
Advanced Certificate in War Crimes and Justice

Domestic Prosecutions of War Crimes

Alleged Perpetrator – Concept: Individual suspected of committing war-crime acts. Related terms: suspect, defendant, accused. Explanation: The alleged perpetrator is the person against whom domestic authorities initiate criminal proceedings for violations of international humanitarian law. In practice, prosecutors must gather admissible evidence that links the individual to specific conduct, such as ordering attacks on civilians or using prohibited weapons. Challenges include locating the suspect, especially when they have fled abroad, and overcoming evidentiary gaps caused by the chaos of armed conflict.

Amnesty – Concept: Legal provision that forgives certain offenses, potentially halting prosecutions. Related terms: pardon, immunity, clemency. Explanation: Domestic amnesty legislation may bar the prosecution of war-crime suspects, either for political reconciliation or to encourage former combatants to lay down arms. While amnesty can facilitate peace processes, it conflicts with the principle of *non-derogability* of war-crime liability under international law. Courts often scrutinise amnesty clauses to ensure they do not shield perpetrators of the most serious crimes, such as genocide or crimes against humanity.

Article 7(2) of the Rome Statute – Concept: Provision allowing national jurisdiction over war crimes. Related terms: complementarity, jurisdictional hierarchy, ICC. Explanation: This article states that the International Criminal Court (ICC) may intervene only when a state is unwilling or unable to prosecute. Domestic prosecutors therefore have a duty to act promptly and effectively, demonstrating that national proceedings are genuine. Practical application includes filing charges, conducting investigations, and providing victims with reparations. The challenge lies in proving “unwillingness” or “inability,” which often hinges on political will, resource constraints, or systemic corruption.

Article 27 of the Geneva Conventions – Concept: Obligation to prosecute grave breaches. Related terms: grave breach, universal jurisdiction, customary law. Explanation: Article 27 obliges signatory states to enact legislation that punishes individuals responsible for serious violations, such as willful killing of protected persons. Domestic courts must therefore have statutes that criminalise these acts, and they must provide for penalties that reflect the seriousness of the offence. The difficulty often arises in aligning national penal codes with the specific elements defined in the conventions, especially where domestic law lacks comparable offences.

Armed Conflict Classification – Concept: Determination of the conflict’s nature for legal analysis. Related terms: international armed conflict, non-international armed conflict, low-intensity conflict. Explanation: Correct classification influences which body of humanitarian law applies and which war-crime provisions are relevant. Prosecutors must establish facts such as the parties involved, the intensity of hostilities, and the existence of organized armed groups. Misclassification can lead to procedural dismissal or inadmissibility of

evidence. The practical challenge is gathering reliable intelligence in fluid conflict zones where the status of parties may shift rapidly.

Article 5 of the UN Charter – Concept: Basis for Security Council-authorized prosecutions. Related terms: UNSC resolutions, mandate, peace-enforcement. Explanation: The Security Council may refer situations to the ICC or establish ad-hoc tribunals, as seen in the cases of the Former Yugoslavia and Rwanda. Domestic prosecutors may rely on such referrals to legitimize national prosecutions, especially when the UN mandates complementary investigations. The political nature of the Security Council, however, can result in vetoes that block referrals, leaving domestic courts as the sole venue for accountability.

Asset Freezing Orders – Concept: Legal mechanisms to prevent suspects from accessing illicit proceeds. Related terms: sanctions, confiscation, money-laundering. Explanation: When a war-crime suspect is suspected of profiting from illegal exploitation of natural resources, courts may issue orders to freeze bank accounts, property, and other assets. These orders support reparations for victims and deter future violations. Implementation requires coordination with financial institutions and often faces challenges such as jurisdictional limits, lack of transparency in offshore holdings, and the need for robust evidentiary standards to avoid wrongful seizure.

Article 9 of the ICC Statute – Concept: Grounds for ICC intervention when national proceedings are inadequate. Related terms: complementarity, inadmissibility, jurisdictional trigger. Explanation: The provision allows the Court to step in if a state's prosecution is deemed a "sham" or if the state lacks capacity. Domestic prosecutors must therefore demonstrate thoroughness, impartiality, and capacity. In practice, this means maintaining detailed investigative files, ensuring the rights of the accused, and providing regular updates to the ICC. The challenge is that the ICC's review process can be lengthy, and domestic authorities may be pressured to accelerate prosecutions to retain jurisdiction.

Article 14 of the Rome Statute – Concept: Principle of *complementarity* between national and international jurisdictions. Related terms: primary jurisdiction, secondary jurisdiction, dual-level prosecution. Explanation: This principle recognises that states have the primary responsibility to investigate and prosecute war crimes. International intervention is a subsidiary measure. Domestic courts must therefore be capable of conducting fair trials, respecting due-process standards, and providing victims with a meaningful role. The practical implication is that national legislation must incorporate the definitions of war crimes as set out in the Statute. A common challenge is the lack of legislative harmonisation, which can lead to procedural deficiencies and ICC referrals.

Article 15 of the ICC Statute – Concept: The *ad-hoc* investigation and prosecution powers of the ICC. Related terms: investigative jurisdiction, prosecutorial discretion, pre-trial investigation. Explanation: While primarily a complementarity provision, Article 15 allows the ICC to open investigations *without* a referral if the Court deems the situation of sufficient gravity. Domestic prosecutors must be prepared to cooperate, share evidence, and possibly surrender suspects. Coordination mechanisms, such as joint investigation

teams, are often employed. However, divergent procedural rules and evidentiary standards can impede effective collaboration.

Article 16 of the ICC Statute – Concept: The *referral* power of the UN Security Council. Related terms: UNSC referral, jurisdictional expansion, political mandate. Explanation: The Security Council may refer a situation to the ICC, thereby granting the Court jurisdiction even over non-member states. Domestic prosecutors can leverage such referrals to justify national prosecutions, particularly when the referred situation involves complex multinational command structures. The political nature of referrals can create uncertainty, as future security-council dynamics may affect the continuity of investigations.

Article 17 of the ICC Statute – Concept: The *ad-hoc* jurisdiction over war crimes committed on the territory of a non-state party. Related terms: territorial jurisdiction, extraterritoriality, universal jurisdiction. Explanation: This article expands the ICC's reach to crimes committed in territories where the state is not a party, provided the alleged perpetrator is a national of a state party. Domestic courts may invoke this principle when prosecuting foreign nationals who committed atrocities on their own soil. The challenge lies in establishing personal jurisdiction and securing evidence across borders, often requiring mutual legal assistance treaties (MLATs).

Article 18 of the ICC Statute – Concept: The *ad-hoc* jurisdiction over war crimes committed by nationals of a non-state party. Related terms: personal jurisdiction, extraterritorial prosecution, dual criminality. Explanation: This provision permits the ICC to exercise jurisdiction over crimes committed by nationals of non-member states if those crimes occur in the territory of a member state. Domestic prosecutors may use this principle to justify charging foreign fighters who entered their jurisdiction and committed war crimes abroad. Practical difficulties include gathering evidence from the foreign theater, securing witness testimony, and navigating diplomatic sensitivities.

Article 19 of the ICC Statute – Concept: The *ad-hoc* jurisdiction over war crimes committed on the territory of a non-state party, when the state of nationality has accepted the Court's jurisdiction. Related terms: acceptance of jurisdiction, state consent, jurisdictional nexus. Explanation: This clause enables the ICC to prosecute crimes that would otherwise fall outside its reach, provided the state of the perpetrator has voluntarily accepted the Court's jurisdiction. Domestic authorities may coordinate with the consenting state to avoid duplication of investigations and to share resources. The main challenge is ensuring that the consent is not merely symbolic but translates into concrete cooperation, such as evidence sharing and extradition.

Article 20 of the ICC Statute – Concept: The *ad-hoc* jurisdiction over war crimes committed by nationals of a non-state party, when the state of the victim has accepted the Court's jurisdiction. Related terms: victim-state consent, jurisdictional basis, dual-state acceptance. Explanation: This provision allows the ICC to step in when the victim's state has accepted jurisdiction, even if the perpetrator's state has not. Domestic prosecutors may face competition for jurisdiction, especially where multiple states claim the right to try the

same individual. Effective coordination, often through joint task forces, is essential to avoid double jeopardy and to ensure that victims receive consistent reparations.

Article 21 of the ICC Statute – Concept: The *ad-hoc* jurisdiction over war crimes committed by nationals of a non-state party, when the state of the victim has accepted the Court’s jurisdiction and the crime occurred on the territory of a non-state party. Related terms: complex jurisdiction, multilateral acceptance, jurisdictional layering. Explanation: This clause provides a layered approach to jurisdiction, allowing the ICC to intervene in cases with overlapping territorial and personal connections. Domestic courts must assess whether their own proceedings satisfy the ICC’s standards for fairness and effectiveness, lest the case be referred to the Court. The practical challenge is navigating the intricate web of international agreements, national statutes, and victim-state expectations.

Article 22 of the ICC Statute – Concept: The *ad-hoc* jurisdiction over war crimes committed on the territory of a non-state party, when the state of the victim has accepted the Court’s jurisdiction and the crime was committed by a national of a non-state party. Related terms: jurisdictional convergence, dual-state cooperation, legal pluralism. Explanation: This provision underscores the importance of multilateral cooperation in prosecuting war crimes that cross national boundaries. Domestic prosecutors may need to negotiate extradition, evidence-sharing, and victim-participation arrangements with both the victim’s and perpetrator’s states. The chief obstacle is reconciling differing legal standards, especially concerning admissibility of evidence and the rights of the accused.

Article 23 of the ICC Statute – Concept: The *ad-hoc* jurisdiction over war crimes committed on the territory of a non-state party, when the state of the victim has accepted the Court’s jurisdiction and the crime was committed by a national of a non-state party, and the state of the victim has also accepted jurisdiction. Related terms: comprehensive jurisdiction, full-spectrum cooperation, jurisdictional synergy. Explanation: This clause represents the most expansive jurisdictional scenario, combining territorial, personal, and victim-state consent elements. Domestic courts must be prepared for intense international scrutiny, as any procedural flaw may trigger ICC intervention. Coordination mechanisms, such as joint investigative teams and shared victim-representation structures, are essential to manage the complexity. The main challenge is maintaining the integrity of national proceedings while meeting the ICC’s high evidentiary and procedural standards.

Article 24 of the ICC Statute – Concept: The *ad-hoc* jurisdiction over war crimes committed on the territory of a non-state party, when the state of the victim has accepted the Court’s jurisdiction and the crime was committed by a national of a non-state party, and the state of the victim has also accepted jurisdiction, and the state of the perpetrator has also accepted jurisdiction. Related terms: triple-state acceptance, multilateral jurisdiction, coordinated prosecution. Explanation: This provision creates a scenario where three different states have consented to ICC jurisdiction, providing a robust framework for cooperation. Domestic prosecutors can leverage this to secure extradition, share evidence, and coordinate victim reparations. However, the multiplicity of actors can also lead to jurisdictional disputes, especially when each state seeks

to retain primary prosecution authority. Effective diplomatic engagement and clear procedural agreements are required to prevent conflicts and to ensure that the accused's rights are protected.

Article 25 of the ICC Statute – Concept: The *ad-hoc* jurisdiction over war crimes committed on the territory of a non-state party, when the state of the victim has accepted the Court's jurisdiction and the crime was committed by a national of a non-state party, and the state of the victim has also accepted jurisdiction, and the state of the perpetrator has also accepted jurisdiction, and the state of the victim has also accepted jurisdiction. Related terms: comprehensive multistate consent, joint jurisdiction, coordinated legal response. Explanation: This clause represents an ultimate convergence of jurisdictional bases, ensuring that the ICC may intervene only as a last resort. Domestic prosecutors must demonstrate that their proceedings are genuinely independent, impartial, and capable of delivering justice. The practical difficulty lies in aligning national procedural rules with the ICC's expectations, especially regarding witness protection, evidence handling, and victim participation.

Article 26 of the ICC Statute – Concept: The *ad-hoc* jurisdiction over war crimes committed on the territory of a non-state party, when the state of the victim has accepted the Court's jurisdiction and the crime was committed by a national of a non-state party, and the state of the victim has also accepted jurisdiction, and the state of the perpetrator has also accepted jurisdiction, and the state of the victim has also accepted jurisdiction, and the state of the perpetrator has also accepted jurisdiction. Related terms: full multistate jurisdictional alignment, complex legal coordination, inter-state cooperation. Explanation: This provision is rarely invoked because it requires the consent of multiple states, each with its own legal system. Domestic prosecutors must navigate a maze of bilateral treaties, mutual legal assistance agreements, and domestic procedural safeguards. The primary challenge is ensuring that the rights of the accused are respected across all jurisdictions while maintaining the integrity of the evidence chain.

Article 27 of the ICC Statute – Concept: The principle of *complementarity* and the ICC's role as a court of last resort. Related terms: primary jurisdiction, secondary jurisdiction, jurisdictional hierarchy. Explanation: This article reinforces that the ICC will only intervene when national jurisdictions are unwilling or unable to prosecute. Domestic prosecutors must therefore demonstrate that they have opened investigations, that the legal framework is adequate, and that the proceedings are not merely a façade. The practical implication is the need for transparent reporting to the ICC, including detailed case files and progress updates. Challenges include political interference, resource constraints, and the risk of premature referrals that can undermine domestic sovereignty.

Article 28 of the ICC Statute – Concept: The right of the accused to a fair trial. Related terms: due process, presumption of innocence, right to counsel. Explanation: Domestic courts must uphold the standards set out in Article 28, ensuring that the accused can challenge evidence, cross-examine witnesses, and receive an impartial judgment. This is particularly critical in war-crime cases where evidence may be classified, obtained in conflict zones, or reliant on victim testimony. Practical steps include establishing witness-protection programs, providing translation services, and ensuring that judges have specialized training in international

humanitarian law. Failure to meet these standards can result in ICC dismissal of the case for *inadmissibility*.

Article 29 of the ICC Statute – Concept: The principle of *non-derogability* for the most serious war crimes. Related terms: impermissibility of amnesty, universal jurisdiction, customary international law. Explanation: Certain crimes, such as genocide, crimes against humanity, and war crimes, cannot be excused by domestic amnesties or statutes of limitations. Domestic prosecutors must therefore pursue these offences regardless of political considerations. The challenge lies in balancing the need for accountability with peace-building objectives, especially in post-conflict societies where former combatants may hold significant political influence.

Article 30 of the ICC Statute – Concept: The *principle of proportionality* in sentencing. Related terms: sentencing guidelines, mitigating circumstances, aggravating factors. Explanation: Domestic judges must consider the gravity of the crime, the role of the accused, and the impact on victims when imposing sentences. War-crime cases often involve mass atrocities, making proportionality a sensitive issue. Practical application includes employing sentencing matrices that reflect the scale of the offense, the intent of the perpetrator, and any cooperation with the prosecution. Challenges arise when domestic sentencing ranges are limited compared with the severity of the crimes, potentially leading to perceptions of impunity.

Article 31 of the ICC Statute – Concept: The *principle of individual criminal responsibility*. Related terms: command responsibility, joint criminal enterprise, direct perpetrator. Explanation: Domestic prosecutions must establish that the accused either directly committed the war crime, ordered it, or was part of a common plan. The doctrine of command responsibility holds superiors liable for crimes they knew or should have known about and failed to prevent. Practical steps include mapping the chain of command, collecting orders, and demonstrating the link between the superior's knowledge and the commission of the crime. The main challenge is obtaining reliable documentary evidence, especially when orders are given orally or are deliberately destroyed.

Article 32 of the ICC Statute – Concept: The *principle of command responsibility* (also known as *superior responsibility*). Related terms: vicarious liability, effective control, knowledge standard. Explanation: Domestic courts must prove that a commander had effective control over subordinates, knew or should have known about the crime, and failed to take necessary measures. Evidence often includes operational orders, communications logs, and testimonies from subordinates. Challenges include the “*should have known*” standard, which requires inference from circumstantial evidence, and the difficulty of establishing a direct causal link between the commander's omission and the commission of the crime.

Article 33 of the ICC Statute – Concept: The *principle of joint criminal enterprise* (JCE). Related terms: common purpose, participation, collective liability. Explanation: Prosecutors may charge individuals who, while not directly committing the act, shared the intent to commit a war crime as part of a coordinated plan. The JCE doctrine allows for the attribution of liability to all participants, provided the shared intent is

established. Practical application requires demonstrating that the accused knowingly contributed to the criminal plan, often through meetings, communications, or financial support. The main challenge is the evidentiary burden of proving the existence of a joint plan, especially when participants operate in loosely organized insurgent groups.

Article 34 of the ICC Statute – Concept: The **principle of individual criminal responsibility** for **direct perpetrators**. Related terms: principal offender, actus reus, mens rea. Explanation: Direct perpetrators are those who physically carry out the prohibited act, such as shooting civilians or ordering a massacre. Domestic prosecutors must prove both the **actus reus** (the prohibited conduct) and the **mens rea** (the intent to commit the crime). Evidence may include forensic reports, eyewitness testimony, and video recordings. Challenges include ensuring the chain of custody for physical evidence and protecting witnesses from intimidation in volatile post-conflict environments.

Article 35 of the ICC Statute – Concept: The **principle of individual criminal responsibility** for **accessories**. Related terms: aiding and abetting, facilitator, secondary participant. Explanation: Accessories are individuals who assist in the commission of war crimes without directly executing the act. Domestic courts assess whether the accessory provided substantial assistance with the knowledge that the assistance would facilitate the crime. Practical examples include logistics providers who supply weapons, transport services for troops, or financial services that fund operations. The challenge lies in establishing the **knowledge** element, particularly when the assistance is provided under duress or within a chain of command.

Article 36 of the ICC Statute – Concept: The **principle of individual criminal responsibility** for **co-perpetrators**. Related terms: joint participation, conspiracy, collective intent. Explanation: Co-perpetrators act together to commit a war crime, each contributing an essential element of the crime. Domestic prosecutors must show that each participant's conduct was indispensable to the commission of the crime and that they shared the requisite intent. Evidence often includes coordinated planning documents, synchronized operational orders, and communications that reveal mutual understanding. The difficulty is disentangling each participant's specific contribution, especially when actions are diffused across multiple actors in a chaotic battlefield.

Article 37 of the ICC Statute – Concept: The **principle of universal jurisdiction** for war crimes. Related terms: extraterritorial prosecution, global jurisdiction, non-state party jurisdiction. Explanation: Some states assert universal jurisdiction over the most serious war crimes, allowing them to prosecute offenders regardless of where the crime occurred or the nationality of the perpetrator. Domestic prosecutors may rely on this principle when the suspect is present within their territory or when diplomatic channels permit extradition. Practical challenges include political backlash, diplomatic immunity claims, and the need for robust legal frameworks that define the scope of universal jurisdiction.

Article 38 of the ICC Statute – Concept: The **principle of complementarity** in relation to universal jurisdiction. Related terms: primary jurisdiction, secondary jurisdiction, inter-state cooperation. Explanation:

Even when a state claims universal jurisdiction, it must still respect the ICC's primacy if the Court has already initiated proceedings. Domestic courts must therefore assess whether the ICC's investigation is ongoing and whether national actions would interfere with the Court's mandate. The practical implication is that states may need to suspend or coordinate their prosecutions to avoid duplicative efforts. The main challenge is managing the timing of investigations to ensure that victims receive timely justice while preserving the ICC's jurisdictional prerogatives.

Article 39 of the ICC Statute – Concept: The *principle of *double jeopardy* (ne bis in idem). Related terms: non-bis-in-idem, same-conduct rule, re-prosecution. Explanation: Domestic prosecutors must ensure that a suspect is not tried for the same conduct in multiple jurisdictions. If a suspect has already been convicted or acquitted by a competent court, further prosecution for the same conduct is prohibited. However, the ICC may still exercise jurisdiction if the prior proceeding was deemed a sham. Practical challenges arise when different jurisdictions interpret the elements of the crime differently, leading to disputes over whether the same conduct has been adjudicated.

Article 40 of the ICC Statute – Concept: The *principle of *victim participation* in domestic war-crime trials. Related terms: victim-centered justice, participatory reparations, civil society involvement. Explanation: Victims have the right to be heard, to present evidence, and to seek reparations. Domestic courts may establish victim-participation mechanisms, such as allowing victims to submit statements, join as *interveners*, or receive updates on the case progress. Practical applications include victim liaison officers, public hearings, and the creation of reparations funds. The challenges involve ensuring victim safety, managing large numbers of claimants, and providing meaningful participation without compromising the rights of the accused.

Article 41 of the ICC Statute – Concept: The *principle of *reparations* for victims of war crimes. Related terms: restorative justice, compensation, rehabilitation. Explanation: Domestic courts may order restitution, compensation, or rehabilitation measures as part of sentencing. Reparations can be monetary, symbolic (e.G., Public apologies), or in-kind (e.G., Rebuilding homes). Effective reparations require accurate victim identification, reliable records of loss, and mechanisms for disbursement. The main challenge is the resource-intensive nature of reparations, especially in societies with limited fiscal capacity and a large number of victims.

Article 42 of the ICC Statute – Concept: The *principle of *fair trial rights* for war-crime defendants. Related terms: due process, right to a public hearing, presumption of innocence. Explanation: Domestic prosecutors must ensure that defendants have access to counsel, can examine evidence, and receive a judgment based on the merits. War-crime trials often involve classified material; courts must balance transparency with national security concerns. Practical steps include appointing special advocates, using protective orders, and providing interpreters. Challenges include safeguarding sensitive information while maintaining the integrity of the trial and preventing undue delay, which can erode confidence in the justice system.

Article 43 of the ICC Statute – Concept: The *principle of *evidence admissibility* in war-crime prosecutions. Related terms: chain of custody, reliability, hearsay exceptions. Explanation: Domestic courts must assess whether evidence collected in conflict zones meets admissibility standards. This includes forensic evidence, eyewitness testimony, and documentary material such as orders or logs. Evidence gathered by the military may be subject to exclusion if obtained through coercion. Practical measures involve establishing forensic labs, training investigators in evidence preservation, and employing independent experts to verify authenticity. The main challenge is the frequent lack of secure storage facilities and the risk of evidence tampering in unstable environments.

Article 44 of the ICC Statute – Concept: The *principle of *witness protection* in war-crime trials. Related terms: protective measures, anonymity orders, relocation programs. Explanation: Witnesses to war crimes often face threats, intimidation, or retaliation. Domestic authorities must develop robust protection programs, including secure transport, safe houses, and legal anonymity. Practical application may involve issuing restraining orders, providing police escorts, or establishing witness-protection units within the prosecutor's office. Challenges include limited resources, the need for inter-agency coordination, and the potential for witnesses to be re-vouched by opposing factions, which can compromise their safety and the credibility of their testimony.

Article 45 of the ICC Statute – Concept: The *principle of *victim-state cooperation* in investigations. Related terms: mutual legal assistance, information sharing, joint investigative teams. Explanation: Victim states often possess crucial evidence, such as medical records, burial sites, or eyewitness accounts. Domestic prosecutors must engage with these states to obtain subpoenas, conduct forensic examinations, and secure testimonies. Practical steps include signing mutual legal assistance treaties, establishing liaison officers, and coordinating with international NGOs that have on-the-ground access. The chief obstacle is political reluctance, especially when the victim state is also a party to the conflict or when diplomatic relations are strained.

Article 46 of the ICC Statute – Concept: The *principle of *state responsibility* for war-crime violations. Related terms: state liability, reparations obligations, international responsibility. Explanation: While individuals bear criminal responsibility, states may also be held accountable for systemic policies that facilitate war crimes. Domestic courts can examine whether state policies, command structures, or legal frameworks contributed to the commission of atrocities. Practical application includes ordering state-level reparations, mandating institutional reforms, or imposing sanctions. Challenges involve establishing a direct causal link between state actions and individual crimes, especially when duties are delegated to non-state actors such as militias.

Article 47 of the ICC Statute – Concept: The *principle of *universal jurisdiction* for genocide and crimes against humanity. Related terms: extraterritorial prosecution, global accountability, non-state party jurisdiction. Explanation: Some jurisdictions extend universal jurisdiction to genocide and crimes against humanity, treating them as *aut crimina* (self-evidence) offences. Domestic prosecutors may initiate cases

even when the crime occurred abroad and the suspect is not a national. Practical challenges include diplomatic push-back, the need for extensive evidence gathering from distant locations, and potential conflicts with the principle of *complementarity* if the ICC is already involved.

Article 48 of the ICC Statute – Concept: The *principle of *dual criminality* in extradition for war crimes. Related terms: extradition treaties, mutual legal assistance, principle of specialty. Explanation: For a state to extradite a war-crime suspect, the conduct must constitute an offence in both the requesting and requested states. Domestic courts must verify that the alleged acts meet the elements of war crimes under national law. Practical steps include reviewing extradition agreements, ensuring that the request complies with human-rights standards, and providing guarantees against the death penalty where prohibited. The main challenge is that some states lack explicit war-crime statutes, necessitating legislative reforms before extradition can proceed.

Article 49 of the ICC Statute – Concept: The *principle of *statutory interpretation* in war-crime legislation. Related terms: *lex interpretacionis*, purposive approach, contextual analysis. Explanation: Domestic courts must interpret national war-crime statutes in line with international definitions to avoid gaps that could enable impunity. This involves applying the *principles of successive interpretation* and ensuring that the law evolves with emerging jurisprudence. Practical application includes consulting ICC case law, scholarly commentary, and treaty texts. Challenges arise when national statutes are overly narrow or when courts are unfamiliar with the technical language of international humanitarian law.

Article 50 of the ICC Statute – Concept: The *principle of *retroactive application* of war-crime statutes. Related terms: *nullum crimen sine lege*, principle of legality, non-retroactivity. Explanation: War-crime statutes must be in force at the time the conduct occurred. Domestic prosecutors cannot apply laws retroactively to actions that were not criminalised. However, many war-crime norms are **jus cogens*

* and thus considered *crimes* at the time of the conduct, even if not codified domestically. Practical steps include demonstrating that the conduct violated customary international law. The challenge is proving that the norm was sufficiently established and universally recognised at the relevant time.

Article 51 of the ICC Statute – Concept: The *principle of *victim-state jurisdiction* over war crimes committed on its territory. Related terms: territorial jurisdiction, state sovereignty, forum-non-convencional. Explanation: A state may exercise jurisdiction over war crimes that occur within its borders, regardless of the nationality of the perpetrator. Domestic prosecutors must establish the factual nexus between the crime and the territory, such as the location of the attack or the presence of victims. Practical application includes using forensic evidence to locate the site of the crime and relying on local witness testimony. Challenges include contested territories, where control is disputed, and the difficulty of accessing crime scenes in active conflict zones.

Article 52 of the ICC Statute – Concept: The *principle of *personal jurisdiction* over war crimes committed by nationals abroad. Related terms: extraterritorial jurisdiction, nationality principle, dual-state jurisdiction.

Explanation: A state may prosecute its nationals for war crimes committed anywhere in the world. Domestic prosecutors must prove that the suspect's nationality is established and that the conduct meets the statutory definition of a war crime. Practical steps include gathering evidence from the foreign theater, cooperating with foreign authorities, and possibly using diplomatic channels to secure the suspect's return. The main obstacle is the lack of cooperation from the state where the crime occurred, especially if that state is unwilling to investigate or extradite.

Article 53 of the ICC Statute – Concept: The *principle of *protective jurisdiction* for war crimes against protected persons. Related terms: protected status, humanitarian protection, universal jurisdiction. Explanation: When protected persons (e.G., Civilians, medical personnel) are targeted, any state may claim jurisdiction to prosecute the perpetrators, regardless of where the crime occurred. Domestic prosecutors can invoke this principle to pursue cases when the victim's home state is unable or unwilling to act. Practical challenges include establishing the protected status of victims, especially in mixed-combat situations, and navigating diplomatic sensitivities when the perpetrator's state objects to prosecution.

Article 54 of the ICC Statute – Concept: The *principle of *command hierarchy* in assessing liability. Related terms: chain of command, effective control, superior-subordinate relationship. Explanation: Determining the extent of a commander's authority is essential for establishing command responsibility. Domestic courts must map the organisational structure, identify lines of reporting, and assess whether the commander had the power to prevent or punish the crime. Practical tools include organisational charts, operational orders, and testimonies from subordinates.