

2. The perpetrator targeted such person or persons by reason of the identity of a group or collectivity or targeted the group or collectivity as such.

3. Such targeting was based on political, racial, national, ethnic, cultural, religious, gender as defined in article 7, paragraph 3, of the Statute, or other grounds that are universally recognized as impermissible under international law.

4. The conduct was committed in connection with any act referred to in article 7, paragraph 1, of the Statute or any crime within the jurisdiction of the Court. 22

5. The conduct was committed as part of a widespread or systematic attack directed against a civilian population.

6. The perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population.

**Article 7 (1) (i) Crime against humanity of enforced disappearance of persons 23,24
Elements**

1. The perpetrator:

(a) Arrested, detained 25,26 or abducted one or more persons; or

(b) Refused to acknowledge the arrest, detention or abduction, or to give information on the fate or whereabouts of such person or persons.

2. (a) Such arrest, detention or abduction was followed or accompanied by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of such person or persons; or

21 This requirement is without prejudice to paragraph 6 of the General Introduction to the Elements of Crimes. 22 It is understood that no additional mental element is necessary for this element other than that inherent in element 6. 23 Given the complex nature of this crime, it is recognized that its commission will normally involve more than one perpetrator as a part of a common criminal purpose. 24 This crime falls under the jurisdiction of the Court only if the attack referred to in elements 7 and 8 occurs after the entry into force of the Statute. 25 The word “detained” would include a perpetrator who maintained an existing detention. 26 It is understood that under certain circumstances an arrest or detention may have been lawful. 15

(b) Such refusal was preceded or accompanied by that deprivation of freedom.

3. The perpetrator was aware that: 27

(a) Such arrest, detention or abduction would be followed in the ordinary course of events by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of such person or persons; 28 or

(b) Such refusal was preceded or accompanied by that deprivation of freedom.

4. Such arrest, detention or abduction was carried out by, or with the authorization, support or acquiescence of, a State or a political organization.
5. Such refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of such person or persons was carried out by, or with the authorization or support of, such State or political organization.
6. The perpetrator intended to remove such person or persons from the protection of the law for a prolonged period of time.
7. The conduct was committed as part of a widespread or systematic attack directed against a civilian population.
8. The perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population.

Article 7 (1) (j) Crime against humanity of apartheid

Elements

1. The perpetrator committed an inhumane act against one or more persons.
2. Such act was an act referred to in article 7, paragraph 1, of the Statute, or was an act of a character similar to any of those acts. 29
3. The perpetrator was aware of the factual circumstances that established the character of the act.
4. The conduct was committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups.
5. The perpetrator intended to maintain such regime by that conduct.
6. The conduct was committed as part of a widespread or systematic attack directed against a civilian population.

27 This element, inserted because of the complexity of this crime, is without prejudice to the General Introduction to the Elements of Crimes. 28 It is understood that, in the case of a perpetrator who maintained an existing detention, this element would be satisfied if the perpetrator was aware that such a refusal had already taken place.

29 It is understood that “character” refers to the nature and gravity of the act. 16

7. The perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population.

Article 7 (1) (k) Crime against humanity of other inhumane acts

Elements

1. The perpetrator inflicted great suffering, or serious injury to body or to mental or physical health, by means of an inhumane act.

2. Such act was of a character similar to any other act referred to in article 7, paragraph 1, of the Statute. 30
3. The perpetrator was aware of the factual circumstances that established the character of the act.
4. The conduct was committed as part of a widespread or systematic attack directed against a civilian population.
5. The perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population.

30 It is understood that “character” refers to the nature and gravity of the act. 17



Appendix C: The Statute of the International Criminal Tribunal for Rwanda (extract)

Article 2
Genocide

1. The International Tribunal for Rwanda shall have the power to prosecute persons committing genocide as defined in paragraph 2 of this Article or of committing any of the other acts enumerated in paragraph 3 of this Article.
2. Genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:
 - a. Killing members of the group;
 - b. Causing serious bodily or mental harm to members of the group;
 - c. Deliberately inflicting on the group conditions to life calculated to bring about its physical destruction in whole or in part;
 - d. Imposing measures intended to prevent births within the group;
 - e. Forcibly transferring children of the group to another group.
3. The following acts shall be punishable:
 - a. Genocide;
 - b. Conspiracy to commit genocide;
 - c. Direct and public incitement to commit genocide;
 - d. Attempt to commit genocide;
 - e. Complicity in genocide.

Article 3
Crimes against Humanity

The International Tribunal for Rwanda shall have the power to prosecute persons responsible for the following crimes when committed as part of a widespread or systematic attack against any civilian population on national, political, ethnic, racial or religious grounds:

- a. Murder;
- b. Extermination;
- c. Enslavement;
- d. Deportation;
- e. Imprisonment;
- f. Torture;
- g. Rape;
- h. Persecutions on political, racial and religious grounds;
- i. Other inhumane acts.



Appendix D: The Statute of the International Criminal Tribunal for the Former Yugoslavia (extract)

Article 4
Genocide

1. The International Tribunal shall have the power to prosecute persons committing genocide as defined in paragraph 2 of this article or of committing any of the other acts enumerated in paragraph 3 of this article.
2. Genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:
 - a. killing members of the group;
 - b. causing serious bodily or mental harm to members of the group;
 - c. deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
 - d. imposing measures intended to prevent births within the group;
 - e. forcibly transferring children of the group to another group.
3. The following acts shall be punishable:
 - a. genocide;
 - b. conspiracy to commit genocide;
 - c. direct and public incitement to commit genocide;
 - d. attempt to commit genocide;
 - e. complicity in genocide.

Article 5
Crimes against Humanity

The International Tribunal shall have the power to prosecute persons responsible for the following crimes when committed in armed conflict, whether international or internal in character, and directed against any civilian population:

- a. murder;
- b. extermination;
- c. enslavement;
- d. deportation;
- e. imprisonment;
- f. torture;
- g. rape;
- h. persecutions on political, racial and religious grounds;
- i. other inhumane acts.



Appendix E: Statute of the Special Court for Sierra Leone (extract)

Article 3
Crimes against Humanity

The Special Court shall have the power to prosecute persons who committed the following crimes as part of a widespread or systematic attack against any civilian population:

- a. Murder;
- b. Extermination;
- c. Enslavement;
- d. Deportation;
- e. Imprisonment;
- f. Torture;
- g. Rape, sexual slavery, enforced prostitution, forced pregnancy and any other form of sexual violence;
- h. Persecution on political, racial, ethnic or religious grounds;
- i. Other inhumane acts.

