

Canada Refers Allegations of Russian War Crimes to International Court

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The ICC prosecutor said: “I am satisfied that there is a reasonable basis to believe that both alleged war crimes and crimes against humanity have been committed in Ukraine.”

Photo credit: Melanie Joly/Facebook.

Foreign Affairs Minister Melanie Joly said Tuesday that Canada will petition the International Criminal Court (ICC) to probe alleged war crimes carried about by the Russian army in its ongoing invasion of Ukraine.

In a statement, Joly said: “Canada has decided to refer the situation in Ukraine to the International Criminal Court. We are working with other ICC member states to take this significant action as a result of numerous allegations of the commission of serious international crimes in Ukraine by Russian forces, including war crimes and crimes against humanity.”

As the horrific events in Ukraine unfold before our eyes, it is clear that more must be done. We believe that what is happening in Ukraine could amount to war crimes and crimes against humanity.

— Mélanie Joly (@melaniejoly) March 1, 2022

The ICC had announced Monday that it would seek court approval to look into allegations of war crimes and crimes against humanity committed by Russian forces.

In a statement, ICC prosecutor Karim A. A. Khan said: “I am satisfied that there is a reasonable basis to believe that both alleged war crimes and crimes against humanity have been committed in Ukraine.”

His statement continued: “Given the expansion of the conflict in recent days, it is my intention that this investigation will also encompass any new alleged crimes falling within the jurisdiction of my Office that are committed by any party to the conflict on any part of the territory of Ukraine.”

Khan's statement noted that Ukraine is not a "State Party" to the Rome Statute of the International Criminal Court, which means it cannot itself refer the situation to the ICC. However, Khan explained, "[Ukraine] has twice exercised its prerogatives to legally accept the Court's jurisdiction over alleged crimes under the Rome Statute occurring on its territory, should the Court choose to exercise it."

He added: "I will also be asking for the support of all States Parties and the international community as a whole as my Office sets about its investigations."

Karim A. A. Khan in 2017/Wikimedia Commons.

In her Tuesday statement, Joly said: "The ICC has our full support and confidence. We call on Russia to cooperate with the court."

In addition to Russia's invasion itself being considered illegal under international law, its army has killed civilians. International media reported: "The UN human rights office said Tuesday that at least 136 civilians had been killed by Russia's assault, including 13 children."

Human rights group Amnesty International said in a statement Tuesday: "Russia's invasion of Ukraine is a manifest violation of the United Nations Charter and an act of aggression that is a crime under international law ... Strikes on protected objects such as hospitals and schools, the use of indiscriminate weapons such as ballistic missiles and the use of banned weapons such as cluster bombs, may all qualify as war crimes."

Amnesty called on UN member states to "uphold and defend the UN Charter, which prohibits the use of force against the territorial integrity or political independence of any state." The group also noted that the "only exceptions to those provisions are self-defense and such use of force as is authorized by the UN Security Council – neither of which applies to this crisis."

Ukraine has also accused Russia of using a thermobaric weapon, known as a vacuum bomb, during its invasion, according to Reuters. However, the outlet noted, there has not yet been "official confirmation" that such a weapon was used.

UN Secretary-General Antonio Guterres, meanwhile, told the international body's general assembly Monday: "The fighting in Ukraine must stop. It's raging across the country from air, land and sea. It must stop now ... the guns are talking now, but the path of dialogue must always remain open."

The advocacy group Canadians for Justice and Peace in the Middle East said Tuesday it welcomed Canada's support for an ICC investigation into Russian war crimes, but questioned why Canada has sought to block the same international body from investigating alleged war crimes committed by Israeli officials in the Occupied Palestinian Territories.

In February last year, Canada's foreign ministry stated: "Canada's longstanding position remains that it does not recognize a Palestinian state and therefore does not recognize its accession to international treaties, including the Rome Statute of the International Criminal Court."

"Everyone deserves access to justice, including the Palestinians," CJPME said this week.

Canada's support for an ICC investigation of Russian war crimes is welcome. However, for years Canada has sought to block the ICC from investigating war crimes by Israeli officials in the OPT. Everyone deserves access to justice, including the Palestinians.
[#cdnpoli](#) [#ICC4Israel](#) pic.twitter.com/LcxiOXFC6P

— Canadians for Justice and Peace in the Middle East (@CJPME) March 1, 2022

Canadian peace advocates joined calls this week condemning Russia's actions. In an email to its supporters Tuesday, the Canadian Foreign Policy Institute said: "Russia's invasion of Ukraine must be condemned. It's a flagrant violation of international law and has already caused significant death and suffering."

The organization added that those calling for peace should consider the Canadian government's role in the events that preceded the current crisis. In particular, CFPI said Canada has advocated for the decades-long eastward expansion of the NATO military alliance, which Russia considers a security threat.

In an article for *Canadian Dimension* published Tuesday, CFPI fellow Yves Engler wrote: "Fury and indignation has rightfully been aimed at the primary architect of this crime against humanity, Russian President Vladimir Putin, but it is dispiriting to see hawkish pundits and other commentators push for further escalation."

Engler said Canada played an "important auxiliary role" in the overthrow of Ukraine's elected pro-Russia government in 2014, an event that "partly precipitated today's conflict."

"Alongside NATO's rapid expansion into eastern Europe and Washington's provocative withdrawal from longstanding U.S.-Russian nuclear arms control agreements, [attempts to bring Ukraine under Western influence] greatly contributed to the instability that preceded Russia's intervention," Engler argued.

In an explainer piece for *The Maple* this week, Tyler Shipley wrote: "Rather than emphasizing poor people's class interests, the 2014 [overthrow's] ringleaders instead emphasized Ukrainian nationalism against Russian despotism, and the ensuing government that took power would re-orient Ukraine to the West [and] lobby for membership in the NATO military alliance ... Canada provided \$16 million and opened up its embassy to this new government."

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