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Advanced Certificate in War Crimes and Justice

## International Criminal Court Procedures

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**Jurisdiction** – the legal authority of the International Criminal Court (ICC) to hear and decide cases. The ICC exercises jurisdiction on the basis of three pillars: Territorial, nationality, and referral by a State Party or the United Nations Security Council. For example, when a massacre occurs on the soil of a State Party, the Court can assert territorial jurisdiction even if the perpetrators are not nationals of that State. Conversely, if a citizen of a State Party commits a war crime abroad, the Court may claim jurisdiction based on nationality. The third pillar, referral, allows the Security Council to refer a situation to the Court regardless of the State's party status, as was done in the case of the former Yugoslavia.

**Complementarity principle** – the cornerstone of the ICC's relationship with national criminal justice systems. Under this principle, the Court acts only when national jurisdictions are unwilling or unable to investigate or prosecute alleged crimes. An illustration: If a country launches its own investigation into alleged crimes against humanity and demonstrates genuine willingness to prosecute, the ICC will deem the case inadmissible. However, if the national process is a sham, the Court may step in. This principle promotes respect for state sovereignty while ensuring accountability.

**Admissibility** – the procedural filter that determines whether a case may proceed before the ICC. Admissibility is assessed on two grounds: Complementarity (as described above) and gravity (the crimes must reach a threshold of seriousness). A case involving isolated incidents of minor violations would be dismissed for lacking sufficient gravity, even if jurisdiction exists.

**Situation** – a factual context that gives rise to alleged crimes within the Court's jurisdiction. Situations are often identified by the Office of the Prosecutor (OTP) during a preliminary examination. For instance, the "Darfur situation" refers to the series of attacks and systematic violence that occurred in western Sudan, which the OTP examined before requesting a formal investigation.

**Preliminary examination** – the initial stage of the OTP's investigative process. During this phase, the Prosecutor assesses whether the facts alleged constitute crimes within the ICC's jurisdiction, whether the case meets the admissibility criteria, and whether there is a reasonable prospect of conviction. The examination may involve reviewing open-source material, consulting with experts, and liaising with affected States. A decision to move from preliminary examination to a formal investigation is taken by the Prosecutor and must be communicated to the Pre-trial Chamber.

**Investigation** – the substantive fact-finding activity undertaken by the OTP after a formal decision to investigate has been made. Investigations may include gathering documentary evidence, interviewing victims and witnesses, forensic analysis, and cooperation with national authorities. The OTP's investigative team is composed of legal officers, investigators, forensic experts, and victim-liaison officers. An example of a successful investigation is the collection of satellite imagery that corroborated the existence of mass graves in a conflict zone, which later formed part of the evidentiary record.

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Article 13(1) referral – a mechanism by which a State Party may refer a situation to the ICC. The referral must be in writing and contain sufficient information to enable the Court to assess jurisdiction and admissibility. In 2005, the Government of the Republic of the Congo referred the “M23 rebellion” situation, prompting a preliminary examination that eventually led to a formal investigation.

Article 13(b) referral – the United Nations Security Council’s authority to refer a situation to the ICC, regardless of the State’s party status. This was exercised in 1999 for the “former Yugoslavia” and in 2005 for “Darfur”. Security Council referrals often carry political weight and can facilitate the Court’s access to evidence and witnesses.

Article 15 request for investigation – the Prosecutor’s formal request to the Pre-trial Chamber for authorization to open an investigation. The request must set out the legal basis for jurisdiction, the admissibility analysis, and the evidence supporting a reasonable prospect of conviction. The Chamber may grant, reject, or request clarification. In the “Libya situation”, the Prosecutor filed an Article 15 request, which the Chamber approved, leading to a comprehensive investigation.

Article 53 arrest warrant – the instrument by which the Court orders the detention of a suspect. An arrest warrant is issued by a Pre-trial Chamber after the Prosecutor demonstrates that there are reasonable grounds to believe the individual committed a crime within the Court’s jurisdiction and that the person is not already in custody. The warrant may specify conditions such as surrender, provisional release, or travel restrictions. For example, the arrest warrant issued for former President Omar al-Bashir of Sudan was based on allegations of war crimes and crimes against humanity.

Article 55 summons – a less coercive instrument than an arrest warrant, used when the suspect is already in custody or voluntarily appears before the Court. A summons requires the individual to appear before the Pre-trial Chamber on a specified date. In the “Mali situation”, a summons was issued to a former military commander who had already been detained by national authorities.

Article 58 provisional release – the Court’s authority to release a suspect pending trial, subject to conditions designed to ensure the suspect’s appearance at trial and to protect victims and witnesses. Conditions may include reporting to the Court, surrender of travel documents, or a financial surety. The provisional release of a former rebel leader in the “Democratic Republic of Congo” case was granted with a strict travel ban and regular check-ins.

Article 68 trial chamber – the division of the ICC that conducts the trial of a case. The Trial Chamber consists of three judges who oversee the presentation of evidence, rule on motions, and ultimately render a judgment. The Chamber may also order protective measures for victims, such as anonymity or in-camera testimony. In the “Thomas Lubanga” case, the Trial Chamber rendered the Court’s first conviction for the war crime of using child soldiers.

Article 69 appeals chamber – the body that reviews decisions of the Pre-trial and Trial Chambers. The Appeals Chamber may confirm, reverse, or amend judgments and may order a retrial. Appeals are limited to points of law and procedural errors; factual findings are generally upheld unless a manifest error is demonstrated. The Appeals Chamber famously reversed the conviction of a former militia commander in

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the “Sierra Leone” case, citing procedural deficiencies in the trial.

Article 77 reparations – the Court’s authority to order reparations for victims, including restitution, compensation, and rehabilitation. Reparations may be directed to an individual victim, a group of victims, or a community. The Court may also order symbolic measures such as public apologies. In the “Al-Khatib” case, the Court ordered compensation for victims of a mass killing, as well as a community-wide memorial.

Victim participation – a distinctive feature of ICC proceedings that allows victims to take an active role, including the right to be heard, to present evidence, and to claim reparations. Victim participation is facilitated through the Office of the Prosecutor’s Victims and Witness Unit, which assists victims in navigating the procedural steps. For example, families of massacre survivors in the “Rwanda” situation were granted standing to submit written statements during the trial.

Witness protection – measures designed to safeguard the safety, privacy, and well-being of witnesses. The ICC may provide physical protection, relocation, anonymity, or voice-masking technologies. The Witness Protection Programme, administered by the Registry, collaborates with national authorities and NGOs. A notable challenge arose in the “Afghanistan” situation, where witnesses feared retaliation from powerful militia groups, prompting the Court to rely heavily on remote testimony.

Article 61(1) request for provisional measures – a procedural tool that allows the Prosecutor or a State Party to request that the Court issue measures to preserve evidence, protect victims, or prevent the destruction of material that could affect the case. Provisional measures are not binding but carry significant moral and political weight. In the “Myanmar” situation, the Prosecutor requested provisional measures to protect Rohingya witnesses from intimidation.

Article 62(1) request for jurisdiction – a formal request by a State Party to the ICC to exercise jurisdiction over a crime committed on its territory or by its nationals. The request must specify the factual basis and the legal provisions invoked. The ICC may decline the request if the alleged conduct does not fall within the Court’s jurisdiction. An example is the State of Kenya’s request for jurisdiction over alleged crimes committed by its security forces during post-election violence.

Article 67 cooperation and compliance – the legal framework obligating States Parties to cooperate with the Court. Cooperation includes arresting suspects, surrendering them, providing evidence, and facilitating the protection of victims and witnesses. Non-compliance may lead to the imposition of sanctions by the Assembly of States Parties or referral to the United Nations. The failure of a State to surrender a suspect can result in diplomatic pressure and, in extreme cases, the referral of the matter to the Security Council.

State cooperation – the practical implementation of Article 67 obligations. Cooperation can be formalized through bilateral agreements, letters of assistance, or on-the-spot coordination. Effective cooperation often requires the establishment of joint investigative teams, shared forensic laboratories, and synchronized legal procedures. The successful hand-over of a former militia commander from the Republic of the Congo to the ICC exemplified robust state cooperation.

Article 89 Registry – the administrative organ of the ICC responsible for managing the Court’s non-judicial functions, including the detention centre, archives, public information, and witness protection. The Registry

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also oversees the financial aspects of the Court, such as the Trust Fund for Victims. The Registry's role is essential for ensuring that procedural guarantees are upheld throughout the trial.

Trust Fund for Victims – a financial mechanism established to provide assistance and reparations to victims. The Fund can finance medical care, psychosocial support, and community development projects. Contributions to the Fund come from States Parties, voluntary donors, and occasional fines imposed on convicted persons. In the “Bosnia and Herzegovina” case, the Fund financed the construction of a memorial school for children affected by the conflict.

Article 71 legal representation – the right of the accused to be defended by counsel of their choice, subject to the Court's approval of the lawyer's qualifications. Defense counsel may be appointed by the accused, or, if the accused cannot afford counsel, the Court may assign a lawyer from the List of Counsel. The right to effective legal representation is a fundamental guarantee under Article 67(2) of the Rome Statute.

Article 68(2) trial procedures – the rules governing the conduct of the trial, including the order of presentation of evidence, the admissibility of hearsay, and the standard of proof. The ICC applies the principle of “beyond reasonable doubt” for criminal liability. The trial procedures also encompass the use of expert witnesses, the presentation of documentary evidence, and the rights of the parties to cross-examine witnesses.

Article 70 sentencing – the authority of the Trial Chamber to impose penalties on convicted persons. Sentencing considerations include the gravity of the crime, the individual's role, mitigating and aggravating circumstances, and the need for deterrence. The maximum sentence is 30 years, though the Court may impose a life-imprisonment sentence in cases of extreme gravity, as was done in the “Al-Khatib” case.

Article 71(1) enforcement of sentences – the mechanism by which the ICC ensures that convicted persons serve their sentences. The Court does not have its own prison system; instead, it relies on States Parties to enforce sentences. The ICC may negotiate agreements with States willing to house convicted individuals. Challenges arise when a State is reluctant to accept high-profile prisoners, leading to prolonged negotiations.

Article 72 state cooperation in enforcement – the duty of States Parties to facilitate the transfer of sentenced persons to designated prisons. The ICC may also request the relocation of a prisoner for security or humanitarian reasons. An example is the transfer of a convicted war criminal from a European State to a facility in Africa to better serve the interests of victims and local communities.

Article 75 amendments to the Rome Statute – the process by which the Statute may be modified. Amendments require a two-thirds majority of States Parties and must be ratified according to each State's domestic procedures. The most notable amendment was the inclusion of the crime of aggression, which entered into force in 2010 after the required number of ratifications.

Article 78 the Assembly of States Parties (ASP) – the governing body composed of representatives of all States Parties. The ASP oversees the overall functioning of the ICC, adopts the budget, and appoints the Prosecutor and judges. The ASP also monitors compliance with the Statute and can adopt resolutions on procedural reforms. The ASP's decisions can influence the Court's operational capacity, such as approving

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additional funding for victim assistance programmes.

Article 84 the United Nations Security Council (UNSC) – the body that may refer situations to the ICC and can also refer non-cooperative States to the Court. While the ICC is independent, the UNSC's referrals carry political weight and may affect the Court's ability to secure cooperation. The referral of the "Darfur" situation illustrates how the UNSC can bypass the requirement of State Party consent.

Article 86 the principle of non-retroactivity – the rule that the ICC may only prosecute conduct that was criminalised by the Rome Statute at the time it was committed. This principle safeguards against ex post facto prosecution. For instance, a massacre that occurred before 1 July 2002 (the entry into force date) would not be subject to ICC jurisdiction unless the crime was also defined under customary international law.

Article 89(2) the principle of *nullum crimen sine lege* – the legal maxim that there can be no crime without law. This principle reinforces the requirement that the ICC only prosecute acts that were clearly defined as crimes in the Statute. The principle ensures legal certainty for individuals and states alike.

Article 17 the principle of complementarity (detailed) – the clause that outlines the specific criteria for determining whether a case is inadmissible because a State is genuinely willing and able to prosecute. The Court examines factors such as whether the national proceedings are independent, impartial, and consistent with international standards. If a State conducts a "sham" trial, the ICC may deem the case admissible.

Article 28 the principle of individual criminal responsibility – the doctrine that holds natural persons accountable for crimes, irrespective of official capacity. This principle was central to the conviction of high-ranking officials who directed or ordered atrocities. The principle excludes corporate liability, which remains a gap in the ICC's jurisdiction.

Article 30 the doctrine of command responsibility – the legal theory that superiors can be held liable for crimes committed by subordinates if they knew, or should have known, about the acts and failed to prevent or punish them. This doctrine was applied in the conviction of a former army commander who failed to stop the systematic use of sexual violence by troops under his command.

Article 31 the principle of joint criminal enterprise (JCE) – a mode of liability that attributes responsibility to individuals who participated in a common plan to commit crimes, even if they did not personally carry out each act. The ICC has applied JCE in cases involving organized criminal groups, where members collectively contributed to the execution of crimes against humanity.

Article 32 the principle of individual intent (*mens rea*) – the requirement that the accused must possess the requisite mental state, such as knowledge or intent, to be criminally liable. The Court distinguishes between specific intent (purposeful) and general intent (awareness). In the "War crimes" context, the prosecution must prove that the accused intentionally targeted civilians, not merely that civilian casualties occurred.

Article 35 the principle of individual criminal participation – the concept that any act contributing to the commission of a crime, whether direct or indirect, can constitute participation. This includes logistical support, financing, or providing weapons. The Court has prosecuted financiers of armed groups under this

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provision.

Article 38 the principle of due process – the guarantee that all parties receive a fair and impartial hearing, including the right to be heard, to present evidence, and to challenge the evidence against them. Due process safeguards are reinforced through procedural rules such as the right to a public hearing, the presumption of innocence, and the right to an appeal.

Article 40 the principle of equality of arms – the requirement that the prosecution and defence have equal opportunities to present their case. The ICC addresses potential imbalances by providing legal aid, ensuring access to the archives, and allowing for protective measures for vulnerable witnesses.

Article 42 the principle of public trial – the norm that proceedings should be open to the public, promoting transparency and accountability. Exceptions are made when the safety of victims or witnesses is at risk, or when the protection of classified information is necessary. In the “Afghanistan” case, portions of the trial were held in camera to protect child witnesses.

Article 44 the principle of victim-centred justice – the approach that places victims’ needs and rights at the core of the judicial process. This includes the right to information, participation, and reparations. Victim-centred justice seeks to restore dignity and provide a sense of closure, beyond the purely punitive function of criminal law.

Article 46 the principle of reparations – the Court’s duty to order reparative measures that address the harm suffered by victims. Reparations may be monetary, symbolic, or restorative. The Court often orders the creation of memorials, educational programmes, or community development projects as part of comprehensive reparations.

Article 48 the principle of restorative justice – the concept that emphasizes healing and reconciliation over retribution. While the ICC is primarily a criminal tribunal, it integrates restorative elements through victim participation and reparations, fostering societal healing.

Article 50 the principle of proportionality in sentencing – the requirement that sentences reflect the seriousness of the crime and the individual’s culpability. The Court balances aggravating factors (e.G., Leadership role, brutality) against mitigating factors (e.G., Remorse, cooperation). Proportionality ensures that sentences are neither excessive nor insufficient.

Article 52 the principle of legal certainty – the guarantee that individuals can foresee the legal consequences of their actions. The ICC upholds legal certainty by applying clearly defined statutes, consistent interpretive methods, and transparent procedural rules.

Article 55 the principle of fair trial rights – the ensemble of rights that safeguard the integrity of the trial, including the right to an impartial judge, the right to counsel, the right to be presumed innocent, and the right to present a defence. These rights are enshrined in the Statute and are monitored by the Pre-trial Chamber throughout the proceedings.

Article 57 the principle of the presumption of innocence – the doctrine that an accused is considered

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innocent until proven guilty beyond reasonable doubt. The Court's burden of proof lies with the prosecution, and any doubt must be resolved in favour of the accused.

Article 60 the principle of the right to silence – the right of an accused not to incriminate themselves. The ICC respects this right, and a defendant's silence cannot be used as evidence of guilt. The principle is crucial when dealing with self-incriminating statements that may be obtained under duress.

Article 62 the principle of equality before the law – the guarantee that all persons, regardless of status, nationality, or position, are subject to the same legal standards. The ICC applies this principle by treating high-ranking officials and low-level combatants alike, subject to the same evidentiary standards.

Article 64 the principle of non-discrimination – the prohibition of bias based on race, gender, religion, or other protected characteristics. The Court's jurisprudence includes prosecutions for gender-based crimes, such as sexual slavery, ensuring that victims of such crimes receive equal protection.

Article 66 the principle of the right to an effective remedy – the guarantee that victims and accused can obtain redress for violations of their rights. The ICC provides mechanisms for appeals, reparations, and procedural reviews to ensure that rights are effectively protected.

Article 70(1) the principle of the right to be informed of charges – the requirement that the accused be promptly and clearly notified of the nature and cause of the charges against them. This enables the defence to prepare an appropriate response.

Article 71(1) the principle of the right to examine witnesses – the right of the defence to call and cross-examine witnesses presented by the prosecution. The Court balances this right with protective measures for vulnerable witnesses, sometimes allowing anonymous testimony.

Article 73 the principle of the right to an interpreter – the guarantee that parties may use an interpreter when they do not understand the language of the proceedings. The Court provides qualified interpreters to ensure accurate communication.

Article 74 the principle of the right to a speedy trial – the requirement that proceedings be conducted without undue delay. While complex war-crime trials may inherently take years, the Court strives to avoid unnecessary postponements and to keep victims informed of the timeline.

Article 76 the principle of the right to an independent and impartial tribunal – the assurance that judges act without bias, free from external influence, and based solely on the law. The selection and appointment of judges through a rigorous election process under the ASP reinforces this principle.

Article 78(2) the principle of the right to a fair and public hearing – the right of the accused and victims to have the trial conducted openly, allowing public scrutiny and confidence in the judicial process.

Article 80 the principle of the right to legal aid – the guarantee that an accused who cannot afford counsel may receive assistance from a qualified lawyer appointed by the Court. The ICC's Legal Aid Programme ensures that indigent defendants are not disadvantaged.

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Article 82 the principle of the right to appeal – the ability of a convicted person to seek review of a judgment by a higher judicial body. The Appeals Chamber examines legal errors and may modify or overturn decisions. The right to appeal is a cornerstone of procedural fairness.

Article 84(1) the principle of the right to reparations for victims – the entitlement of victims to receive compensation, restitution, or rehabilitation. The Court’s reparations orders aim to address both material and psychological harm.

Article 86(1) the principle of the right to participation in the reparations process – the involvement of victims in shaping reparations, ensuring that measures are tailored to their specific needs and cultural contexts.

Article 88 the principle of the right to confidentiality for victims – the protection of victims’ identities and personal information, especially in cases involving sexual violence or minors. Confidentiality safeguards encourage victims to come forward and testify.

Article 90 the principle of the right to a victim-centred approach in investigations – the orientation of investigative activities toward the needs and safety of victims, including the collection of testimonies in a trauma-informed manner.

Article 92 the principle of the right to protective measures for witnesses – the Court’s authority to implement measures such as relocation, anonymity, or voice alteration to protect witnesses from intimidation or retaliation.

Article 94 the principle of the right to a fair and impartial investigation – the obligation of the OTP to conduct investigations without bias, adhering to international standards of evidence collection and documentation.

Article 96 the principle of the right to cooperation from States – the duty of States Parties to assist the Court in executing arrest warrants, gathering evidence, and providing logistical support. Cooperation is essential for the Court’s effectiveness.

Article 98 the principle of the right to enforce sentences – the mechanism by which the ICC ensures that convicted persons serve their sentences, relying on the willingness of States to host prisons and to respect the terms of the sentence.

Article 100 the principle of the right to a transparent budget – the requirement that the Court’s financial operations be open to scrutiny, ensuring accountability to the ASP and to the public. Transparent budgeting supports the sustainability of victim assistance programmes.

Article 102 the principle of the right to periodic reporting – the duty of the ICC to submit regular reports on its activities, case progress, and financial status to the ASP and the United Nations. Reporting promotes accountability and informs member states of the Court’s needs.

Article 104 the principle of the right to review procedural rules – the capacity of the ASP to amend the Court’s Rules of Procedure and Evidence, allowing the system to adapt to emerging challenges such as

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cyber-evidence or remote testimony.

Article 106 the principle of the right to public outreach – the Court’s responsibility to communicate its work to the global community, enhancing understanding of international criminal law and fostering support for its mandate. Outreach activities include press releases, educational programmes, and outreach to civil society.

Article 108 the principle of the right to engage with civil society – the encouragement of NGOs, academia, and victims’ groups to participate in consultations, provide expertise, and monitor the Court’s performance. Civil-society involvement contributes to legitimacy and helps identify gaps in victim protection.

Article 110 the principle of the right to respect for cultural diversity – the acknowledgement that the Court must consider cultural norms and practices when designing reparations or victim-participation mechanisms, ensuring that solutions are contextually appropriate.

Article 112 the principle of the right to adapt to technological advances – the need for the ICC to incorporate new forensic technologies, digital evidence, and remote communication tools into its procedures, while safeguarding due-process rights.

Article 114 the principle of the right to address gender-based crimes – the Court’s commitment to prosecute crimes such as rape, sexual slavery, and forced marriage, recognizing them as integral components of war crimes and crimes against humanity. The prosecution of gender-based crimes has set precedents for victim-centred justice.

Article 116 the principle of the right to address the crime of aggression – the inclusion of the crime of aggression as a distinct category, allowing the Court to hold leaders accountable for the planning, preparation, or execution of large-scale armed attacks. The first conviction for aggression remains pending, highlighting the procedural complexities involved.

Article 118 the principle of the right to address environmental destruction – emerging discussions within the ICC about the potential inclusion of ecocide as a crime under the Statute. While not yet codified, scholarly debate and advocacy suggest future amendments may expand the Court’s jurisdiction.

Article 120 the principle of the right to protect children – the Court’s focus on offences involving child soldiers, recruitment, and sexual exploitation. Special procedural safeguards, such as in-camera testimony and psychological support, are employed to protect child victims.

Article 122 the principle of the right to coordinate with other tribunals – the necessity for the ICC to cooperate with regional courts and mixed tribunals (e.g., The Special Court for Sierra Leone) to avoid duplication of effort and to respect complementary jurisdiction. Coordination mechanisms include joint investigations and information-sharing protocols.

Article 124 the principle of the right to respect sovereign immunity – the limitation that heads of state or diplomatic agents may claim immunity from prosecution for acts performed in an official capacity, unless the immunity is waived or the ICC determines that the immunity does not apply to international crimes. The

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Court has navigated this tension in cases involving former leaders.

Article 126 the principle of the right to enforce compliance through diplomatic channels – the use of diplomatic engagement, sanctions, and public statements to encourage States to fulfil their obligations. While the Court lacks enforcement powers, diplomatic pressure can be effective in securing surrender of suspects.

Article 128 the principle of the right to address procedural delays – the Court’s internal mechanisms for managing case backlog, including the use of “fast-track” procedures for certain crimes, the prioritisation of cases, and the allocation of additional judicial resources. Delays can undermine victim confidence and must be mitigated.

Article 130 the principle of the right to manage conflicts of interest – the requirement that judges and counsel disclose any personal or professional ties that could affect impartiality. The ICC has a robust conflict-of-interest policy, with recusal procedures to preserve the integrity of the bench.

Article 132 the principle of the right to ensure the independence of the Office of the Prosecutor – the structural safeguards that prevent undue influence over the Prosecutor’s decisions, including fixed terms, protection from dismissal except for cause, and transparent decision-making processes.

Article 134 the principle of the right to maintain the confidentiality of the victim-trust fund – the obligation to protect donor information and the allocation of funds, ensuring that victims receive assistance without jeopardising the privacy of contributors.

Article 136 the principle of the right to monitor compliance with reparations – the establishment of a monitoring body that tracks the implementation of reparations orders, verifies that victims receive the promised assistance, and reports on any gaps. Monitoring promotes accountability and helps adjust programmes as needed.

Article 138 the principle of the right to address the needs of displaced persons – the recognition that many victims are internally displaced or refugees, requiring reparations that address loss of property, livelihood, and access to basic services. The Court’s reparations orders may include provisions for housing, land restitution, or livelihood programmes.

Article 140 the principle of the right to engage with indigenous communities – the sensitivity to customary law and traditional practices when designing reparations for indigenous victims, ensuring that measures are culturally appropriate and that community consent is obtained.

Article 142 the principle of the right to incorporate restorative practices – the inclusion of community-based reconciliation initiatives, such as truth-telling forums or traditional healing rituals, alongside formal judicial outcomes. Restorative practices aim to complement the punitive function of the Court.

Article 144 the principle of the right to maintain the chain of custody for evidence – the procedural requirement that all physical and digital evidence be documented, stored, and transferred in a manner that prevents tampering or loss. The chain of custody is critical for evidentiary admissibility and for protecting

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the integrity of the trial.

Article 146 the principle of the right to use expert testimony – the reliance on specialists in fields such as forensics, ballistics, epidemiology, and satellite imagery to interpret complex evidence. Expert witnesses must be qualified, impartial, and able to explain technical findings in understandable terms.

Article 148 the principle of the right to protect classified information – the Court’s procedures for handling sensitive material that may affect national security or diplomatic relations. Protective orders can limit access to certain parties while still allowing the evidence to be considered in the trial.

Article 150 the principle of the right to ensure linguistic accuracy – the meticulous translation of documents, testimony, and judgments to preserve the exact meaning across languages. Errors in translation can affect the interpretation of legal concepts and the fairness of the trial.

Article 152 the principle of the right to address cyber-crimes – the evolving jurisdiction over crimes perpetrated through digital means, such as cyber-attacks that cause civilian casualties or facilitate war crimes. The ICC is developing procedural rules to admit electronic evidence and to preserve digital forensics.

Article 154 the principle of the right to provide training for national authorities – the Court’s outreach programmes that build capacity in national legal systems, enabling them to handle serious crimes domestically and to cooperate effectively with the ICC. Training includes investigative techniques, victim-support services, and forensic methods.

Article 156 the principle of the right to ensure gender balance among staff – the commitment to promote gender equality within the ICC’s personnel, recognizing that diverse perspectives enhance the quality of justice and victim assistance.

Article 158 the principle of the right to respect mental health of participants – the provision of psychological support for victims, witnesses, and even accused persons who may experience trauma during proceedings. The Court’s mental-health services aim to mitigate the emotional toll of reliving atrocities.

Article 160 the principle of the right to maintain transparency in decision-making – the publication of reasoning for rulings, orders, and judgments, allowing the public and scholars to understand the legal basis for the Court’s actions. Transparency strengthens legitimacy and deters arbitrary decisions.

Article 162 the principle of the right to enforce compliance through sanctions – the potential for the ASP to impose financial or diplomatic sanctions on States that repeatedly fail to cooperate, though such measures are rarely employed due to political sensitivities.

Article 164 the principle of the right to address procedural fairness in plea bargaining – the limited use of plea agreements at the ICC, which must respect victims’ rights, ensure that the plea is voluntary, and that the sentence reflects the gravity of the offence. Plea bargaining can expedite cases while preserving justice.

Article 166 the principle of the right to protect the confidentiality of plea-agreement negotiations – the restriction on public disclosure of the terms of a plea bargain until the agreement is formally entered into, protecting the integrity of the process and the safety of involved parties.

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Article 168 the principle of the right to monitor the implementation of reparations – the establishment of a reparations monitoring committee that tracks progress, verifies compliance, and reports on any shortcomings, allowing victims to seek remedies for delayed or incomplete reparations.

Article 170 the principle of the right to coordinate with the International Committee of the Red Cross (ICRC) – the collaboration with the ICRC on matters such as the exchange of prisoners, the protection of humanitarian workers, and the verification of compliance with international humanitarian law.

Article 172 the principle of the right to respect the autonomy of domestic war-crime tribunals – recognizing that national courts may have concurrent jurisdiction over the same crimes, the ICC respects domestic proceedings while ensuring that complementarity is upheld.

Article 174 the principle of the right to apply consistent jurisprudence – the development of a coherent body of case law that guides future decisions, ensuring predictability and fairness. The ICC's jurisprudence on command responsibility, for example, provides a template for assessing superior liability.

Article 176 the principle of the right to address the challenges of evidence collection in active conflict zones – the logistical and security difficulties of gathering evidence amid ongoing hostilities, requiring the OTP to coordinate with peacekeeping missions, NGOs, and local authorities to secure reliable documentation.

Article 178 the principle of the right to safeguard the chain of command in investigations – the need to trace decision-making hierarchies within armed groups to establish responsibility for crimes, often involving the analysis of command structures, communications, and orders.

Article 180 the principle of the right to ensure equitable access to justice for all victims – the commitment to reach victims in remote or marginalized communities, providing translation services, mobile courts, and outreach programmes to ensure that no victim is left unheard.

Article 182 the principle of the right to address the legal status of non-state actors – the ICC's jurisdiction over individuals belonging to armed groups that are not formally recognised as parties to the conflict, ensuring that members of non-state armed groups can be held accountable for war crimes.

Article 184 the principle of the right to preserve cultural heritage – an emerging area where destruction of cultural sites may be considered a war crime, prompting the Court to develop evidentiary standards for proving intent and the cultural significance of targeted sites.