

# CANADA'S CRIMES AGAINST HUMANITY AND WAR CRIMES ACT

Crimes Against Humanity and War Crimes Act ( 2000, c. 24 )  
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**Subject: Justice, Courts, and Judiciary**

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## Crimes Against Humanity and War Crimes Act

**2000, c. 24**

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

*[Assented to 29th June, 2000]*

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

### SHORT TITLE

Short title

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

### INTERPRETATION

Definitions

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

"conventional international law" « *droit international conventionnel* »

"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.

"International Criminal Court" « *Cour pénale internationale* »

"International Criminal Court" means the International Criminal Court established by the Rome Statute.

"official" « *fonctionnaire* »

"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.

"Rome Statute" « *Statut de Rome* »

"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.

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

Binding on Her Majesty

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

OFFENCES WITHIN CANADA

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.

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.

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.

Definitions

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

"crime against humanity" « *crime contre l'humanité* »

"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.

"genocide" « *génocide* »

"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.

"war crime" « *crime de guerre* »

"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.

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.

Breach of responsibility by military commander

- \*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.

\*[Note: Section 5 in force October 23, 2000, see SI/2000-95.]

Breach of responsibility by a superior

\*(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.

\*[Note: Section 5 in force October 23, 2000, see SI/2000-95.]

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.

Punishment

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

Definitions

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

"military commander" « *chef militaire* »

"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.

"superior" « *supérieur* »

"superior" means a person in authority, other than a military commander.

## OFFENCES OUTSIDE CANADA

Genocide, etc., committed outside Canada

6. (1) Every person who, either before or after the coming into force of this section, commits outside Canada

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

is guilty of an indictable offence and may be prosecuted for that offence in accordance with section 8.

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.

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.

Definitions

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

"crime against humanity" « *crime contre l'humanité* »

"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.

"genocide" « *génocide* »

"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.

"war crime" « *crime de guerre* »

"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.

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, and may be crimes according to customary international law before that date. This does not limit or prejudice in any way the application of existing or developing rules of international law.

Interpretation -- crimes against humanity

(5) For greater certainty, the offence of crime against humanity was part of customary international law or was criminal according to the general principles of law recognized by the community of nations before the coming into force of either of the following:

- (a) the Agreement for the prosecution and punishment of the major war criminals of the European Axis, signed at London on August 8, 1945; and
- (b) the Proclamation by the Supreme Commander for the Allied Powers, dated January 19, 1946.

Breach of responsibility by military commander

7. (1) A military commander commits an indictable offence if
- (a) the military commander, outside Canada,
    - (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, before or 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.

Breach of responsibility by a superior

- (2) A superior commits an indictable offence if
- (a) the superior, outside Canada,
    - (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, before or 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.

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.

Jurisdiction

- (3) A person who is alleged to have committed an offence under subsection (1), (2) or (2.1) may be prosecuted for that offence in accordance with section 8.

Punishment

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

Application before coming into force

\*(5) Where an act or omission constituting an offence under this section occurred before the coming into force of this section, subparagraphs (1)(a)(ii) and (2)(a)(ii) apply to the extent that, at the time and in the place of the act or omission, the act or omission constituted a contravention of customary international law or conventional international law or was criminal according to the general principles of law recognized by the community of nations, whether or not it constituted a contravention of the law in force at the time and in the place of its commission.

\*[Note: Section 7 in force October 23, 2000, see SI/2000-95.]

Definitions