

JUSTICE BEYOND BORDERS

A GLOBAL MAPPING TOOL TO INCREASE
SURVIVORS' ACCESS TO JUSTICE



JUSTICE BEYOND BORDERS: A GLOBAL MAPPING TOOL



How can the world wage justice for atrocity crimes when perpetrators seem so hard to reach? To provide a data-driven answer to this question and a practical way forward, the Clooney Foundation for Justice launched the *Justice Beyond Borders Project*—an online tool that enables survivors, lawyers, civil society actors, and law enforcement practitioners to make use of existing laws to access justice.

The outcome of months of data gathering and legal analysis, this searchable database tracks the criminalization of the most serious international crimes¹—war crimes, crimes against humanity, genocide, and aggression—across 216 jurisdictions.² The database shows the conditions for exercising jurisdiction over each crime, as well as the procedural requirements for triggering successful cases.

The Project seeks to facilitate meaningful access to justice for all survivors and ensure that perpetrators have nowhere to hide. Achieving this means mobilizing as many countries as possible to adopt the laws that would allow them to investigate and prosecute the most serious international crimes, to ensure that survivors know and can exercise their rights, and to ensure that such laws are consistently and effectively implemented. Only then will accountability become the norm and impunity the exception.

KEY FINDINGS

153
out of 193

UN Member States have criminalized at least one of the four most serious international crimes. Across all analyzed jurisdictions, the number is even higher, with 170 out of 216 jurisdictions criminalizing at least one of the four crimes. War crimes are the most widely criminalized.

- 142 UN Member States (155 jurisdictions) have criminalized **war crimes**.
- 134 UN Member States (149 jurisdictions) have criminalized **genocide**.
- 99 UN Member States (112 jurisdictions) have criminalized **crimes against humanity**.
- 51 UN Member States (52 jurisdictions) have criminalized the **crime of aggression** (including incitement to the crime of aggression).
- 94 UN Member States (106 jurisdictions) have criminalized **war crimes, genocide, and crimes against humanity**.
- 42 UN Member States (41 jurisdictions) have criminalized *all* four of these international crimes.

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KEY FINDINGS

148 out of 193 UN Member States (164 jurisdictions) have laws that allow them to investigate and prosecute at least one of these crimes even when the crime was committed beyond their own borders.

- 28 UN Member States (29 jurisdictions) can exercise absolute universal jurisdiction over at least one of the most serious international crimes. That means they can open a case against a person suspected of committing a serious international crime regardless of their nationality, the nationality of the victim, the location where the offence was committed, or the presence of the suspect.
- 51 UN Member States (53 jurisdictions) have jurisdiction over at least one of the most serious international crimes if the alleged perpetrator is physically present in the country, regardless of their nationality or residence.
- 98 UN Member States (111 jurisdictions) have some form of jurisdiction over at least one of the most serious international crimes if the alleged perpetrator is a national of the country (or, in some cases, resident, refugee, or stateless person).
- 73 UN Member States (76 jurisdictions) have some form of jurisdiction over at least one of the most serious international crimes when a victim of the crime is a national of the country (or, in some cases, a resident, refugee, or stateless person).
- 36 UN Member States (37 jurisdictions) can exercise jurisdiction over at least one of the most serious international crimes to protect their own national interest or security.
- 94 UN Member States (106 jurisdictions) have an obligation to exercise jurisdiction over certain serious international crimes as part of international treaties they have ratified.

Although 148 UN Member States (164 jurisdictions) have laws which allow them to investigate crimes committed beyond their own borders, a very small number of countries have actually *used* existing laws to launch investigations and prosecutions into the most serious international crimes. Over the last three decades, such cases were initiated in 20 countries (12 percent of the countries that have the legal possibility to do so). Moreover, less than half of the prosecutions have resulted in a conviction.

This poor track record of prosecutions is due to both procedural and practical limitations. Many countries require the presence of the perpetrator on their territory to open an investigation, and sometimes political authorization to start a prosecution. Some also only open a case if a crime is also considered a criminal offence in the country where it was committed. Specialized police and prosecutorial units with sufficient experience and resources to carry out such investigations remain an exception and gathering evidence abroad or from survivor groups presents additional challenges. Additionally, political considerations often impede the opening of cases.

Yet, this dynamic can and must change—and we hope that the Justice Beyond Borders Project can help to increase access to justice.

CONTEXT: TRENDS AND CHALLENGES



The principle of universal jurisdiction,³ which allows countries to prosecute the most serious crimes regardless of where they have been committed and regardless of the perpetrator's nationality, has been developing since the Second World War as a mechanism to pursue justice for the survivors of mass atrocities.⁴ Some scholars trace its origins further back, to the efforts to prosecute pirates as “enemies of mankind” wherever they may be found.⁵

Despite certain setbacks, the application of universal jurisdiction has been gaining momentum in the last three decades. Most countries have criminalized the most serious international crimes—war crimes, crimes against humanity, genocide, and the crime of aggression—in their domestic laws, and the number of investigations and prosecutions has been steadily increasing.⁶ A major impetus of this expansion has been the ratification and domestication of the Rome Statute of the International Criminal Court by 123 countries, almost two thirds of the countries of the world.⁷ Countries across the world are embracing the need to combat impunity.

Most recently, in January 2023, the United States—which for years lagged behind on implementing universal jurisdiction legislation—passed a law allowing the prosecution of suspected perpetrators of war crimes present in the country regardless of the nationality of the perpetrator, the nationality of the victim, or the place where the crimes occurred.⁸

The use of such laws has also been expanding geographically, with proceedings opening in recent years in Argentina, Senegal, and South Africa.⁹ In November 2021, Argentinian courts confirmed jurisdiction over an investigation into genocide of Rohingya Muslims in Myanmar.¹⁰ The war in Ukraine has further accelerated the process, with many East-European countries opening their first ever universal jurisdiction investigations.¹¹

Another sign of growing commitment to combatting impunity for the most serious international crimes is the creation of specialized units dedicated to international crimes as part of national police and prosecutorial teams. Currently, at least 26 countries have created such units. Additionally, collaborative platforms such as the European Network for investigation and prosecution of genocide, crimes against humanity and war crimes (“Genocide Network”) within Eurojust¹² have been created to enable close cooperation between national authorities of different countries for investigating the most serious international crimes.¹³

There is also growing recognition of the role that civil society actors can play in assisting law enforcement agencies, which significantly enhances their ability to investigate international crimes.¹⁴ With their access to crime scenes and extensive local networks, non-governmental organizations and journalists are often instrumental in both collecting and analyzing evidence, as well as identifying witnesses and supporting survivors throughout the process. In turn, civil society actors are increasingly aware that participation in justice processes requires adjusting their methodology to ensure that information is gathered and processed in accordance with law-enforcement standards.¹⁵

Survivors of atrocities are increasingly becoming the driving force behind prosecutions of the most serious international crimes in national courts.¹⁶ This trend is due, in part, to recent conflict-related displacement from Afghanistan, Syria, Iraq and Ukraine leading to millions of survivors and witnesses going to European and other countries. In some situations, national prosecutions in countries where they sought refuge are their only chance to obtain justice, and they have actively provided information to law enforcement agencies, which sparked successful investigations, arrests, and trials.¹⁷ In Germany, for example, a Syrian officer was identified by asylum seekers and convicted in 2022 for crimes against humanity.¹⁸ Yazidi survivors in Germany have been the key witnesses in trials that resulted in world-first convictions of ISIS members for genocide.¹⁹ More recently, hundreds of Ukrainians all over Europe are providing evidence to law enforcement agencies investigating crimes committed in the context of the war in Ukraine.



Another key development in recent years has been the prosecution of corporate actors for complicity in the most serious international crimes. In France, Lafarge, a French cement company, is currently being prosecuted for complicity in crimes against humanity for paying millions of dollars to ISIS while it operated a cement plant in Northern Syria between 2012 and 2015 on ISIS-controlled territory.²⁰ In Sweden, the former CEO and Chairman of the Board of oil giant Lundin Energy have been charged with complicity in international crimes committed by the government of Sudan between 1997 and 2003.²¹

This is a promising trend which could strengthen the deterrent effect of national prosecutions, bring to account entities involved in financing conflicts, and open up additional avenues to secure reparations and compensations to survivors.

A few countries have interpreted their jurisdiction laws broadly enough to allow the launching of so-called “structural investigations,” i.e., opening a case and gathering evidence before identifying a specific perpetrator.²² Such investigations help ensure that information is gathered in a timely manner and case files are ready for an eventual arrest and prosecution of suspects should they arrive in the country. They also enable the issuance of international arrest warrants that can trigger extradition of suspects from a third country.

The most prominent investigation of this kind to date was initiated in Germany in relation to crimes committed in the context of the war in Syria, and later expanded to include crimes committed against the Yazidi community in Syria and Iraq. Sweden and France later started similar investigations on Syria.²³ In 2022, Germany, Sweden, Spain, and Canada also opened structural investigations to gather evidence of crimes committed following Russia’s invasion of Ukraine.

The potential for prosecuting international crimes in national jurisdictions has been undermined by a number of challenges which need to be addressed in order to achieve effective and equal access to justice for survivors of mass atrocities in practice. Indeed, over the last three decades, only 20 countries have launched prosecutions of the most serious international crimes, and less than half of those have resulted in convictions.

One of the key barriers is the legal limitations which effectively make universal jurisdiction much less *universal* than it was meant to be. Some countries have not yet criminalized a single international crime or recognized any form of jurisdiction over such crimes committed abroad, while others have significant restrictions related to the status or location of the victim or perpetrator.²⁴ For example, France domesticated the Rome Statute and the offences therein in 2010, but subjected them to narrow jurisdiction provisions that require the alleged perpetrator to be living in the country or the victim to be a French national.²⁵

Another problem is the lack of capacity. Investigations of the most serious international crimes often require specialized expertise and far greater resources than other offences. The majority of countries that have laws enabling such investigations have neither the financial resources nor dedicated units in either police or prosecutors’ offices to carry them out. There are also major challenges with evidence-gathering in international crimes investigations. Key information, documents, and witnesses are usually located in the country where the crimes were committed or elsewhere, and investigators often deal with events that took place long before the case is opened, which makes evidence gathering even harder.

Additionally, the lack of political will often impedes the opening of such investigations. Many states are hesitant to spend limited resources on lengthy investigations of crimes that took place abroad. They may face political pressure from other states not to carry out prosecutions at all.²⁶



A major criticism of international-crimes prosecutions, including those at the national level, is selectivity: so far, most investigations and prosecutions have been conducted in Europe against perpetrators from the Global South.²⁷ Some scholars and government officials denounced this trend as being discriminatory and neo-colonial,²⁸ and the lack of prosecutions of suspected perpetrators from certain Western countries undermines the universality of the system.²⁹ A lack of access to information about the existence, reach, and mechanisms of laws providing for jurisdiction over international crimes has also impeded victims', lawyers', and NGOs' ability to play a more active part in triggering cases.

These challenges, while significant, are not unsurmountable. The findings of the Justice Beyond Borders Project and the recommendations contained in the concluding section of this analysis are meant to provide a pathway for making the worldwide pursuit of justice for the most serious international crimes a norm rather than an exception.



METHODOLOGY



The Justice Beyond Borders Project (the “JBB Project”) (JusticeBeyondBorders.com) provides an updated and comprehensive review of legislation on the most serious international crimes across the world. The JBB Project covers a total of 216 jurisdictions. These include 193 UN Member States;³⁰ UN Non-Member States; and 21 other entities (territories, special administrative regions, “constituent countries,” and the like). The entities were included in the JBB Project if they have a degree of self-governance, publicly available criminal legislation and, in some cases, laws related to jurisdiction over international crimes that is different from the UN Member State country with which they are affiliated. The entities included in the analysis as of February 2023 are American Samoa, Anguilla, Aruba, Bermuda, British Virgin Islands, Cayman Islands, Cook Islands, Curaçao, Falkland Islands, Greenland, Guam, Guernsey, Hong Kong, Isle of Man, Jersey, Macau, Montserrat, Niue, Puerto Rico, Turks and Caicos Islands, and the U.S. Virgin Islands. Other entities may be added to the JBB Project based on future research.

The analysis was carried out in two stages. First, CFJ reviewed national criminal codes and statutes for all 216 jurisdictions using publicly available information.³¹ Second, for a subset of countries that have developed extensive laws and practice on criminal accountability for the most serious international crimes, leading national practitioners and experts reviewed their country’s profile.³²

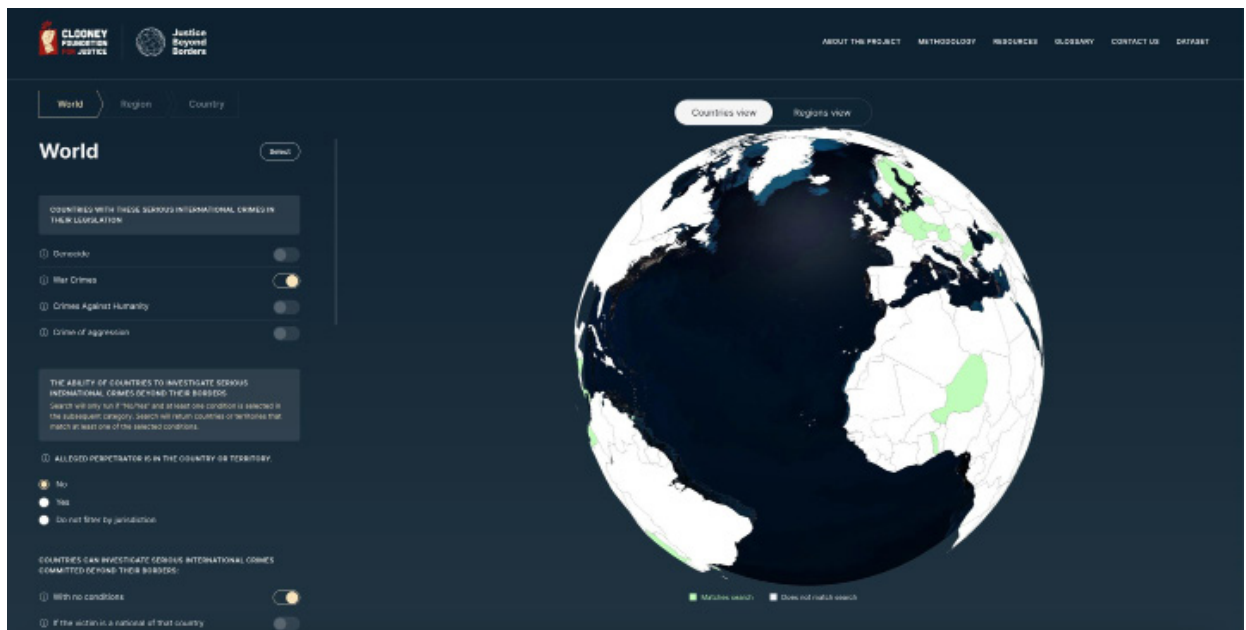


CFJ then analyzed information for each jurisdiction, including criminalization of each of the four most serious international crimes (genocide, war crimes, crimes against humanity, and the crime of aggression); the kind of jurisdiction provisions that would allow for the opening of an investigation for such crimes (related to the nationality or location of alleged perpetrators, the nationality of the victims, the national interest of the country, or obligations under international treaties); and procedural requirements and related issues (including, for example, information on the ratification of the Rome Statute of the International Criminal Court).³³



The JBB Project's online mapping tool, which was developed on the basis of this data and analysis, consists of two main functions: a customizable search function and a detailed profile for each of the 216 jurisdictions.

The tool's search function allows the user to select one or more of the most serious international crimes and one or more conditions of jurisdiction. For example, a survivor of a war crime (such as torture or inhuman treatment that occurred during war or conflict) or their representative can quickly identify which countries have criminalized the offence and which additional requirements (if any) would need to be met for a criminal investigation to be open. Lawyers or NGOs tracking suspects identified through their investigations can easily check whether the suspect's nationality, residency, or presence in a particular country could enable the triggering of a criminal case.



The search can be conducted globally or by region. Results appear on the globe view and as an alphabetical list; the user can then navigate to the detailed country profile. On the country profile page, the user will find a summary highlighting which international crimes have been integrated into national law, the conditions for jurisdiction, as well as other relevant information related to investigations and prosecution of such offences. Each entry contains English translations of the relevant excerpts of national law, the country's statements to the United Nations General Assembly Sixth Committee (which includes the countries' official positions on universal jurisdiction)³⁴ and the International Criminal Court on the country's implementation of the Rome Statute, links to key reports from other sources, and key case law, where available.



The screenshot shows the 'Methodology' section for Argentina. It includes a navigation menu with 'World', 'Region', and 'Country'. The main content area is titled 'Argentina' and features a 'Change' button. Below this, there are sections for 'SERIOUS INTERNATIONAL CRIMES' and 'THE COUNTRY HAS SERIOUS INTERNATIONAL CRIMES IN THEIR NATIONAL LEGISLATION'. A pop-up window displays the text of Article 2 of the International Criminal Court Law (2007) in both official translation and original text.

A sortable table of the raw data is available in the tool for users looking to take a deeper dive into the information.

The JBB Project is designed in a way that allows updating and expansion. Regular review and updates will be necessary given legislative changes and new jurisprudence. In addition, the CFJ team, together with partners, plan to carry out additional research and add the following features to the tool:

- Analysis on criminalization and jurisdictional requirements for additional categories of crimes, such as torture, enforced disappearances, propaganda of war, trafficking of persons, and others.
- Expanding the information on standing requirements and practice related to initiation of the criminal cases, including the options for victim-participation in the trial process through “private prosecutions” and civil party status of legal and natural persons.³⁵
- Compiling information on the rights of survivors and witnesses in the criminal proceedings, including witness protection measures and procedures related to insider witnesses and perpetrators willing to cooperate with the investigation and key contact information for survivors in need of such support.
- Adding analysis on modes of liability, including complicity.
- Including the information on the legal options for investigating and prosecuting legal entities.
- In collaboration with national experts and practitioners, adding a review and analysis of countries’ practical experiences in investigating and prosecuting the most serious international crimes, with a particular focus on survivor experiences.
- Translating the tool into additional languages.

KEY FINDINGS



Criminalization of the most serious international crimes

153
out of 193

UN Member States have criminalized at least one of the four most serious international crimes. Across all analyzed jurisdictions, the number is even higher, with 170 out of 216 jurisdictions criminalizing at least one of the four crimes. War crimes are the most widely criminalized.

- 142 UN Member States (155 jurisdictions) have criminalized **war crimes**.
- 134 UN Member States (149 jurisdictions) have criminalized **genocide**.
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- 94 UN Member States (106 jurisdictions) have criminalized **war crimes, genocide, and crimes against humanity**.
- 51 UN Member States (52 jurisdictions) have criminalized the **crime of aggression** (including incitement to the crime of aggression).
- 42 UN Member States (41 jurisdictions) have criminalized *all* four of these international crimes.

Jurisdiction

148

out of 193 UN Member States (164 jurisdictions) have laws that allow them to investigate and prosecute at least one of the serious international crimes committed beyond their own borders.

1. Absolute universal jurisdiction

“Absolute” jurisdiction allows countries to open a case against a person suspected of committing a serious international crime regardless of their nationality, the nationality of the victim, the location where the offence was committed, or the location of the suspect. This is the “purest” form of universal jurisdiction, reflecting the original idea behind the principle that certain crimes are considered to be committed against the international community as a whole.³⁶

The JBB Project analysis indicates that 28 UN Member States (29 jurisdictions) allow for the investigation of at least one of the most serious international crimes under absolute universal jurisdiction. Countries that have absolute universal jurisdiction for at least one of the most serious international crimes are Andorra, Argentina, Australia, Azerbaijan, Bulgaria, Cyprus, Czech Republic, Ecuador, El Salvador, Finland, Georgia, Germany, Ghana, Hungary, Lesotho, Lithuania, Nauru, New Zealand, Nicaragua, Niger, North Macedonia, Panama, Slovakia, Sweden, Tajikistan, Togo, Trinidad and Tobago, and Turkey.



Argentina and Germany have actively made use of their absolute universal jurisdiction provisions. In a 2021 case, a German court found a member of ISIS guilty of genocide, crimes against humanity, and war crimes under absolute universal jurisdiction: the defendant was not a German national nor resident, the victims were not German, and the crimes had not been committed on German territory.³⁷ In Argentina, the jurisdiction provisions have been interpreted by the Argentinian Appellate Court to require no link or nexus to Argentina, thereby effectively creating an “absolute” universal jurisdiction regime. This ruling allowed the Argentinian prosecutor to investigate genocide against the Rohingya community in Myanmar.³⁸

2. *Conditions for exercising jurisdiction beyond the country's borders*

In many countries, laws granting jurisdiction for crimes committed beyond the country's own borders are subject to conditions that limit their application.

a. *Perpetrator's presence in the country*

In many countries, broad laws granting jurisdiction are subject to a significant limitation: its exercise requires the presence of the suspected perpetrator in that country for the investigation to be launched. This is generally motivated by real or perceived resource constraints which justify focusing on those perpetrators. An exercise of jurisdiction over the most serious international crimes that is only limited by the requirement of perpetrator presence is often referred to as “conditional universal jurisdiction.”³⁹

Based on the JBB Project data, 51 UN Member States (53 jurisdictions) can establish jurisdiction when the alleged perpetrator is physically present in the country for at least one of the most serious international crimes even when the crimes were committed outside of its borders and neither the perpetrator nor the victim are nationals of the country.

One of the countries that requires the presence of the perpetrator to initiate a criminal proceeding is Switzerland. In 2017, Swiss authorities arrested Ousman Sonko, the Minister of Interior under the Gambian dictator Yahya Jammeh, who fled Gambia and eventually arrived in Switzerland where he applied for asylum.⁴⁰ Sonko was charged with crimes against humanity.⁴¹ To date, he remains in custody and the investigation is ongoing.

b. *Perpetrator's nationality or residency*

Most countries exercise jurisdiction over crimes committed by their nationals, regardless of the place of commission. This is often referred to as “active personality” jurisdiction. This also can include jurisdiction over crimes committed by permanent residents. Some countries also interpret this requirement to include those granted asylum or habitually residing in the country or stateless people who live in that country.

The JBB Project analysis indicates that 76 UN Member States (87 jurisdictions) can exercise jurisdiction over their own nationals (including residents and those whose legal status is refugee or stateless person residing permanently) for at least one of the most serious international crimes, regardless of where the crime was committed. Additionally, a further 22 UN Member States (24 jurisdictions) can exercise jurisdiction over their nationals suspected of committing crimes abroad if they are physically present on their territory, meaning a total 98 UN Member States (111 jurisdictions) can exercise some sort of jurisdiction over their own nationals for the most serious international crimes they may have committed outside the country's own borders.

For instance, prior to the introduction of its universal jurisdiction statute, Sweden has held its own nationals accountable for the commission of international crimes, including a Swedish citizen who was convicted of international crimes committed against Bosnian Muslims as part of a Croatian military unit in 1991.⁴²



In the Netherlands, Abu Khuder has been undergoing criminal prosecution after being arrested, indicted, and in 2021 found guilty of a war crime for his involvement in the execution of a prisoner of war in Syria. The Dutch court established jurisdiction over the case under its universal jurisdiction provisions because Khuder had been living in the Netherlands since 2014 when he was granted temporary asylum.⁴³

c. Victim's nationality or residency

This approach, often referred to as “passive personality” jurisdiction, requires that the victim of the crime is a national of the country in order for jurisdiction to be exercised over a crime committed abroad. In some countries, it is extended to victims who are residents, stateless persons, or refugees of the country seeking to open the case. Some countries require that such status is possessed by the victims at the time of the commission of the crimes, while in others only the status at the time of the opening of an investigation is relevant.⁴⁴

Our analysis indicates that 52 UN Member States (54 jurisdictions) can exercise jurisdiction for at least one of the most serious international crimes when the victim is a national of that country (including victims who are residents and those whose legal status is refugee or stateless person residing permanently), regardless of where the crimes occurred. A further 21 UN Member States (22 jurisdictions) require that the alleged perpetrator is physically present on their territory in addition to the victim being a national of that country in order to exercise jurisdiction over them. This means that a total 73 UN Member States (76 jurisdictions) can exercise some sort of jurisdiction when the victim is a national of that country for the most serious international crimes they may have committed outside the country's own borders.

In 1994, families of Belgian peacekeepers murdered alongside Rwandan civilians during the Rwandan genocide initiated a case against a former Rwandan officer, and the investigation led to an international arrest warrant a year later.⁴⁵ After many years of procedural hurdles and diplomatic obstacles, the suspect eventually turned himself in to the Belgian police and was tried and convicted for war crimes in Belgium in 2007.⁴⁶

d. National interests or state security

Some countries can exercise jurisdiction over crimes that affect their sovereignty, security, or national interest, or simply over crimes that they consider to be committed against their country. This is referred to as the “protective principle.” In theory, this could extend to the most serious international crimes which are seen to affect the interests of all countries.⁴⁷

Our analysis shows that 36 UN Member States (37 jurisdictions) can exercise jurisdiction for at least one of the most serious international crimes by a country to protect their own national interest or security. Additionally, 20 UN Member States require that the alleged perpetrator is physically present on their territory to exercise jurisdiction over crimes that affect their national interest or security.

There is little international practice on the application of the protective principle for the most serious international crimes to date.⁴⁸ But in 2022, Austria's Ministry of Justice issued a decree stating that it would interpret its protective jurisdiction provision to extend to Ukrainian survivors of serious international crimes who fled to Austria following Russia's invasion.⁴⁹ If future criminal prosecutions proceed on this jurisdictional ground and enshrine this interpretation in Austrian caselaw, this could provide impetus for other countries to adopt a similar approach.



e. Obligations under international treaties

Many countries are required to exercise jurisdiction over crimes committed abroad as an obligation under a treaty. Most relevant for the JBB Project, the 1949 Geneva Conventions, which govern the conduct of war and provide protections for those who are not taking part in hostilities, include an obligation to prosecute suspected war criminals or extradite them to a country that is better placed to prosecute.⁵⁰ Therefore, any country that has ratified the Geneva Conventions has not only jurisdiction but an obligation to investigate and prosecute an individual for “grave breaches” of the Conventions⁵¹ committed in other countries.

Other examples of international treaties that include such obligations are the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment⁵² and International Convention for the Protection of All Persons from Enforced Disappearance.⁵³

Our analysis shows there are 94 UN Member States (106 jurisdictions) with national laws that contain an obligation to prosecute alleged perpetrators found in their territory for grave breaches of the Geneva Conventions, or to extradite them to another jurisdiction able to do so.

Procedural requirements for opening investigations

A number of procedural requirements are particularly relevant for opening investigations into international crimes committed beyond the country’s own borders:

- **Perpetrator presence:** Some countries require physical presence to open an investigation, either by itself or in addition to any of the jurisdiction bases mentioned above (perpetrator nationality, victim nationality, state interest, or obligations under international treaties).
- **Double criminality:** Some countries require that the act must also be considered a crime in the territory of its commission in order to proceed with an investigation.
- **Double jeopardy (*ne bis in idem*):** Generally, criminal proceedings for the same offence are prohibited.⁵⁴ The scope of this protection varies,⁵⁵ with some countries allowing such prosecutions when a final judgment in another country has not been handed down. Prosecution for the same offence may also be allowed when the country’s laws require a more severe sentence than had been originally imposed.
- **High-level political approval:** Some countries require that political bodies, such as the country’s Ministry of Justice or Attorney General, authorize the opening of an investigation or launching a prosecution.
- **Immunities:** Certain state officials are also immune from criminal proceedings while in their position.⁵⁶ To further accountability efforts and ensure that no one is above the law, some countries have exempt the most serious international crimes from immunity for officials other than the “top three” officials who benefit from personal immunity.⁵⁷

PRACTICE



The JBB Project focused primarily on the analysis of laws and regulations related to prosecutions of the most serious international crimes, rather than the countries' practice or case law. Our partner, TRIAL International, is currently carrying out an extensive survey of cases involving countries prosecuting the most serious international crimes committed outside their own borders. In the future, the two databases will be linked to enable the most comprehensive search of both laws and practice.

However, based on publicly available information related to cases involving the most serious international crimes particularly over the last three decades—since the adoption of the Rome Statute of the International Criminal Court—there have been at least 139 cases opened in 20 countries.⁵⁸

That means that while 164 jurisdictions can hold alleged perpetrators of the most serious international crimes accountable even when the crimes were committed beyond their borders, only about 12% of countries have used their laws to open such investigations.

The cases that have been opened are predominantly in the Global North: 127 cases were opened in Europe (with Germany leading the number of cases with 33, followed by France with 24, and Sweden with 17), and 3 in Canada. In the rest of the world, cases were opened in Argentina (4), South Africa (2), Senegal (1), Colombia (1), and Brazil (1).

While it is difficult to draw concrete conclusions from the limited information available on these cases, of the 139 cases, less than half (63 cases) have led to convictions for the most serious international crimes. On average, for those cases that had reached a definitive outcome, proceedings lasted just under five years. Finally, international or European arrest warrants have played a key role in ensuring fair trials for serious international crimes proceed: 26 cases—almost one in five cases launched over the last three decades—were able to proceed due to international or European arrest warrants issued based on ongoing investigations into alleged perpetrators of the most serious international crimes.

CONCLUSION



Despite limitations and challenges, the possibilities for prosecuting alleged perpetrators of the most serious international crimes at the national level are significant and expanding. Developing and supporting this system will enable effective access to justice for thousands of survivors. It will also ensure that a wide range of perpetrators who are currently outside the reach of the International Criminal Court can still be brought to account.

The JBB Project provides comprehensive and transparent information to help survivors and practitioners make the most of these expanding opportunities. Equally, the Project identified some of the main obstacles to realizing the promise of universal justice. The information collected by the Project can help advocates, practitioners, and government officials turn this promise into a reality.

A first priority for countries should be to ensure that the most serious international crimes are criminalized under national law. There are still 40 UN Member States where no serious international crimes are criminalized, and the crime of aggression is not criminalized in 142 States.

Ensuring that there is no safe haven for perpetrators of the most serious international crimes requires reducing existing legal barriers to prosecution, including requirements regarding the nationality of the victim, nationality of the perpetrator, or place of commission of the crime. Nationality-based distinctions undermine the principle of universality that is core to combatting impunity for the most serious international crimes. And if more countries were to adopt “conditional universal jurisdiction” statutes (only requiring the presence of the perpetrator to initiate proceedings), it would significantly increase the chances of perpetrators being apprehended and put on trial.

Ensuring perpetrators of the most serious international crimes do not elude justice also requires reducing procedural barriers, especially those that apply to investigation and arrest. While it is reasonable for countries to prioritize prosecutions of nationals and residents who are more likely to be present on territory and caught, investigations should be started as early as possible to collect the necessary evidence. For situations of mass atrocities, structural investigations, carried out through effective collaboration and joining resources of several countries, should become a norm. When investigations reach the necessary stage, countries should issue arrest warrants and ask for Interpol to issue a “Red Notice”—a request to law enforcement worldwide to locate and provisionally arrest a person pending extradition, surrender, or similar legal action.⁵⁹ The international scope of a Red Notice ensures that the perpetrator has nowhere to hide.

Further geographical expansion is critically important for the success of the international justice system. Some countries in the Global South already have the necessary laws and commendable practice of national investigations and prosecutions of serious crimes. They could use this experience to take the lead in investigating international crimes committed elsewhere. In turn, countries in the Global North, international institutions and donors should commit financial resources, and expertise, and engage in active cooperation to support such processes. All countries that respect international standards of due process should hold such trials, and those committed to justice should lead by example, ensuring that no perpetrators of the most serious international crimes can remain within their borders with impunity.

CONCLUSION



The key goal of initiating cases for crimes committed abroad is to achieve justice for survivors and victims. All those involved in the efforts to establish accountability must keep the survivors as the focus of their attention. That means not only ensuring legal representation and assistance, but also providing linguistic, psychological, medical, social and any other necessary support to the extent possible and for as long as this is needed. Particular attention should be paid to the protection of witnesses to shield them from intimidation and empower them to meaningfully participate in the justice process.

Harnessing the power of civil society could significantly enhance the ability of international and state bodies to investigate and prosecute international crimes. Effective collaboration between law enforcement agencies and civil society actors would require the development of agreed-upon processes for coordination and information exchanges which would respect the integrity of the official investigative processes while also protecting witnesses and survivors. Promotion and broader acceptance of the Guidelines for civil society led documentation efforts,⁶⁰ would be a helpful step toward professional and meaningful cooperation.

While the JBB Project focuses primarily on prosecutions of international crimes in national jurisdictions, it is important to continuously highlight the role of the International Criminal Court as the primary forum for bringing to account the highest-level perpetrators of the most serious international crimes, including those who would be shielded from domestic prosecutions by immunities. Countries should therefore be encouraged to ratify and domesticate the Rome Statute of the International Criminal Court and collaborate actively with the Court when relevant.

Domestic and international prosecutions can go hand in hand—but the law’s potential is not yet being harnessed as it should for the benefit of survivors. We hope the JBB Project will help to expose the potential for greater accountability and empower survivors to access justice for the most serious crimes, wherever they may occur.

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- ¹ This document uses the term “the most serious international crimes” to include war crimes, crimes against humanity, genocide, and aggression as a shortened form of what is in the preamble to the Rome Statute to the International Criminal Court: “Affirming that the most serious crimes of concern to the international community as a whole must not go unpunished and that their effective prosecution must be ensured by taking measures at the national level and by enhancing international cooperation...” Sometimes these are known as “atrocities” crimes or “core” international crimes, though often these terms do not include the crime of aggression.
- ² The total number includes: 193 UN Member States; 2 UN Non-Member States (Holy See and the State of Palestine, see Non-Member States, United Nations, <https://www.un.org/en/about-us/non-member-states> (last accessed Jan. 24, 2023)); and 21 other entities (territories, special administrative regions, “constituent countries,” and the like). The entities were included in the JBB Project if they have a degree of self-governance, publicly available criminal legislation, and, in some cases, laws related to jurisdiction over international crimes that is different from the UN Member State country with which they are affiliated. The entities included in the analysis as of February 2023 are American Samoa, Anguilla, Aruba, Bermuda, British Virgin Islands, Cayman Islands, Cook Islands, Curaçao, Falkland Islands, Greenland, Guam, Guernsey, Hong Kong, Isle of Man, Jersey, Macau, Montserrat, Niue, Puerto Rico, Turks and Caicos Islands, and U.S. Virgin Islands. Other entities may be added to the JBB Project based on future research.
- ³ CEDRIC RYNGAERT, *JURISDICTION IN INTERNATIONAL LAW* 101, 127-128 (2nd ed. 2015). The term “universal jurisdiction” is sometimes used as shorthand to describe a number of types of extra-territorial jurisdiction laws.
- ⁴ *Basic Facts on Universal Jurisdiction*, HUMAN RIGHTS WATCH (Oct. 19, 2009), <https://www.hrw.org/news/2009/10/19/basic-facts-universal-jurisdiction>.
- ⁵ See LUC REYDAMS, *UNIVERSAL JURISDICTION, INTERNATIONAL AND MUNICIPAL LEGAL PERSPECTIVES* 35-36 (2004). Countries have exercised their jurisdiction over crimes committed abroad since the late medieval period, relying on “traditional” bases for jurisdiction. See RYNGAERT, *supra* note 3, at 107, 114.
- ⁶ Máximo Langer’s statistical analysis of universal jurisdiction cases determined that there has been a marked increase each decade in the number of cases filed: “Before 1988, there were 286 universal jurisdiction cases initiated. In the decade between 1988 and 1997, 342 universal jurisdiction cases were initiated. In the following decade – 1998–2007 – there were 503 such cases. And, in the last decade of our data – 2008–2017 – there were 815 new universal jurisdiction cases, which represents a total nearly as high as the two previous decades combined.” Máximo Langer & Mackenzie Eason, *The Quiet Expansion of Universal Jurisdiction*, 30(3) *EUROPEAN J. OF INTERNATIONAL LAW* 779, 785 (2019), <http://www.ejil.org/pdfs/30/3/2994.pdf>. See also Beth Van Schaack & Zarko Perovic, *The Prevalence of “Present-In” Jurisdiction*, 107 *AMERICAN SOCIETY OF INTERNATIONAL LAW* 237, 239 (2013), <https://www.jstor.org/stable/10.5305/procanmeetasil.107.0237>; Máximo Langer, *Universal Jurisdiction is Not Disappearing. The Shift from “Global Enforcer” to “No Safe Haven” Universal Jurisdiction*, 13 *J. OF INTERNATIONAL CRIMINAL JUSTICE* (2015), <https://promiseinstitute.law.ucla.edu/wp-content/uploads/2022/06/Universal-Jurisdiction-is-Not-Disappearing.pdf>.
- ⁷ Van Schaack & Perovic, *supra* note 6, at 239.
- ⁸ See Justice for Victims of War Crimes Act, 18 U.S.C. § 4240 (2023), <https://www.congress.gov/bill/117th-congress/senate-bill/4240>.
- ⁹ Langer & Eason, *supra* note 6, at 807.
- ¹⁰ Christine Chaumeau, *Argentina Comes to the Aid of Myanmar Rohingyas*, JUSTICEINFO (Dec. 10, 2022), <https://www.justiceinfo.net/en/85392-argentina-comes-aid-myanmar-rohingyas.html>.
- ¹¹ Julia Crawford & Thierry Cruvellier, *Philip Grant: “Ukraine is Accelerating A Revival Of Universal Jurisdiction”*, JUSTICEINFO (Nov. 29, 2022), <https://www.justiceinfo.net/en/109532-philip-grant-ukraine-revival-universal-jurisdiction.html>.
- ¹² The European Union Agency for Criminal Justice Cooperation (Eurojust) is a network of national judicial authorities work closely together to fight serious organized cross-border crime. See EUROPEAN UNION AGENCY FOR CRIMINAL JUSTICE COOPERATION, <https://www.eurojust.europa.eu/> (last accessed Jan. 24, 2023).
- ¹³ *Genocide Network*, EUROPEAN UNION AGENCY FOR CRIMINAL JUSTICE COOPERATION, <https://www.eurojust.europa.eu/judicial-cooperation/practitioner-networks/genocide-network> (last accessed Jan. 24, 2023). The European Network for investigation and prosecution of genocide, crimes against humanity and war crimes (“Genocide Network”) was established in 2002 and reinforced in 2003 by the Council of the European Union to enable close cooperation between the national authorities when investigating and prosecuting the crime of genocide, crimes against humanity and war crimes, known collectively as core international crimes. The Genocide Network’s mandate is to ensure perpetrators do not attain impunity within the Member States.
- ¹⁴ Florian Jeßberger & Leonie Steinel, *Strategic Litigation in International Criminal Justice: Facilitating a View from Within*, 20 *J. OF INTERNATIONAL CRIMINAL JUSTICE* 390 (2022), <https://doi.org/10.1093/jicj/mqac008>. The role of NGOs in initiating “political” and ineffective prosecutions was a point of criticism for some academics. For instance, complaints against former U.S. President George W. Bush and Prime Minister of Israel Ariel Sharon filed in Belgium led to significant backlash and an eventual amendment to the country’s universal jurisdiction statute that limited its application. See, e.g., Luc Reydams, *The Rise and Fall of Universal Jurisdiction*, in *HANDBOOK OF INTERNATIONAL CRIMINAL LAW* (Schabas & Bernaz, eds. 2010), <https://ssrn.com/abstract=1553734>.
- ¹⁵ See, e.g., Office of the Prosecutor of the International Criminal Court, *Documenting international crimes and human rights violations for accountability purposes: Guidelines for civil society organisations* (Sept. 21, 2022), <https://www.icc-cpi.int/news/documenting-international-crimes-and-human-rights-violations-accountability-purposes>.
- ¹⁶ Leslie Johns, Máximo Langer & Margaret E. Peters, *Migration and the Demand for Transitional Justice*, CAMBRIDGE UNIVERSITY PRESS (April 6, 2022), <https://doi.org/10.1017/S0003055422000302>.
- ¹⁷ Leslie Johns, et al, *supra* note 16.
- ¹⁸ Press Release, Syrian official sentenced to life for crimes against humanity with support of joint investigation team assisted by Eurojust, European Union Agency for Criminal Justice Cooperation (Jan. 13, 2022), <https://www.eurojust.europa.eu/news/syrian-official-convicted-crimes-against-humanity-with-support-joint-investigation-team>.



- ¹⁹ See, e.g., Press Release, German Federal Court of Justice confirms the first-ever conviction of an ISIS member for genocide, Doughty Street Chambers (Jan. 26, 2023), <https://www.doughtystreet.co.uk/news/german-federal-court-justice-confirms-first-ever-conviction-isis-member-genocide>.
- ²⁰ *Lafarge in Syria: Accusations of complicity in grave human rights violations*, EUROPEAN CENTER FOR CONSTITUTIONAL AND HUMAN RIGHTS, <https://www.ecchr.eu/en/case/lafarge-in-syria-accusations-of-complicity-in-grave-human-rights-violations/> (last accessed Jan. 24, 2023).
- ²¹ *Lundin Case*, PAX FOR PEACE, <https://paxforpeace.nl/what-we-do/programmes/lundin-case> (last accessed Jan. 24, 2023).
- ²² See, e.g., *Structural Investigation*, EUROPEAN CENTER FOR CONSTITUTIONAL AND HUMAN RIGHTS, <https://www.ecchr.eu/en/glossary/structural-investigation/#:-:text=The%20investigation%20focuses%20on%20structures,and%20groupings%20of%20potential%20perpetrators> (last accessed Jan. 24, 2023).
- ²³ See Langer & Eason, *supra* note 6, at 787-88.
- ²⁴ Specific findings are presented below.
- ²⁵ In practice, there is potential for broader investigative scope. What started as an investigation to determine whether France had jurisdiction eventually evolved into a structural investigation in crimes committed by the Syrian regime. See Lena Bjumström, *In France, the Lengthy Syrian Investigations*, JUSTICEINFO (July 22, 2021), <https://www.justiceinfo.net/en/80112-in-france-the-lengthy-syrian-investigations.html>.
- ²⁶ See Stefaan Smis & Kim Van der Borgh, *Belgian Law concerning the Punishment of Grave Breaches of International Humanitarian Law: A Contested Law with Uncontested Objectives*, 8(18) ASIL (July 4, 2003), <https://www.asil.org/insights/volume/8/issue/18/belgian-law-concerning-punishment-grave-breaches-international>.
- ²⁷ See e.g., *Universal Jurisdiction Annual Review 2022: Universal Jurisdiction, an overlooked tool to fight conflict-related sexual violence*, TRIAL International (2022), https://trialinternational.org/wp-content/uploads/2022/03/TRIAL_International_UJAR-2022.pdf.
- ²⁸ Reydams, *supra* note 14; RYNGAERT, *supra* note 3, at 101, 130.
- ²⁹ Richard Dicker, *Proceedings of the Annual Meeting (American Society of International Law)*, 107 INT'L LAW IN A MULTIPOLAR WORLD 236 (2013).
- ³⁰ All current 193 U.N. Member States were reviewed as part of the JBB Project. See Member States, United Nations, <https://www.un.org/en/about-us/member-states> (last accessed Jan. 24, 2023).
- ³¹ Generally, criminal codes and criminal procedure codes most often held information related to the Project; however, where countries had passed specialized international crimes statutes, those were reviewed as well. For the national criminal codes and statutes that were unavailable in English, the JBB Project consulted official government translation where available. If these options are not accessible online, the information reflects information from third-party translations (i.e., from international organizations, non-profit organizations, or other authoritative sources) or, where no third-party translation is available, the information reflects unofficial translations (i.e., by translators or via machine translation). All data in the JBB Project has been marked as to whether it is the original (English) text, an official translation, a third-party translation, or an unofficial translation to reflect these distinctions.
- ³² Countries where the JBB Project conducted second-level review from national leading experts and practitioners include: Argentina, Australia, Austria, Belgium, Canada, Czech Republic, El Salvador, Estonia, France, Germany, Israel, Italy, Latvia, Lithuania, Moldova, the Netherlands, Poland, Slovakia, Spain, Sweden, Switzerland, the United Kingdom, and Ukraine.
- ³³ For a detailed description of all categories of jurisdiction identified by the JBB Project, please consult the Methodology page of the Project at <https://justicebeyondborders.com/page/methodology>.
- ³⁴ The United Nations General Assembly Sixth Committee (also known as the Legal Committee or C6) is one of six main committees of the General Assembly of the United Nations. It deals primarily with legal matters and is the primary forum for the consideration of international law and other legal matters concerning the United Nations, <https://www.un.org/en/ga/sixth/>.
- ³⁵ Some countries allow victims or those representing their interests to join an ongoing criminal prosecution as “civil party,” a status that allows them to be a recognized officially in the case and gives them the right to participate fully in the case, including presenting evidence, making submissions to the court, and seeking reparations as part of the proceedings. Private prosecutions are criminal proceedings that are initiated by an individual or other private party, not the government. Both procedures are governed by different rules depending on jurisdiction.
- ³⁶ Often referred to as breaches of obligations *erga omnes* ([owed] to all).
- ³⁷ *German court hands down first genocide conviction against ISIS member*, DOUGHTY STREET CHAMBERS (Nov. 30, 2021), <https://www.doughtystreet.co.uk/news/german-court-hands-down-first-genocide-conviction-against-isis-member>.
- ³⁸ Chaumeau, *supra* note 10. The case involving the Rohingya in Argentina had previously been dismissed by a lower court because the lower court added a requirement of a cultural connection between Argentina and the situation in Myanmar—a requirement not included in the national legislation of Argentina. The Appellate Court held there was no such link required and the case is proceeding.
- ³⁹ U.N. Secretary General, *The scope and application of the principle of universal jurisdiction*, U.N. Doc. A/65/181 (July 29, 2010), <https://digitallibrary.un.org/record/689030?ln=en>; ANTONIO CASSESE, *INTERNATIONAL CRIMINAL LAW* 284-289 (2003).
- ⁴⁰ *Ousman Sonko*, TRIAL INTERNATIONAL (April 4, 2022), <https://trialinternational.org/latest-post/ousman-sonko/>.
- ⁴¹ *Sonko*, *supra* note 40.
- ⁴² Mark Klamberg, *Trials in Sweden, Participants in the Proceedings and other Actors*, in 66 SCANDINAVIAN STUDIES IN LAW 28 (Oct. 2020), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3705470.
- ⁴³ *UNIVERSAL JURISDICTION ANNUAL REVIEW 2022: UNIVERSAL JURISDICTION, AN OVERLOOKED TOOL TO FIGHT CONFLICT-RELATED SEXUAL VIOLENCE*, TRIAL INTERNATIONAL (2022), https://trialinternational.org/wp-content/uploads/2022/03/TRIAL_International_UJAR-2022.pdf.
- ⁴⁴ Details regarding the timing of the possession of the status as well as any other requirements are contained in the country's criminal jurisdiction provisions, which can be seen in full on each country's page in the JBB mapping tool at <https://justicebeyondborders.com/>.



- ⁴⁵ *Rwanda/Belgium – Start of Bernard Ntuyahaga Trial*, JUSTICEINFO (April, 19, 2007), <https://www.justiceinfo.net/en/18652-en-en-190407-rwandabelgium-start-of-bernard-ntuyahagas-trial94189418.html>.
- ⁴⁶ See *Breaking Down Barriers. Access to Justice in Europe for Victims of International Crimes*, FIDH, ECCHR & REDRESS (Sept. 2020), https://www.ecchr.eu/fileadmin/Publikationen/Breaking_Down_Barriers_EN_web_FINAL_2020-11-08.pdf.
- ⁴⁷ Matthew Garrod, *The Protective Principle of Jurisdiction over War Crimes and the Hollow Principle of Universality*, in 12 *INTERNATIONAL CRIMINAL LAW REVIEW* 12 (2012) 815-818.
- ⁴⁸ RYNGAERT, *supra* note 3, at 116.
- ⁴⁹ Bundesministerium für Justiz, Erlass vom 5. Juli 2022 zur inländischen Gerichtsbarkeit bei im Ausland begangenen Kriegsverbrechen und anderen Straftaten nach dem 25. Abschnitt des StGB und zur Immunität oberster Organe fremder Staaten in österreichischen Strafverfahren (July 5, 2022), https://www.ris.bka.gv.at/Dokument.wxe?Abfrage=Erlaesse&Titel=&VonInkrafttredatum=&BisInkrafttredatum=&FassungVom=&Einbringer=Bundesministerium+f%C3%BCr+Justiz&Abteilung=&Funds telle=&GZ=2022-0.448.134&Norm=&ImRisSeitVonDatum=&ImRisSeitBisDatum=&IsSeit=Undefined&ResultPageSize=100&Suchworte=&Position=1&SkipToDocume ntPage=true&ResultFunctionToken=89429c61-c849-4ebb-b6a0-ecfc5c0f791c&Dokumentnummer=ERL_BMJ_20220705_2022_0_448_134; Nikolaus Kurmayer, *Austria wants to prosecute Russian war crimes*, EURACTIV (Apr. 18, 2022), https://www.euractiv.com/section/politics/short_news/austria-wants-to-prosecute-russian-war-crimes/.
- ⁵⁰ Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in the Armed Forces in the Field art. 50, Aug. 12 1949, 75 U.N.T.S. 31 [hereinafter Geneva Convention I]; Geneva Convention for the Amelioration of the Condition of the Wounded, Sick, and Shipwrecked Members of Armed Forces at Sea art. 51, Aug. 12 1949 75 U.N.T.S. 85; Geneva Convention Relative to the Treatment of Prisoners of War art. 129, Aug. 12 1949, 75 U.N.T.S. 135; Geneva Convention Relative to the Protection of Civilian Persons in the Time of War art. 146, Aug. 12 1949, 75 U.N.T.S. 287.
- ⁵¹ Grave breaches of the Geneva Conventions refer to those violations that are considered the most serious and that all countries that have ratified the Geneva Conventions must either prosecute or extradite if alleged perpetrators of grave breaches are found on their territory. Examples of grave breaches include willful killing, torture, and inhuman treatment; willfully causing great suffering to the body or health; or extensive, unlawful, and wanton destruction of property. See, e.g., Geneva Convention I, art. 50.
- ⁵² See Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 5.2, Dec. 10, 1984, 1465 U.N.T.S. 85 (“Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over such offences in cases where the alleged offender is present in any territory under its jurisdiction and it does not extradite him pursuant to article 8 to any of the States mentioned in paragraph 1 of this article.”).
- ⁵³ See International Convention for the Protection of All Persons from Enforced Disappearance, art. 9.2, Dec. 20, 2006, 2716 U.N.T.S. 3 (“Each State Party shall likewise take such measures as may be necessary to establish its competence to exercise jurisdiction over the offence of enforced disappearance when the alleged offender is present in any territory under its jurisdiction, unless it extradites or surrenders him or her to another State in accordance with its international obligations or surrenders him or her to an international criminal tribunal whose jurisdiction it has recognized.”).
- ⁵⁴ AMAL CLOONEY & PHILIPPA WEBB, *THE RIGHT TO FAIR TRIAL IN INTERNATIONAL LAW* 778 (2020).
- ⁵⁵ CLOONEY & WEBB, *supra* note 54, at 785-801.
- ⁵⁶ Vienna Convention on Diplomatic and Consular Relations, arts. 31, 37 Apr. 18, 1961, 500 U.N.T.S. 95; Arrest Warrant of 11 April 2000 (D.R.C. v. Belg.), Judgment, 2002 I.C.J. 3 ¶ 55 (Feb. 14).
- ⁵⁷ Generally, under international law, personal immunity for the crime of genocide, crimes against humanity, and war crimes exists for the “top three” types of positions: heads of state, heads of government, and other high-ranking ministers like the foreign minister. Some national jurisdictions have extended personal immunity to other offices outside of these “top three” positions. See International Law Commission, *Immunity of State officials from foreign criminal jurisdiction*, Memorandum by the Secretariat, U.N. Doc. A/CN.4/596 (Mar. 31, 2008), ¶ 97, ¶ 99, ¶¶ 118-19, ¶¶ 132-34, ¶ 150-151 (on some state practice regarding the exceptions for international crimes). See generally HAZEL FOX & PHILIPPA WEBB, *THE LAW OF STATE IMMUNITY* (2015).
- ⁵⁸ The information and data on cases related to the most serious international crimes is pulled from a preliminary overview of cases contained in the TRIAL International Universal Jurisdiction Database and the International Crimes Database. It includes only the cases opened into the most serious international crimes covered by the JBB Project. The 20 countries are Argentina, Austria, Belgium, Brazil, Canada, Colombia, Finland, France, Germany, Hungary, Italy, Lithuania, the Netherlands, Norway, Senegal, South Africa, Spain, Sweden, Switzerland, and the UK. Máximo Langer’s Universal Jurisdiction database currently contains 2 167 cases and includes cases on known filed criminal complaints or cases between 1957 and 2020 brought by public authorities on their own motion; involving the alleged commission of crimes against humanity, genocide, torture, or war crimes; and rely fully or partially on the extraterritorial jurisdiction provisions. Out of these, about 500 cases are listed as opened in the last three decades, but the analysis unit for this calculation is an individual defendant, which partially explains the discrepancy in the number. The Docket interview with Máximo Langer, February 2, 2023 (remote).
- ⁵⁹ *About Red Notices*, INTERPOL, <https://www.interpol.int/en/How-we-work/Notices/About-Red-Notices#:~:text=A%20Red%20Notice%20is%20a,authorities%20in%20the%20requesting%20country> (last accessed Jan. 24, 2023).
- ⁶⁰ DOCUMENTING INTERNATIONAL CRIMES AND HUMAN RIGHTS VIOLATIONS FOR ACCOUNTABILITY PUROPOSES: GUIDELINES FOR CIVIL SOCIETY ORGANIZATIONS (Sept. 1, 2022), <https://www.icc-cpi.int/news/icc-prosecutor-and-eurojust-launch-practical-guidelines-documenting-and-preserving-information>.



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