.

- The jurisdiction of ICL extends to individuals who commit these crimes, regardless of their nationality, and the crimes can be prosecuted in international courts or in the courts of individual states.
- The scope of ICL is broad and includes crimes that have an international dimension, such as war crimes, crimes against humanity, genocide, and crimes of aggression.
- ICL applies to individuals who commit these crimes, regardless of their nationality, and they can be prosecuted in international courts or in the courts of individual states.
- ICL also applies to individuals who aid and abet in the commission of these crimes or who attempt to commit them.

Essence of International Criminal Law:

- ICL is closely linked to human rights and humanitarian law because the crimes it seeks to prosecute are often violations of these laws. [?] ICL is essential in ensuring that individuals who commit atrocities are held accountable, and that victims receive justice and reparations.
- By holding individuals accountable for these crimes, ICL contributes to the prevention of future atrocities and promotes peace and stability.
- International Criminal Law is an essential component of human rights and humanitarian law because it aims to prevent and punish the most serious crimes that threaten the security and well-being of individuals and communities.
- ICL seeks to hold perpetrators accountable for their actions and to provide redress for victims through reparations, compensation, and rehabilitation
- ICL also plays an important role in preventing future crimes by deterring individuals from committing them and by promoting respect for the rule of law and human rights.

SOURCES OF INTERNATIONAL CRIMINAL LAW

International Criminal Law draws on various sources of law, including international treaties, customary international law, and general principles of law recognized by the international community.

International Treaties:

International treaties are formal agreements between states that set out rules and obligations related to specific issues.

Treaties related to ICL include the Rome Statute of the International Criminal Court (ICC), which established the ICC and defines the crimes within its jurisdiction.

Other relevant treaties include the Geneva Conventions and their Additional Protocols, which provide protections for victims of armed conflicts.

Customary International Law:

- Customary international law refers to unwritten rules and practices that have been accepted by states over time as legally binding.
- Customary international law has played an important role in the development of ICL, particularly in areas where international treaties have not been adopted.
- Examples of customary international law in the context of ICL include the principle of individual criminal responsibility, the prohibition against torture, and the prohibition against slavery and forced labor.

General Principles of Law:

- General principles of law recognized by the international community are legal principles that are not specific to any particular system of law but are recognized as universally applicable.
- General principles of law have been used to fill gaps in the law and to guide the interpretation and application of ICL.
- Examples of general principles of law in the context of ICL include the principle of *nullum crimen sine lege* (no crime without law), the principle of *non bis in idem* (double jeopardy), and the principle of fair trial.

Case Law:

- Case law refers to decisions made by international tribunals and other international bodies that interpret and apply the law.
- Case law has played an important role in the development of ICL, particularly in clarifying the meaning of legal concepts and defining the elements of specific crimes
- Examples of case law in the context of ICL include the decisions of the ICC, the International Criminal Tribunal for the former Yugoslavia (ICTY), and the International Criminal Tribunal for Rwanda (ICTR).

Some other Sources of ICL

Soft Law:

Soft law refers to non-binding instruments and declarations that express the views and aspirations of the international community. Soft law can play a role in the development of ICL by providing guidance and influencing the interpretation and application of the law.

Examples of soft law in the context of ICL include the United Nations (UN) Basic Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa and the Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa.

Jus Cogens:

- Jus cogens refers to peremptory norms of international law that are considered to be non-derogable and have a higher status than other norms of international law.
- Jus cogens norms apply to all states and individuals and are considered to be fundamental to the international legal order.

Examples of jus cogens norms in the context of ICL include the prohibition against genocide, crimes against humanity, war crimes, and torture.

Judicial Activism:

Judicial activism refers to the use of judicial power to shape the development of the law and to promote human rights and the rule of law.

Judicial activism has played an important role in the development of ICL, particularly in interpreting and applying the law in a manner that reflects evolving legal and moral norms.

Examples of judicial activism in the context of ICL include the decisions of the ICC and other international tribunals that have expanded the scope of individual criminal responsibility and recognized new forms of international crimes.

Regional Law:

- Regional law refers to legal instruments and institutions that are specific to a particular region of the world and that address issues related to ICL.
- Regional law has played an important role in the development of ICL, particularly in regions where the international legal framework is underdeveloped or where there are unique legal and cultural traditions.

Examples of regional law in the context of ICL include the African Union Convention on Preventing and Combating Corruption, the Arab Convention for the Suppression of Terrorism, and the ASEAN Convention Against Trafficking in Persons, Especially Women and Children.

Conclusion

The sources of International Criminal Law are diverse and include international treaties, customary international law, general principles of law, and case law. These sources provide a framework for holding individuals accountable for serious international crimes and for promoting respect for human rights and the rule of law.