

Federal Decree-Law No. (12) of 2017
on International Crimes

We, Khalifa Bin Zayed Al Nahyan, President of the United Arab Emirates,

- Upon reviewing the Constitution;
- Federal Law No. (1) of 1972 Concerning the Areas of Jurisdiction of the Ministries and the Jurisdictions of the Ministers, as amended;
- Federal Law No. (10) of 1973, concerning the Supreme Federal Court, as amended;
- Federal Law No. (6) of 1978 Establishing Federal Courts and Transferring Competencies of Local Judicial Authorities in some Emirates thereto;
- Federal Law No. (3) of 1983 on the Federal Judicial Authority, as amended;
- Federal Law No. (3) of 1987 issuing the Penal Code, as amended;
- Federal Law No. (35) of 1992 issuing the Criminal Procedure Code, as amended;
- Federal Law No. (51) of 2006 on Combating Crimes of Human Trafficking, as amended;
- Federal Decree-Law No. (10) of 2009 on Military Penal Code, as amended;
- Federal Decree-Law No. (11) of 2009 on the Formation of Military Courts, as amended;
- Federal Decree-Law No. (12) of 2009 on Military Penal Procedures System, as amended, and
- Based on the proposal of the Minister of Justice and the Approval of the Council of Ministers,

We do hereby enact the following Decree Law:

Chapter One

Preliminary Provisions

Article (1)

The international crimes, which the State Courts have jurisdiction over in accordance with the provisions of this Decree-Law are as follows:

1. The crime of genocide;
1. Crimes against humanity;
3. War crimes;
4. The crime of aggression.

Chapter Two

Crime of Genocide and Crimes against Humanity

Section One

Crime of Genocide

Article (2)

Death penalty or life imprisonment shall be inflicted on anyone who commits any of the following acts with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, provided that the act was committed in the context of a manifest pattern of acts directed against that group or was an act that could itself effect such destruction:

1. Killing members of the group;
2. Causing serious bodily or mental harm to members of the group;
3. Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
4. Imposing measures intended to prevent births within the group;

5. Forcibly transferring children of the group to another group.

Article (3)

The same punishment inflicted for attempting the incited crime, if the incitement does not produce an effect, shall be inflicted upon anyone who directly and publicly incites others to commit the crimes described in this Section.

Section Two

Crimes against Humanity

Article (4)

For the purposes of this Section, "attack directed against any civilian population" shall mean a course of conduct involving the multiple commission of acts referred to in this Section against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack.

Article (5)

Death penalty or life imprisonment shall be inflicted on anyone who commits any of the following acts, whenever committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

1. [cut off];
2. Extermination; this includes the intentional infliction of conditions of life, inter alia the deprivation of access to food and medicine, calculated to bring about the destruction of part of a population;
3. Rape, sexual slavery, enforced prostitution, enforced sterilization, forced pregnancy, or any other form of sexual violence of comparable gravity;

Forced pregnancy means forcing women to get pregnant and illegitimately give birth, with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law.

Article (6)

Life or temporary imprisonment shall be inflicted on anyone who commits any of the following acts, whenever committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

1. Enslavement, through the exercise of any or all of the powers attaching to the right of ownership over a person, including trafficking in persons, in particular women and children;
2. Deportation or forcible transfer of population by forcibly transferring them from the area in which they are lawfully present by means of expulsion or other coercive acts, without grounds permitted under international law;
3. Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
4. Torture, through the intentional infliction of severe pain or suffering, whether physical or mental, upon a person in the custody or under the control of the accused, unless the pain or suffering has arisen from or is inherent in or incidental to, lawful sanctions;
5. Persecution through the intentional and severe deprivation of fundamental rights contrary to international law against any identifiable group or collectively on political, racial, national, ethnic, cultural, religious, gender- be it male or female-, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this Section or any crime provided for in this Decree Law;
6. Enforced disappearance of persons, through the arrest, detention or abduction of

persons by, or with the authorization, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time.

7. Apartheid by the commitment of inhumane acts of a character similar to those referred to in this Section, in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and with the intention of maintaining that regime;
8. Other inhumane acts of a character similar to that of the acts provided for in this Section, which intentionally cause great suffering or serious injury to body or to mental or physical health.

Chapter Three

War Crimes

Section One

General Provisions

Article (7)

In the application of the provisions of this Chapter, "protected persons" means:

1. In international armed conflicts: people protected under the provisions of the four Geneva Conventions of 1949, and the first additional protocol of 1977.
2. In non-international armed conflicts: those who are not directly involved in hostile acts, including members of armed forces who laid down their weapons, and those unable to fight due to illness, wounds, detention or any other reason, as stated in the Article 3 common to the four Geneva Conventions of 1949, the second additional protocol of 1977 and the rules of the customary international humanitarian law.

Article (8)

In the application of the provisions of this Chapter, situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence or other acts of a similar nature shall not be considered non-international armed conflicts.

Section Two

War Crimes relating to the use of prohibited methods and means of fighting

Article (9)

Death penalty or life imprisonment shall be inflicted on anyone who commits any of the following acts, in the context of international or non-international armed conflict, associated therewith:

1. Killing or wounding treacherously individuals belonging to the hostile nation or army or an enemy fighter;
2. Employing poison or poisoned weapons;
3. Employing asphyxiating, poisonous or other gases, and all analogous liquids, materials or devices;
4. Employing bullets which expand or flatten easily in the human body, such as bullets with a hard envelope which does not entirely cover the core or is pierced with incisions.

Article (10)

Life or temporary imprisonment shall be inflicted on anyone who commits any of the following acts, in the context of international or non-international armed conflict, associated therewith:

1. Intentionally directing attacks against the civilian population in such capacity or against

individual civilians not taking direct part in hostilities;

2. Intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided that they are not military objectives;
3. Declaring that no one shall survive.

Death penalty or life imprisonment shall be inflicted if the act results in the death of one person or more.

Article (11)

Death penalty or life imprisonment shall be inflicted on anyone who commits any of the following acts, in the context of international armed conflict, associated therewith:

1. Intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the tangible and direct overall military advantage anticipated;
2. Employing weapons, projectiles and material and methods of warfare which are of a nature to cause superfluous injury or unnecessary suffering or which are inherently indiscriminate in violation of the provisions of the international law applicable to armed conflict, provided that such weapons, projectiles and material and methods of warfare are the subject of a prohibition.

Article (12)

Life or temporary imprisonment shall be inflicted on anyone who commits any of the following acts, in the context of international armed conflict, associated therewith:

1. Intentionally directing attacks against civilian objects; i.e. objects which are not military;

2. Attacking or bombarding, by whatever means, towns, villages, dwellings or buildings which are undefended and which are not military objectives;
3. Utilizing the presence of a civilian or other protected persons to render certain points, areas or military forces immune from military operations;
4. Intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including wilfully impeding relief supplies as provided for in the four Geneva Conventions of 1949.

Death penalty or life imprisonment shall be inflicted if the act results in the death of one person or more.

Article (13)

Life or temporary imprisonment shall be inflicted on anyone who, in the context of non-international armed conflict orders associated therewith, the displacement of the civilian population for reasons related to the conflict, unless the security of the civilians involved or imperative military reasons so demand. Life or temporary imprisonment shall be inflicted if the act results in the death of one person or more.

Section Three

War Crimes against Individuals

Article (14)

Death penalty or life imprisonment shall be inflicted on anyone who intentionally kills a protected person, in the context of international or non-international armed conflict, associated therewith.

Article (15)

Death penalty or life imprisonment shall be inflicted on anyone who commits any of the following acts, in the context of international or non-international armed conflict, associated therewith:

1. Subjecting persons who are in the power of an adverse party to physical mutilation or to medical or scientific experiments of any kind which are neither justified by the medical, dental or hospital treatment of the person concerned nor carried out in his or her interest, and which cause death to or seriously endanger the health of such person or persons;
2. Committing rape, sexual slavery, enforced prostitution, forced pregnancy, as defined in Article 5 of this Decree-Law, enforced sterilization, or any other form of sexual violence also constituting a grave breach of the four Geneva Conventions of 1949.

Article (16)

Life or temporary imprisonment shall be inflicted on anyone who takes protected persons as hostages, in the context of international or non-international armed conflict, associated therewith.

Death penalty or life imprisonment shall be inflicted if the act results in the death of one person or more.

Article (17)

Life or temporary imprisonment shall be inflicted on anyone who conscripts or enlists children under the age of fifteen years into the armed forces or using them to participate actively in hostilities, in the context of international or non-international armed conflict, associated therewith.

Death penalty or life imprisonment shall be inflicted if the act results in the death of the recruited child.

Article (18)

Death penalty or life imprisonment shall be inflicted on anyone who kills or wounds a combatant who, having laid down his arms or having no longer means of defence, has surrendered at discretion, in the context of international armed conflict, associated therewith.

Article (19)

Life or temporary imprisonment shall be inflicted on anyone who commits any of the following acts against protect persons, in the context of international armed conflict, associated therewith:

1. Torture or inhuman treatment, including biological experiments;
2. Unlawful deportation or transfer or unlawful confinement;
3. Compelling a prisoner of war or other protected person to serve in the forces of a hostile Power;
4. Wilfully depriving a prisoner of war or other protected person of the rights of fair and regular trial;
5. Wilfully causing great suffering, or serious injury to body or health.

Death penalty or life imprisonment shall be inflicted if the act results in the death of one person or more.

Article (20)

Life or temporary imprisonment shall be inflicted on anyone who commits any of the

following acts, in the context of international armed conflict, associated therewith:

1. Compelling the nationals of the hostile party to take part in the operations of war directed against their own country, even if they were in the belligerent's service before the commencement of the war;
2. The transfer, directly or indirectly, by the Occupying Power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory.

Death penalty or life imprisonment shall be inflicted if the act results in the death of one person or more.

Article (21)

Life or temporary imprisonment shall be inflicted on anyone who commits outrages upon personal dignity, in particular humiliating and degrading treatment, in the context of international armed conflict, associated therewith.

Article (22)

Death penalty or life imprisonment shall be inflicted on anyone who passes sentences and carries out executions against protected persons without previous judgement pronounced by a regularly constituted court, affording all judicial guarantees which are generally recognized as indispensable, in the context of non-international armed conflict, associated therewith.

Article (23)

Life or temporary imprisonment shall be inflicted on anyone who commits acts of violence against protected persons, in particular mutilation, cruel treatment and torture, in the

context of non-international armed conflict, associated therewith.

Death penalty or life imprisonment shall be inflicted if the act results in the death of one person or more.

Article (24)

Life or temporary imprisonment shall be inflicted on anyone who commits outrages upon personal dignity of protected persons, in particular humiliating and degrading treatment, in the context of non-international armed conflict, associated therewith.

Section Four

War Crimes against Properties and other Rights

Article (25)

Life or temporary imprisonment shall be inflicted on anyone who commits any of the following acts, in the context of international or non-international armed conflict, associated therewith:

1. Pillaging a town or place, even when taken by assault;
2. Destroying or seizing the enemy's property unless such destruction or seizure be imperatively demanded by the necessities of war.

Article (26)

Life or temporary imprisonment shall be inflicted on anyone who commits any of the following acts, in the context of international armed conflict, associated therewith:

1. Extensive destruction and appropriation of properties protected by the relative Geneva convention, which are not justified by military necessity and carried out unlawfully and wantonly;

2. Declaring abolished, suspended or inadmissible in a court of law the rights and actions of the nationals of the hostile party.

Section Five

War Crimes against Humanitarian Operations and their Emblems

Article (27)

Life or temporary imprisonment shall be inflicted on anyone who commits any of the following acts, in the context of international or non-international armed conflict, associated therewith:

1. Intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law;
2. Intentionally directing attacks against buildings, materials, medical units and transportation means, and personnel using the distinctive emblems stated in the four Geneva Conventions of 1949, in conformity with international law.

Death penalty or life imprisonment shall be inflicted if the act results in the death of one person or more.

Article (28)

Temporary imprisonment shall be inflicted on everyone who makes improper use of a flag of truce, of the flag or of the military insignia and uniform of the enemy or of the United Nations, as well as of the distinctive emblems of the four Geneva Conventions of 1949, resulting in death or serious personal injury, in the context of international armed conflict associated therewith.

Death penalty or life imprisonment shall be inflicted if the act results in the death of one person or more.

Chapter Four

Crime of Aggression

Article (29)

1. Death penalty or life imprisonment shall be inflicted on anyone who is in the position of practicing control or being able to direct political or military acts in the state, and plans, launches or implements an act of aggression that would constitute- given its character, seriousness and scope- a clear violation of the Charter of the United Nations.
2. "Act of Aggression" means the use of armed force by the state against the sovereignty, regional safety or political independence of another state, or in any other form that is in violation of the Charter of the United Nations.
3. Any of the following acts shall be considered an act of aggression, whether or not there is a declaration of war:
 - a. The armed forces of a certain state invade or attack a region of another state, or any military occupation, even if temporarily, as a result of such invasion or attack, or any merging of a region of a state or portion of it by use of force.
 - b. The armed forces of a certain state bomb a region of another state or a state uses any weapons against a region of another state.
 - c. Imposing a blockade on the ports of a state, its coast, or its airspace by the armed forces of another state.
 - d. The armed forces of a certain state attack the ground troops, the navy, and the air force, or the navy and air fleets of another state.
 - e. A certain state whose armed forces are present in a region of another state with the

consent of the host state, uses its armed forces in violation of the conditions stated in the agreement or extends their presence in the aforementioned region beyond the end of the agreement.

- f. A certain state that has placed its region under the control of another state permits that other state to use this region to perpetrate an act of aggression against a third state.
- g. Sending gangs, or armed groups, or irregular forces, or mercenaries from a particular state or in the name of the state, to conduct armed acts against another state that are dangerous to a degree tantamount to one of the acts of aggression stated in Item 3 of this Article, or to the tangible participation of that state in this act.

Chapter Five

Special Substantive Provisions

Section One

Decree-Law Validity and Interpretation and the Deportation Measure

Article (30)

Without prejudice to the provisions of Book One, Chapter two, Section two of the Federal Penal Code, the provisions of this Decree-Law shall apply to anyone who commits an act outside the State that makes him a perpetrator or a partner in any of the crimes provided for herein, whenever such act is committed by or against any State national, or others who are affiliates to or participants in its armed forces.

Article (31)

Whenever appropriate, the competent court shall refer to the following in the interpretation

and application of this Decree Law:

1. Rome Statute of the International Criminal Court and the elements of crimes adopted by the Court and their applicable amendments at the time of committing the crime.
2. Applicable conventions and principles and rules of the international law, including the principles stipulated in the International Law on Armed Conflicts.

Article (32)

For matters not provided for herein, the competent court shall implement the applicable provisions of the following laws, as case may be:

1. Military Penal Code.
2. The Federal and other Penal Codes.
3. Law on the Formation of Military Courts.
4. Law on Military Penal Procedures System
5. Law on Penal Procedures System.

Article (33)

A sentence convicting a foreigner in any crime provided for herein shall necessitate the deportation of the convicted from the State, after the expiry of the sentence.

Section Two

Reasons and deterrents of relief and criminal responsibility

Article (34)

A military commander or person effectively acting as a military commander shall be criminally responsible for the crimes provided for in this Decree-Law, that are committed by forces under his or her effective command and control, or effective authority and control as

the case may be, as a result of his or her failure to exercise control properly over such forces, where:

1. The military commander or person either knew or, owing to the circumstances at the time, should have known that the forces were committing or about to commit such crimes;
2. The military commander or person failed to take all necessary and reasonable measures within his or her power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.

Article (35)

With respect to superior and subordinate relationships not described in the previous Article, a superior shall be criminally responsible for crimes provided for in this Decree-Law that are committed by subordinates under his or her effective authority and control, as a result of his or her failure to exercise control properly over such subordinates, where:

1. The superior either knew, or consciously disregarded information which clearly indicated, that the subordinates were committing or about to commit such crimes;
2. The crimes concerned activities that were within the effective responsibility and control of the superior;
3. The superior failed to take all necessary and reasonable measures within his or her power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.

Article (36)

The fact that a crime provided for in this Decree-Law has been committed by a person pursuant to an order of a Government or of a superior, whether military or civilian, shall not

be considered a reason of relief, unless:

1. The person was under a legal obligation to obey orders of the Government or the superior in question;
2. The person did not know that the order was unlawful; and
3. The order was not manifestly unlawful.

For the purposes of this Article, orders to commit genocide or crimes against humanity shall be deemed manifestly unlawful.

Article (37)

It is to be deemed an exercise of legitimate right of defence if the person acts reasonably to defend himself or herself or another person or, in the case of war crimes, property which is essential for the survival of the person or another person or property which is essential for accomplishing a military mission, against an imminent and unlawful use of force in a manner proportionate to the degree of danger to the person or the other person or property protected.

The fact that the person was involved in a defensive operation conducted by forces shall not - in itself - constitute a ground for excluding criminal responsibility under this Article.

Chapter Six

Special Procedural Provisions

Article (38)

The federal courts in the Capital of the State shall have jurisdiction to consider all the crimes provided for in this Decree-Law.

As an exception to the first paragraph of this Article, the military courts shall have sole jurisdiction to consider the crimes provided for in this Decree-Law that are committed by or

against a military or a member of the armed forces, as well as the crimes committed within the places under the control of the armed forces or vital or important installations that the armed forces are mandated to secure or guard.

Article (39)

No criminal proceedings may be instituted or investigation proceedings may be initiated in any of the crimes provided for in this Decree-Law except based on a written permission from the Federal Attorney General or the Military Prosecutor, each according to his/her competence.

Article (40)

Immunities or special procedural rules which may attach to the official capacity of a person, whether under national or international law, shall not bar the competent court from exercising its jurisdiction over such a person.

Article (41)

No person shall be tried before the Court with respect to conduct which formed the legal basis of any of the crimes provided for in this Decree-Law for which a final ruling acquitting or convicting the person has been issued by the International Criminal Court or any other foreign court whose rulings are recognized in the State, provided the issued ruling is consistent with the international standards of fair trial.

Article (42)

As an exception of the paragraph 2 of Article 20 and Article 315 of the Criminal Procedure Code or any other law, the criminal action shall not prescribe nor shall the sentence be

time-barred in the crimes provided for in this Decree-Law.

Article (43)

1. As an exception to the provisions of any other law, a sentenced person in any of the crimes provided for in this Decree-Law may not be released before the expiry of the sentence pronounced by the competent court.
2. The competent court shall solely be entitled to decide the reduction of any sentence. This matter shall be decided after hearing the sentenced.
3. The court shall reconsider the sentence to decide whether or not it must be reduced, after the sentenced person has completed two-third of the sentence period or twenty-five years in the case of life imprisonment. The court may not reconsider the sentence prior to the expiry of the said periods.
4. The court may reduce the sentence according to Item 3 of this Article if it is proved to it the existence of one factor or more of the following:
 - a. The early and continuing readiness of the sentenced person to cooperate with the court in its investigation and prosecution.
 - b. Voluntary assistance by the person to enforce the judgments and orders of the court in other cases, in particular in determining the location of the assets subject to the orders issued to enforce confiscation or compensation rulings.
 - c. Any other factors that prove the occurrence of evident and significant change in circumstances that is sufficient to justify the reduction of the penalty, including:
 1. The sentenced person conduct in the course of serving a freedom-depriving sentence in a manner that reflects a true abandonment of the criminal act.
 2. The possibility that the sentenced may be re-integrated and successfully re-settled in the community.

3. If the early release of the sentenced will lead to a great degree of social stability.
 4. Any significant action by the sentence in favour of the victims and any effect on the victims and their families as a result of early release.
 5. Individual circumstances of the sentenced person, including a worsening state of physical or mental health or advanced age.
5. If, upon the first reconsideration under Item 3 of this Article, the court decides that the reduction of sentence is not appropriate, it shall later reconsider the reduction of the sentence every three years, unless the court specifies a shorter period.

Chapter Seven

Transitional and Final Provisions

Article (44)

1. The State courts shall have competence to determine any matter not determined in any actions originating from the crimes provided for in this Decree-Law, which have been committed prior to its effective date by or against the nationals of the State.
2. The competent court shall apply to the crimes it has competence over under Item 1 of this Article the penalties provided for in the Rome Statute of the International Criminal Court and the elements of the crimes adopted by it on the date the crime was committed.

Article (45)

There is no provision in this Decree-Law that may be interpreted or construed as an endorsement or accession to any agreement or convention unless duly endorsed or accessed by the State, according to its constitutional and legislative procedures.

Article (46)

This Decree-Law shall be published in the Official Gazette and shall become effective on the day following the date of its publication.

Khalifa Bin Zayed Al Nahyan,

President of the United Arab Emirates

Issued by us in the Presidential Palace in Abu Dhabi

On: 27/Dhul Hijja/1438 A.H

Corresponding to: 18/September/2017