

Study Guide

United Nations Office on Drugs and Crime

GaLMUN XIX



TABLE OF CONTENTS

I. Welcoming Letter	3
II. Key Terms	4
III. Introduction to the Committee	5
IV. Overview of the Topic	6
Section 1: Impact of Globalization on Crime	7
Section 2: Development of International Arrest Warrants	8
V. Timeline	9
VI. Past Actions	11
United Nations Office on Drugs and Crime	11
International Criminal Court	11
International Criminal Police Organization	11
VII. Current Situation	13
International Criminal Court	14
International Criminal Police Organization	14
VIII. Main Actors	15
1. Russian Federation	15
2. United States of America	16
3. People's Republic of China	17
4. Republic of Colombia	18
5. Federal Republic of Germany	20
IX. Points to be Addressed	21
X. Further Reading	22
XI. Bibliography	23

Welcoming Letter

Dear delegates,

We would like to begin by congratulating you for joining us in this quite interesting and exciting challenge of taking part in **the nineteenth edition of the UNODC committee of GalMUN!** We are thrilled to have the opportunity to chair this committee, to listen to your innovative ideas, and, last but not least, to get to know you better.

The chosen subject, **International Arrest Warrants**, is vital, as these documents serve as a critical mechanism to facilitate the capture and extradition of individuals accused of serious crimes that transcend national borders. Beyond their intrinsic legal value, International Arrest Warrants foster international cooperation among law enforcement agencies, enabling authorities from different states to collaborate effectively in the identification and apprehension of fugitives, regardless of their attempts to conceal their whereabouts.

The process of issuing an international arrest warrant entails a meticulous and exhaustive evaluation of available evidence to ascertain the presence of sufficient probable cause warranting the arrest and subsequent extradition of the suspect. This rigorous assessment underscores the commitment to upholding the principles of due process and ensuring that the rights of the accused are safeguarded throughout the legal proceedings.

Moreover, these warrants serve as proof of the collective adherence of nations to uphold the rule of law and ensure accountability for despicable acts committed anywhere in the world. They tackle cases involving terrorism, human trafficking, organized crime, or genocide and signify a shared determination to confront impunity and protect the rights and safety of people worldwide.

Remember these words: **unity and cooperation**, because, without a doubt, you will face difficult situations that will require strong patience and business management skills. Diplomacy and negotiation abilities will be equally useful qualities, but, in the end, it is up to you, the delegate, to establish your strategy.

We, the chairpersons, will be there to help you during this wonderful journey, but we trust you and hope we won't have to intervene too frequently. So, without further ado, let's get to know the subject!

We hope that this guide will prove useful to you, and, while waiting to meet you, we wish you all the best of luck!

Kindest regards,
The Chairpersons of the UNODC Committee,
Lidia Iasmina Tuluş and Denisa Mihăluţă

Key Terms

Extradition is the formal process whereby one state requests the return of a person accused or convicted of a crime to stand trial or serve a sentence in the requesting state. Typically, it is enabled by a bilateral or multilateral treaty, or even without a treaty, although those cases are quite rare. In an extradition treaty, two countries agree to cooperate in cases where an individual is charged or found guilty of an extraditable offense.

A Red Notice is a request to law enforcement worldwide to locate and provisionally arrest a person pending extradition, surrender, or similar legal action. It is followed after an arrest warrant or court order has been issued by the judicial authorities in the requesting country. However, member countries act after their own laws when deciding whether to arrest a person. It contains information to identify the person, and information related to the crime that they are wanted for, which is, most commonly, murder, rape, child abuse, or armed robbery.

Dual Criminality is the principle by which the alleged offense for which extradition is being sought must be of a criminal offense in both the requesting and requested state.

Mutual Legal Assistance is a process by which states seek and provide assistance to other states in servicing of judicial documents and gathering of evidence for use in criminal cases.

A Fugitive is someone who is attempting to evade justice. There are various circumstances under which an individual can become a fugitive, such as having been charged with a violation of the law, but not having been arrested; or they could have been released on bail and then fled to avoid prosecution, or they could have escaped from prison.

Political Offense Exception is a clause that limits a sovereign state's responsibilities under an extradition treaty or legislation. If the requesting party's authority determines that the requesting party seeks assistance to prosecute a political offense, such provisions give the requested party permission to refuse to hand over a suspect or to collect evidence on behalf of another state.

Universal Jurisdiction is defined as a legal principle allowing or requiring a certain state to bring criminal proceedings in respect of certain crimes irrespective of the location of the crime and the nationality of the perpetrator or the victim.

Introduction to the Committee

The United Nations Office on Drugs and Crime (UNODC) was founded in 1997 by combining the United Nations International Drug Control Program (UNDCP) with the Crime Prevention and Criminal Justice Division in the United Nations Office in Vienna to form the Office for Drug Control and Crime Prevention. In 2002, the UN Office on Drugs and Crime was renamed the United Nations Office on Drugs and Crime.

The UNODC was founded to help the United Nations better handle the interconnected concerns of illicit drug trafficking and abuse, crime prevention and criminal justice, international terrorism, and political corruption. These objectives are achieved through three primary functions: research, guidance, and support to governments in the adoption and implementation of various crime, drug, terrorism, and corruption-related conventions, treaties, and protocols, as well as technical/financial assistance to, said governments in dealing with their respective situations and challenges in these fields.

The Office receives about 90% of its income from voluntary contributions, mostly from governments and it has a biennial budget of approximately US\$700 million in 2016–2017.

Overview of the Topic

As transnational organized crime continues to grow and proliferate, catalyzed by globalization and technological improvement, the international community must adapt its response accordingly. An **international arrest warrant** is a legal document issued against an individual in another country that requires extradition. Most typically, it is enforced when a person is suspected or accused of committing a serious crime, from which they tried to evade or that affects more than one country.

International arrest warrants play a crucial part in ensuring that the law has been upheld fairly, allowing governments to cooperate and prosecute those guilty of crimes that cross national borders. They facilitate the process of transferring offenders from one state to another, in order for them to be tried or to fulfill their sentence. This has greater importance when crimes such as terrorism, human trafficking, drug trafficking, or genocide are involved. Moreover, international arrest warrants help protect victims and communities by removing dangerous individuals from circulation, suggesting that criminal behavior is not permitted, and enhancing international legal systems by building confidence and cooperation among governments.

The process of issuing an international arrest warrant is **complex** and involves a series of steps. First and foremost, the government that believes a suspect is in another country must assess the gravity of the crime, gather sufficient evidence to support their case and ensure that the warrant meets the legal standards of both the country that requested it and the recipient country. After the warrant has been declared lawful, it may be sent to the desired state through an international group such as INTERPOL. This is followed by the examination of the warrant by the recipient country, which has to take into account various diplomatic and political factors, for instance, differences in their legal systems and frameworks, criteria for proof, definitions of crimes, or methods of punishment. It is paramount that throughout this process, governments cooperate with law enforcement agencies so that extradition proceedings may take place.

Currently, international legal enforcement exists in three distinct forms: **The International Criminal Court (ICC)**, the **International Court of Justice (ICJ)**, and the **International Criminal Police Organization (INTERPOL)**. The ICC primarily works with individuals

accused of committing crimes affecting the international community, such as crimes against humanity. Secondly, the ICJ, the official judicial organ of the United Nations, serves as a civil court, primarily settling legal disputes between states and providing advisory opinions on transnational matters.

Lastly, there is the process of international extradition, under which suspected criminals are returned to the country in which they have committed the supposed offense to face justice. This process is often complicated to execute, requiring substantial collaboration and bilateral consensus. Extradition is facilitated by INTERPOL, a cohesive interactional platform through which global police agencies can share information and collaborate. However, there remains the issue of willing cooperation as not all states have publicly expressed their willingness to utilize these institutions for altruistic good. Indeed, corrupt or autocratic governments are inclined to exploit them to imprison non-conformists while others may neglect their existence altogether.

Impact of Globalization on Crime

It is important to recognize that crime, from the perspective of a criminal, is oftentimes considered a business. Transnational criminal organizations such as drug cartels or ransom rings have little concept of borders. This means that they easily communicate and work across continents.

As recent decades have seen the facilitation of international trade and globalization, and global financial systems have grown more complex, money laundering has proliferated, supporting the funding of illegal activities and businesses. As many crimes exist in an anonymous buyer-supplier relationship, the responsibility of tracking such crimes has fallen on the international community; however, states and non-state actors are increasingly challenged to deal with illicit networks. Many criminal organizations have almost no means of being tracked down, either physically or electronically; with the age of newfound digital innovations, it has never been easier to mask a digital footprint and conceal insidious activity. Globalized crime includes the **trafficking and marketing of illegal and counterfeit goods, smuggling of migrants, modern-day slavery, organized crime gangs, cybercrime and fraud, piracy, and money laundering**, among other offenses.

Despite the gravity of these threats, there persists a lack of comprehensive information on crime trends and transnational criminal markets. Following increasingly accessible trade and travel routes, trafficked goods abound, including firearms, environmental resources, and counterfeit goods, oftentimes ferried alongside licit products. In addition to these, violations such as cybercrime and maritime piracy are facilitated by enhanced communication and increased movement. Taking advantage of the forces of globalization, criminals and associated organizations have thrived and grown, using the methods outlined above to promote their activities. However, institutions that should monitor and regulate these activities have been hindered by **bureaucracy and corruption**, as well as **issues of sovereignty**.

What uniquely impedes the efficacy of transnational organizations devoted to ending crime is a **lack of cooperation**. Though there exist many platforms for dialogue with regard to the sharing of information and intelligence aimed at curbing transnational crime, very little is done to facilitate concrete collaboration. Aside from the international presence of diplomatic missions, very few law enforcement agencies pursue and are involved in the same investigations. As well, countries such as **Lichtenstein** and **Switzerland** have tight privacy and financial regulations prohibiting the disclosure of personal data to law enforcement organs. This secrecy and protection favors organized crime and is thus exploited by criminals to evade capture and asset seizure by authorities.

Development of International Arrest Warrants

The most important thing to bear in mind regarding the international arrest warrant system is the purpose it serves. International criminal law is currently striving to consider the implications of 21st-century capabilities and is more ethically aware than it has ever been. As globalization has muddied the waters of sovereign justice, countries have struggled to seek proper resolutions to many crimes that affect the prosecutions they wish to carry out.

Securing arrests under the jurisdiction of the International Criminal Court or INTERPOL involves many of the same challenges: **individual states must be relied upon to carry out arrests**. The United Nations has long since fought an uphill battle, toeing the line between the maintenance of national sovereignty and global justice. It is a common occurrence for UN organs to defer prosecution to the ICC. Once these referrals are made, it is then the duty of

the ICC to ensure the arrests, with no follow-up whatsoever from the referring body. As well, in many of these cases, the affected state has not agreed to an Office of the Prosecutor's (OTP)¹ investigation, required to establish ICC jurisdiction before further action can be taken. Thus, ICC prosecution is often rendered impossible, both due to lack of jurisdiction and the absence of an international apprehension force.

Additionally, as International justice organizations have been known for directing attention toward the complicity of many African leaders in genocides and crimes against humanity, many citizens from the Middle East and Africa, strongly resent these organs, deeming them to have a Western-centric political agenda and viewing them as rather imperial, involving themselves unnecessarily in sovereign affairs.

Timeline

November 19, 1794 — The first historical extradition agreement, between the **United Kingdom** and the **United States of America**, was established in London with the Jay Treaty.

June 28, 1872 — The first modern extradition treaties are established, involving the **United States, Venezuela, Ecuador, and Cuba** with the purpose of combatting "*homicide, criminals, pirates, rebellions, destruction of public property and the falsification of legal documentation.*"²

September 7, 1923 — The **International Criminal Police Commission (ICPC)** was founded in Vienna, **Austria** on the initiative of Dr. Johannes Schober, president of the Vienna police. The purpose of the ICPC is to facilitate international police cooperation to combat transnational organized crime such as drug trafficking, human trafficking, weapons smuggling, and terrorism.³

¹ *Office of the prosecutor*. International Criminal Court. (n.d.). <https://www.icc-cpi.int/about/otp>

² Suddath, Claire. "A Brief History of Extraditions." Time Magazine. September 20, 2009. <http://content.time.com/time/world/article/0,8599,1926810,00.html>.

³ Interpol. "History." <https://www.interpol.int/About-INTERPOL/History>

June 13, 1956 — The Constitution of **Interpol** is adopted at the 25th session of the General Assembly in Vienna. It outlines the organization's aims and objectives, establishing its mandate and guiding the way for effective international police cooperation.

September 11, 1971 — The 40th Interpol General Assembly in Ottawa, **Canada** establishes cooperation between the United Nations and Interpol, which is recognized as an apolitical intergovernmental organization.

July 1, 2002 — The **International Criminal Court** is established by the Rome Statute, an intergovernmental organization and international tribunal sitting in The Hague with jurisdiction to prosecute individuals for the international crimes of genocide, crimes against humanity, and war crimes.⁴

October 12, 2016 – Burundi votes to withdraw from the ICC, prompting a wave of resignations, including those of **South Africa, Gambia, and Russia.**⁵

March 20, 2018 – **Philippine** President Rodrigo Duterte says in a statement that the country has given notice that it will withdraw from the ICC following the Court's February 8 announcement that it has started an inquiry into Duterte's controversial war on drugs.

June 2018 – The ICC, since its creation, has issued 46 public arrest warrants, based upon which 6 individuals have been apprehended and remanded to the Court's custody.

⁴ International Criminal Court. "Understanding the International Criminal Court."

<https://www.icc-cpi.int/sites/default/files/Publications/understanding-the-icc.pdf>

⁵ CNN Library, "International Criminal Court Fast Facts," CNN, September 28, 2018,

<https://www.cnn.com/2016/07/18/world/international-criminal-court-fast-facts/index.html>.

Past Actions

United Nations Office on Drugs and Crime

Through the merging of the **United Nations Drug Control Programme** and the **Centre for International Crime Prevention**, the UNODC has become a figurehead in the fight against crime and drug proliferation. Depending on voluntary contributions from respective governments for 90 percent of its budget, the UNODC works closely with national governments to target the following areas of crime and law: organized crime, trafficking, corruption, drug crime, justice reform, and terrorism.

International Criminal Court

The International Criminal Court is a major player in the global fight for international criminal justice. The Court aims to hold those responsible accountable for their crimes and to assist in preventing such crimes from occurring again. Nevertheless, the Court cannot reach these goals alone, and as a court of last resort, it seeks to complement, not replace, national judicial institutions. Governed by an international treaty called the Rome Statute, the ICC is noted as the world's first permanent international criminal court. Since its inception in 1988, the Court has tried only **27 cases**, issued **33 arrest warrants**, and achieved **8 successful convictions**. As of 2018, the Court's budget stands at EUR 147 million.

The Rome Statute

It was adopted on 17 July 1998 and entered into force on 1 July 2002. It established the International Criminal Court to try individuals for the most serious crimes of concern to the international community as a whole and sought to lay the foundation of a fair and just international criminal justice system with competent and impartial judges and an independent prosecutor.

International Criminal Police Organization

The International Criminal Police Organization is a multinational entity that enables cooperation between the police forces of its 190 member states. This is done through the management of various databases and the facilitation of rapid information-sharing between security authorities. An example of an arrest warrant process is the various INTERPOL notices, of which there are eight. The most notable of these is the **Red Notice**— essentially a request to detain a suspect wanted for extradition. Issued by the General Secretariat, the Red Notice is filed at the request of any INTERPOL member country or an international tribunal, such as the International Criminal Court. These appeals must be based on a valid national arrest warrant, and are unique in the sense that they are not per se an international arrest warrant. Offenses must be punishable by six months or more in jail, or a minimum two-year sentence if the person is wanted for prosecution, to meet the requirements of warranting a Red Notice. Police forces of each nation are not forced to arrest these individuals, but once a government posts the Red Notice, the target is cut off from the global financial system, with all of their traceable bank accounts frozen. INTERPOL's authorized notices span seven color-coded levels:

- the **Red Notice**, to seek the location and arrest of a person with a view to extradition;
- the **Blue Notice**, to locate or obtain information regarding a person of interest in a criminal investigation;
- the **Green Notice**: to warn about a person's criminal activities if that person is considered to be a possible threat to public safety;
- the **Yellow Notice**, to locate a missing person or to identify a person;
- the **Black Notice**, to seek information on an unidentified body;
- the **Orange Notice**, to warn of an event, a person, an object, or a process representing an imminent threat and danger to persons or property;
- and the **INTERPOL-United Nations Security Council Special Notice**, to inform INTERPOL's members that an individual or an entity is subject to UN sanctions.

Current Situation

International criminal justice serves many laudable objectives, and since the aims are diverse, so are the means to the ends. **International criminal law (ICL)** is one of the most commonly known methods of achieving justice. It has been asserted that the existence of criminalization and punishment translates into the highest level of protection of people's rights. For ICL to perform its role, a trial must be conducted and the perpetrator has to be found guilty and punished. However, in order to hold a trial, the accused's presence has to be secured by whatever legal means are available. A tool that is essential in this process is an **international arrest warrant**, which is an official legal document issued by a court allowing the arrest of a particular person.

There are **two types of international arrest warrants** which have evolved in practice: **sealed and public**. The former, also known as a **non-disclosure arrest warrant**, is secretly transferred to selected entities, often those that have the direct opportunity to make the arrest. There are numerous reasons to seal an arrest warrant, but the main reason is that the suspect does not have a chance to flee. Once the arrest has been successful, the arrest warrant is unsealed. Moreover, unsealing means that certain measures to protect witnesses have already been taken. Other arrest warrants are made public straight away since they facilitate international cooperation.

The process of issuing an international arrest warrant is complex, and, after it has been declared lawful, it may be sent to the desired country by means of an international group such as INTERPOL. International arrest warrants depend on the cooperation among states. Nevertheless, there are cases when countries refuse to do so and thus impede the process. There are various possible reasons for rejecting cooperation, from political considerations to a lack of extradition treaties, or concerns about human rights. In such cases, diplomatic channels, for instance, **diplomatic pressure, negotiations, or the exchange of assurances regarding fair treatment for the suspect**, are used in order to ensure international cooperation. However, if diplomatic channels are not sufficient, the requesting country may resort to alternative measures, which can include the surveillance of the subject, intelligence gathering, or cooperation with allied countries that are willing to assist.

At present, international legal enforcement is handled by the International Criminal Court (ICC), the International Court of Justice (ICJ), and the International Criminal Police Organization (INTERPOL).

International Criminal Court

The ICC has jurisdiction over individuals who bear criminal responsibility for the most serious crimes of concern to the international community, such as war crimes, crimes against humanity, genocide, and, as of 17 July 2018, crimes of aggression. On the basis of the investigation, the Prosecutor can request the issuance of an arrest warrant by the Pre-Trial Chamber overseeing the proceedings of the relevant situation under investigation. To issue a warrant, the judges must be satisfied that there are reasonable grounds to believe that the suspect has committed a crime within the jurisdiction of the ICC. The warrant is then issued to ensure that the person appears at trial, that they do not obstruct or endanger the investigation or the court proceedings, or to prevent the person from continuing with the commission of that crime or a related crime. As an alternative, the judges might issue a **summons** to appear if they are sure that it would be enough to secure the person's appearance. The Registry is responsible for transmitting the arrest warrant and requests for arrest and surrender to the relevant state, in consultation and coordination with the Office of the Prosecutor (OTP).

One of the great challenges that the ICC faces is the fact that under the **Rome Statute** system of international criminal justice, the Court does not have its own enforcement mechanism, therefore it often meets with non-compliance towards the requests for execution of arrest warrants.

International Criminal Police Organization

A Red Notice is a request to law enforcement worldwide to locate and provisionally arrest a person pending extradition, surrender, or similar legal action. It is based on an international arrest warrant or court order issued by the judicial authorities in the requesting country. However, member states apply their own laws in deciding whether to arrest a person. Red Notices are important because they are used to simultaneously alert police in all member countries about internationally wanted people, bringing them to justice. All Red Notice

requests are reviewed for compliance with INTERPOL's Rules by the **Notices and Diffusions Task Force**, a specialized multilingual and multidisciplinary task force comprising **lawyers, police officers, and operational specialists**.

Unfortunately, a huge issue is the fact that the organization is subject to abuse and manipulation by autocratic member states. This translates into instances of transnational persecution of dissidents, and sometimes their arrest and detentions for reasons that are not in compliance with INTERPOL's rules.

Main Actors

Russian Federation

The Russian Federation signed the Rome Statute in 2000 and cooperated with the court, however, had not ratified the treaty and thus remained outside the ICC's jurisdiction. Moreover, in 2016 it withdrew from the court, saying it does not recognise its jurisdiction.



Since Russia's full-scale invasion of Ukraine, Russia has been evicted from the Council of Europe, and the ICC issued an arrest warrant for its president, Vladimir Putin, in relation to the forced deportation of children from Ukraine to Russia, where many have been adopted by Russian families. Although Ukraine is itself not a signatory to the court in the Hague, it granted the ICC the jurisdiction to investigate war crimes committed on its territory, and visits of the ICC's chief prosecutor led to a ruling that 'there are reasonable grounds to believe that Mr. Putin bears individual criminal responsibility' for the child abductions. Nevertheless, since Russia does not recognize the court and does not extradite its citizens, it is highly unlikely that Putin will surrender to the court's jurisdiction any time soon.

Nevertheless, there is another issue, and that is Russia's abuse of Red Notices. International legal experts say there has been an alarming phenomenon of countries, including Russia, who use INTERPOL for political gain or revenge by targeting nationals abroad such as political rivals, critics, activists, and refugees. Seeking to manipulate INTERPOL is a feature of transnational repression, in which countries extend their reach overseas to silence or target adversaries. Tactics range from assassinations, poisonings, and dismemberments to blackmail, spying on citizens' phones abroad, and threatening families left behind.

Russia is the most frequent abuser of Red Notices, being responsible for 38% of all Red Notices issued that have been made public. Furthermore, a less-formal INTERPOL option for hunting fugitives, called 'diffusions', is often regarded as more vulnerable to misuse. Through these alerts, INTERPOL members can send arrest requests directly to each other. This is the case of Nikita Kulachenkov, a Russian-born Lithuanian refugee, who spent several

weeks imprisoned in Cyprus after he was detained at the airport in 2016 on his way to visit his mother. Kulachenkov faced a five-year prison term in Russia for allegedly stealing a street artist's drawing. His INTERPOL alert was issued after he began working on investigations for the Anti-Corruption Foundation in Russia, founded by the opposition politician Alexei Navalny, who died this year in February.

United States of America

The United States of America historically has been and continues to be an ardent supporter of international criminal justice, having played critical roles in the establishment and operations of the United Nations War Crimes Commission, the World War II tribunals at



Nuremberg and Tokyo, and the modern UN ad hoc and hybrid international tribunals for the former Yugoslavia, Rwanda, Sierra Leone, Cambodia, Lebanon, and others.

In the United States of America, national law prohibits the arrest of the subject of a Red Notice issued by another INTERPOL member country when it is based solely on the notice. If the subject of a Red Notice is found within the territory of the United States, the Criminal Division will determine whether there is an extradition treaty between the United States and the requesting country for the specific crime or crimes. If the subject can be extradited, the requesting country must send a request for provisional arrest. After this step is followed, the facts are communicated to the US Attorney's Office with jurisdiction which will file a complaint and obtain an arrest warrant soliciting extradition. Furthermore, since June 1980, in certain major criminal cases, the INTERPOL-USNCB (United States National Central Bureau), in coordination with appropriate officials from the Criminal Division, has initiated the issuance of Red Notices that can provide the provisional arrest of the subject, which are posted to all INTERPOL member countries and all US border points of entry. Moreover, the fugitives are also entered into the National Crime Information Centre (NCIC), and the subsequent extradition requests are processed through the diplomatic channels of the Department of State, in coordination with the Criminal Division and the INTERPOL-USNCB.

While the United States played a central role in the establishment of the Rome Statute that created the ICC, the United States is not a State Party. In the early years of the ICC, the George W. Bush administration led a hostile campaign against the court, with the American president even going as far as to pressure governments around the world to enter into bilateral agreements requiring them not to surrender US nationals to the ICC. Moreover, under President Donald Trump's administration, the US government's attitude towards the ICC was still hostile, and in 2020 Trump issued an executive order authorizing asset freezes and family entry bans that could be imposed against certain ICC officials. However, under Joe Biden's administration, the cooperation between the US and the ICC has improved.

People's Republic of China

China is not a State Party to the Statute of the International Criminal Court. During the 1998 Rome Diplomatic Conference, China provided clear and specific suggestions and comments on various legal issues pertaining to the nature and functions of the ICC, such as the jurisdiction of the Court, definition of the crimes, criminal



responsibility of legal persons, criminal responsibility of superiors, powers of the prosecutor, criteria of admissibility, selection of the judges, and the process of voting on the next draft ICC Statute. Some of its suggestions were subsequently incorporated into the Statute, however, at the end of the Conference, China voted against adopting the Statute because her fundamental concerns had not been satisfactorily addressed.

In 1997, Hong Kong was returned to the People's Republic of China, however, it exercises a high degree of autonomy and enjoys executive, legislative, and independent judicial power in accordance with the provisions of the Basic Law of Hong Kong Special Administrative Region. Although the judicial cooperation in civil matters between Mainland China and Hong Kong has been fruitful, the legal assistance in criminal matters is underdeveloped, with the lack of a concrete legal basis for the surrender of fugitive offenders being one of the deficiencies. While Mainland China has signed more than 50 extradition treaties with foreign

countries, including France, Belgium, Italy, Spain, and Portugal, no extradition treaty has been concluded between Mainland China and Hong Kong.

In 2019, the Hong Kong Government proposed to amend the Hong Kong Fugitive Offenders Ordinance to open the door for extradition cooperation. Yet, as a result of protests in Hong Kong, the Amendment Bill was withdrawn. In 2020, the Law of the People's Republic of China on Safeguarding National Security in Hong Kong Special Administrative Region was enacted, and as a consequence, it determined that in special circumstances, suspects can be transferred from Hong Kong to Mainland China for investigation, prosecution, court trial and execution of the sentence. It is reported that over 300 hundred fugitives from other parts of China are currently enjoying safe haven in Hong Kong.

China is a member state of INTERPOL, nonetheless, it has repeatedly proven its tolerance for corruption both within and outside of INTERPOL. Chinese authorities have often used Red Notices to harass and extradite people who were improperly charged by the Chinese Government. One example is the case of Chinese dissident Chuan Liang Li, whose family members were arrested and told that their arrest was due to Mr. Li's public criticism of Chinese authorities.

Republic of Colombia

Colombia signed the Rome Statute in 1998 and ratified it in 2002. However, it has not fully domesticated Rome Statute crimes and cooperation provisions. Colombia was trapped in a decades-long cycle of conflict until 2012, both caused by and resulting in poverty, inequality, and drug trafficking.



In 1979, the Republic of Colombia signed an extradition treaty with the United States of America which was ratified in 1981, causing an uproar amongst high-level drug traffickers, prompting Pablo Escobar and leading members of other Colombian cartels to wage a domestic terror campaign to intimidate the Colombian government into banning the

extradition of Colombian citizens to the United States, which led to the outlawing of extradition in 1991. Happily, six years after this, a constitutional amendment reversed course. Extradition is a powerful tool since it is one of the few things powerful traffickers fear because it cuts them off from their business, their families, cartel associates, and Colombian authorities who may be receptive to bribery in exchange for lenient prison sentences or conditions.

Since reinstating the extradition treaty in 1997, Colombia has consistently transferred alleged narco-traffickers to the United States to face drug-related charges. For example, in May 2022, shortly before the presidential election, Colombia extradited Dairo Antonio Úsuga David, the head of the Clan del Golfo cartel, to face narcotics-related charges in Brooklyn federal court. According to former Colombian president Iván Duque, Dairo Antonio Úsuga David is ‘the most dangerous drug trafficker in the world’ and his capture was ‘comparable to the fall of Pablo Escobar’. Other famous extraditions from Colombia include that of the Rodriguez Orejuela brothers, who formed the powerful Cali Cartel in 1975, and Fabio Ochoa Vásquez, a founding member of the Medellín Cartel and co-founder of Los Extraditables.

On an international level, the treaty is seen by US officials as a critical tool for combating transnational crime as it allows the United States to try and incarcerate bad actors whose activities negatively impact the US, Colombia, and the broader global community. Furthermore, the US gains international recognition, which then contributes to the United States’ image as a regional and global hegemon. The importance of the US-Colombia extradition treaty is also based on the belief that high-profile drug traffickers are more secure in US prisons.

However, in late August 2022, the Petro administration proposed renegotiating the US-Colombia extradition treaty to Rahul Gupta, the director of the White House’s Office of National Drug Control Policy. Specifically, Petro suggested that drug traffickers be allowed to avoid extradition to the United States, so long as they negotiate a deal with Colombian judicial authorities and agree to cease drug trafficking activities upon their release.

Federal Republic of Germany

Germany signed the Rome Statute on 10 December 1998, and ratified it on 11 December 2000, and has become a world leader when it comes to the pursuit of international justice through universal jurisdiction. It is one of a few countries actively initiating investigations against global war criminals, without waiting for Non-Governmental Organisations (NGOs) or civil society actors to prompt them or provide the necessary evidence.



However, Germany was not always a champion in combating impunity. German law even prohibited murder prosecutions of Nazi-era perpetrators unless it could be proven that they were directly linked to specific murders. This approach to criminal law allowed most Nazi suspects to go to their graves without having to face justice. Only in the 2009 case against the notorious Nazi guard, John Demjanjuk did a German court finally accept that those who knowingly participated in the machinery of death should face justice.

Germany has one of the most expansive approaches to universal jurisdiction anywhere in the world. It employs a universal jurisdiction, which requires no direct link between Germany and the suspect, or the country in which the crime took place. German prosecutors may investigate serious international crimes even when suspects are not present in Germany. Where a case does have a connection to Germany, such as a German victim, prosecutors are under a mandatory duty to investigate, but they have the discretion not to investigate when there is no connection to Germany.

The creation of a specialized war crimes unit at the federal prosecutor's office in 2010, and the allocation of more resources to the unit, greatly facilitated Germany's capacity to pursue universal jurisdiction cases. The innovative device of structural investigations is not directed against specific persons but rather focuses on the structures and context within which the crimes were perpetrated. This has enabled prosecutors to identify suspects more easily and to

swiftly seek extradition when suspects are known to be in foreign territories or to quickly act when suspects enter Germany. In 2011 prosecutors launched a structural investigation into state-sponsored war crimes in Syria, and in 2014 a similar investigation was initiated into crimes committed against the Yazidi minority in Syria and Iraq.

Points to be Addressed

- What is the alternative to requiring individual nations to apprehend and try their own perpetrators? Does this alternative infringe upon national security and sovereignty?
- Does your country support the current functions and compositions of the international courts?
- What international justice organizations is your country part of?
- How can states more successfully cooperate and comply with international judicial procedures?
- What issues do these crime-fighting organizations address? Does your nation support the manner in which this is done?
- Is your country fairly represented in UN justice organs? If not, how can this be remedied?
- As international trials are slow, expensive, and ultimately dependent upon the involved cooperation of member states, how can these limitations be fixed?
- How can countries strive for a proper balance between national and international criminal jurisdiction?

Further Reading

1. www.cfr.org/backgrounder/what-extradition
2. www.interpol.int/content/download/620/file/FIS-01_2018-03_EN_LR.pdf
3. www.law.cornell.edu/wex/political-offense_exception
4. <https://www.icc-cpi.int/sites/default/files/bookletArrestsENG.pdf>
5. https://www.justice.gov/d9/pages/attachments/2015/12/11/notices_information.pdf
6. www.ibanet.org/How-russias-aggression-is-revitalising-international-criminal-justice
7. www.theguardian.com/world/2023/mar/17/icc-arrest-warrant-vladimir-putin-explainer
8. www.theguardian.com/global-development/2021/oct/17/has-interpol-become-the-long-arm-of-oppressive-regimes
9. <https://iccforum.com/arrest>
10. <https://www.theglobeandmail.com/report-on-business/industry-news/the-law-page/interpol-widening-net-faces-scrutiny-over-global-arrest-alerts/article26550633/>

Bibliography

“International Arrest Warrant: Definition, Extradition, Rights.” *Interpol*, 16 Jan. 2024, <https://interpollawfirm.com/faq/international-eu-arrest-warrant/>

“What Is Extradition?” *Council on Foreign Relations*, Council on Foreign Relations, www.cfr.org/backgrounder/what-extradition

International Extradition Laws and Process - Findlaw,
www.findlaw.com/criminal/criminal-procedure/extradition.html

“About Red Notices.” *About*,
www.interpol.int/en/How-we-work/Notices/Red-Notices

From. “Organized Crime Module 11 Key Issues: Extradition.” *Organized Crime Module 11 Key Issues: Extradition*,
www.unodc.org/e4j/zh/organized-crime/module-11/key-issues/extradition.html

From. “Organized Crime Module 11 Key Issues: Mutual Legal Assistance.” *Organized Crime Module 11 Key Issues: Mutual Legal Assistance*,
www.unodc.org/e4j/zh/organized-crime/module-11/key-issues/mutual-legal-assistance

Fugitives - Interpol,
www.interpol.int/content/download/620/file/FIS-01_2018-03_EN_LR.pdf

“Political-Offense Exception.” *Legal Information Institute*, Legal Information Institute, www.law.cornell.edu/wex/political-offense_exception

“The US-ICC Relationship.” *International Criminal Court Project*, 15 Feb. 2024, www.aba-icc.org/about-the-icc/the-us-icc-relationship/

Aleksandra, Orr, Problems Surrounding Arrest Warrants Issued by the International Criminal Court: A Decade of Judicial Practice (June 28, 2013).

Polish Yearbook of International Law, Vol. 32 (2012), pp. 209-237, Available at SSRN: <https://ssrn.com/abstract=2407579>

Rights, ABA Center for Human. “Home.” *How the ICC Works*, [how-the-ICC-works.aba-icc.org/#:~:text=Arrest%20Warrant%20%26%20Summons&text=An%20arrest%20warrant%20can%20be,the%20person%20appears%20at%20trial](https://www.aba-icc.org/#:~:text=Arrest%20Warrant%20%26%20Summons&text=An%20arrest%20warrant%20can%20be,the%20person%20appears%20at%20trial). Accessed 3 Mar. 2024

Arresting ICC Suspects at Large:

<https://www.icc-cpi.int/sites/default/files/bookletArrestsENG.pdf>

Juliette McIntyre, University of Melbourne and University of South Australia. “How Does the International Court of Justice Differ from the International Criminal Court?” *Pursuit*, The University of Melbourne, 23 Feb. 2024:

<https://pursuit.unimelb.edu.au/articles/how-does-the-international-court-of-justice-differ-from-the-international-criminal-court>

About the Court. International Criminal Court. (n.d.-a).

<https://www.icc-cpi.int/about/the-court>

Interpol: An overview. NGM Lawyers. (2021, November 24).

<https://ngm.com.au/interpol-notice/interpol-an-overview/>

International notices system. (n.d.).

https://www.justice.gov/d9/pages/attachments/2015/12/11/notices_information.pdf

Topnavigatie. Kaarls Strafrechtadvocaten. (n.d.).

<https://kaarls-strafrechtadvocaten.nl/english/interpol-red-notice-and-diffusion-removal-request/>

“3. Provisional Arrests and International Extradition Requests-Red, Blue, or Green Notices.” *Justice Manual* | 3. Provisional Arrests And International Extradition Requests-Red, Blue, Or Green Notices | United States Department of

Justice, 19 Sept. 2018,

www.justice.gov/jm/organization-and-functions-manual-3-provisional-arrests-and-international-extradition-requests#:~:text=In%20the%20United%20States%2C%20national,based%20upon%20the%20notice%20alone.

“Q&A: The International Criminal Court and the United States.” *Human Rights Watch*, 8 Feb. 2022,

www.hrw.org/news/2020/09/02/qa-international-criminal-court-and-united-states#8.

“Groundbreaking International Justice in Germany.” *Groundbreaking International Justice in Germany* | *International Center for Transitional Justice*, www.ictj.org/news/groundbreaking-international-justice-germany.

“Colombia.” *Colombia* | *Coalition for the International Criminal Court*, www.coalitionfortheicc.org/country/colombia#:~:text=Colombia%20signed%20the%20Rome%20Statute,inequality%2C%20and%20drug-trafficking.

Bloxenheim, Henry. “A New Era for U.S-Colombia Extradition Policy? Only Time Will Tell.” *Columbia Journal of Transnational Law*, *Columbia Journal of Transnational Law*, 9 Oct. 2022, www.jtl.columbia.edu/bulletin-blog/a-new-era-for-us-Colombia-extradition-policy-only-time-will-tell

China’s Policy towards the ICC Seen through the Lens Of ..., www.toaep.org/pbs-pdf/27-xue.

Yin, Yanhong. “The Surrender of Fugitive Offenders between Mainland China and Hong Kong: European Arrest Warrant Model or US Interstate Rendition Model?” *Utrecht Journal of International and European Law*, Ubiquity Press, 6 June 2022, utrechtjournal.org/articles/10.5334/ujiel.548.

“China: How the Government of the PRC Uses Red Notices Improperly to Pursue People (Part 1 of 2).” *JD Supra*,

www.jdsupra.com/legalnews/china-how-the-government-of-the-prc-5723014/#:~:text=China%20has%20repeatedly%20proven%20its,charged%20by%20the%20Chinese%20Government.

“Russia Withdraws Signature from International Criminal Court Statute.” *The Guardian*, Guardian News and Media, 16 Nov. 2016,
www.theguardian.com/world/2016/nov/16/russia-withdraws-signature-from-international-criminal-court-statute.

“How Russia’s Aggression Is Revitalising International Criminal Justice.” *International Bar Association*,
www.ibanet.org/How-russias-aggression-is-revitalising-international-criminal-justice.

“What Does the ICC Arrest Warrant for Vladimir Putin Mean in Reality?” *The Guardian*, Guardian News and Media, 17 Mar. 2023,
www.theguardian.com/world/2023/mar/17/icc-arrest-warrant-vladimir-putin-explainer.

“Russia and China’s Abuse of Red Notices Could Wreck Interpol for Good.” *Euronews*,
www.euronews.com/2023/04/06/russia-and-chinas-abuse-of-red-notices-could-break-interpol-beyond-repair.

“Has Interpol Become the Long Arm of Oppressive Regimes?” *The Guardian*, Guardian News and Media, 17 Oct. 2021,
www.theguardian.com/global-development/2021/oct/17/has-interpol-become-the-long-arm-of-oppressive-regimes.

“United Nations Audiovisual Library of International Law.” *United Nations*,
legal.un.org/avl/ha/rsicc/rsicc.html.