This allows the Israeli Military Advocate General (MAG) Corps to adopt a broader view on acts that qualify as DPH than the *Interpretive Guidance*.[35] Some commentary mentions the Court's reference to the *Interpretive Guidance* as "an important message of adherence to international law."[36] However, a look at the parties' arguments suggests a different answer. The petitioners referred only to the *Interpretive Guidance*, and the government hastily noted its disagreement with the analysis without referring to the *Targeted Killings* case. This tendency to mirror the parties' arguments may incentivize the parties to present far-reaching and unsubstantiated arguments in the hope that at least some will be adopted by the court.

A second manifestation of limited judicial expertise in international law is visible in the Court's vague discussion of the main legal controversy. The government made clear that under the LOAC law enforcement paradigm, force can be used if the threat is substantial, even if the threat is not immediate. Yet, Deputy Chief Justice Melcer (paras. 46, 50) and Chief Justice Hayut (para. 9) both referred to the government position as requiring an immediate threat. In other parts of the decision, the Court's articulation of the government position is different, and nowhere do the justices explicitly discuss the controversy around the immediacy requirement (*See* Melcer, para. 40; Hayut, para. 10). Limited expertise seems to be the best explanation of this terminological vagueness.[37]

The Court's apparent lack of expertise highlights the need for caution in the weight given by states and other actors to any specific judicial decision interpreting and applying international law, and the importance of taking into consideration the reasoning and context of the decision rather than just its sound bites.[38]

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International Criminal Court—Pre-Trial Chamber—territorial jurisdiction over a crime committed in part on state-party territory—the ICC's objective international legal personality

CASE NO. ICC-RoC46(3)-01/18, Decision on the "Prosecution's Request for a Ruling on Jurisdiction Under Article 19(3) of the Statute." *At* http://www.icc-cpi.int. International Criminal Court, September 6, 2018.

[35] GAZA CONFLICT REPORT, *supra* note 9, para. 268; Michal N. Schmitt & John J. Merriam, *The Tyranny of Context: Israeli Targeting Practices in Legal Perspective*, 37 U. PA. J. INT'L L. 53, 113–14 (2015).

[36] Amichai Cohen, *Analysis of Israel's Supreme Court Decision Allowing Lethal Force in Gaza*, JUST SECURITY (May 27, 2018), *at* https://www.justsecurity.org/57033/analysis-israels-supreme-court-decision-allowing-lethal-force-gaza. *See also* Jöbstl, *supra* note 11.

[37] Another example of limited expertise is Chief Justice Hayut's statement that Israel and Hamas have been involved in an armed conflict for thirty years. This statement does not rely on the argument of the parties, is not supported by the references in the judgment, and does not have support in the international law literature on the conflict. The only reasonable explanation for this statement is that Chief Justice Hayut used "armed conflict" as a colloquial phrase rather than legal term of art with significant potential implications.

[38] Anthea Roberts, *Comparative International Law? The Role of Domestic Courts in Creating and Enforcing International Law*, 60 INT'L COMP. L. Q. 57, 63 (2011).

On September 6, 2018, Pre-Trial Chamber I of the International Criminal Court (ICC or Court) ruled by a majority—Judge Perrin de Brichambaut dissenting—that it has jurisdiction to hear cases concerning crimes that occurred only in part within the territory of a state party to the Rome Statute.[1] In so ruling, the Court granted the ICC prosecutor's request to rule on jurisdiction and confirmed its territorial jurisdiction over the alleged deportation of Rohingya people from the territory of Myanmar (a state not party to the Rome Statute) to Bangladesh (a state party).[2] The Court also affirmed unequivocally its objective international legal personality vis-à-vis non-party states and hinted strongly that the prosecutor should consider the possible prosecution of at least two additional crimes in connection with this situation.

The plight of Myanmar's Rohingya is not new.[3] The government and military forces of Myanmar appear to have been engaging in systematic and at times violent repression against them for over thirty years.[4] The latest chapter in this history of oppression occurred at the end of August 2017, when a new wave of violence swept over the Rakhine state of Myanmar, forcing over 500,000 Rohingya to flee and seek refuge in neighboring Bangladesh. In the following months, Myanmar's military and allied paramilitary forces were publicly accused of committing international crimes against Rohingya civilians.[5]

On April 9, 2018, the prosecutor filed a request for a ruling on jurisdiction under Article 19(3) of the Statute.[6] The prosecutor asked whether the Court could exercise jurisdiction over the alleged deportation of Rohingya people from Myanmar to Bangladesh as a crime against humanity. At the time, no related preliminary examination or case was pending.

After describing the history of the request and succinctly addressing a number of procedural questions (paras. 1–25), the Court turned to the main issues before it, starting with its power to issue a ruling at that stage of the proceedings. The prosecutor invoked Article 19(3) of the Statute as the legal basis for the request, which stipulates in part that "[t]he Prosecutor may seek a ruling from the Court regarding a question of jurisdiction or admissibility."

The Court, however, observing that reliance on Article 19(3) was "quite controversial" (para. 27), held that, as a question of jurisdiction, its authority to decide this motion rested on Article 119(1) of the Statute as well as its inherent power to determine its own competence (*id.*). Under Article 119(1), "any dispute concerning the judicial functions of the Court shall be settled by the decision of the Court." Drawing from international jurisprudence and relevant literature on the concept of "dispute," the Court decided that in the present

[1] Rome Statute of the International Criminal Court, July 17, 1998, 2187 UNTS 3 [hereinafter Statute].

[2] ICC-RoC46(3)-01/18, Decision on the "Prosecutor's Request for a Ruling on Jurisdiction Under Article 19(3) of the Statute" (Sept. 6, 2018), *available at* https://www.icc-cpi.int/CourtRecords/CR2018_04203.PDF. Decisions and documents of the Court cited herein are available online at its website, http://www.icc-cpi.int.

[3] UN Human Rights Council, Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar, UN Doc. A/HRC/39/64 (Sept. 12, 2018) [hereinafter Report].

[4] Report, *supra* note 3, paras. 94–103.

[5] Opening Statement of the Thirty-Sixth Session of the Human Rights Council by the UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein (Sept. 11, 2017), *at* https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22044&LangID=E ("a textbook example of ethnic cleansing"); Report of the UN Special Rapporteur on the Human Rights Situation in Myanmar, para. 65, UN Doc. A/HRC/37/70 (Mar. 9, 2018) (explaining that the situation bears "the hallmarks of genocide").

[6] ICC-RoC46(3)-01/18-1, Application Under Regulation 46(3), Prosecution's Request for a Ruling on Jurisdiction Under Article 19(3) of the Statute (Apr. 9, 2018) *available at* https://www.icc-cpi.int/CourtRecords/CR2018_02057.PDF.

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circumstances there was a dispute between the Court and Myanmar concerning the scope of its jurisdiction (para. 28). The Court found similar support in international and ICC jurisprudence on *Kompetenz-Kompetenz* or *compétence de la compétence* (paras. 32–33).

Having thus satisfied itself of its authority to decide on the request, the Pre-Trial Chamber next discussed the Court's international legal personality (paras. 34–49). This discussion was framed as a response to Myanmar, which did not appear before the Court but made its views known through public statements. Specifically, Myanmar explained that it never expressed its consent to be bound by the Rome Statute and thus is not party to the treaty. As a third state, therefore, Myanmar maintained that it derives no rights or obligations from this treaty, according to Article 34 of the Vienna Convention on the Law of Treaties.[7] As such, in Myanmar's view, the prosecutor's request was incompatible with international law to the extent that it sought or might result in the imposition of obligations upon Myanmar without its consent.

The Pre-Trial Chamber responded to these claims by affirming the Court's objective international legal personality. Throughout its analysis, the Court drew parallels to the United Nations and highlighted its similarities with the ICC. It first referred to the International Court of Justice's (ICJ) *Reparations for Injuries* Advisory Opinion[8] and the UN's objective legal personality (para. 37). It explained that one of the legacies of the *Reparations* opinion was the confirmation of the UN's authority to act in matters relating to the maintenance of international peace even vis-à-vis non-member states. It added further that the purposes and principles of the UN are *erga omnes* in character (para. 38). Citing the literature on legal personality, as well as the arguments for and against drawing analogies between the ICC and the ICJ (para. 39), the Court then considered a number of criteria to decide whether the ICC has an objective international legal personality, including: the number of states parties to the Rome Statute (para. 41); the Court's interaction with states not parties to the Rome Statute (para. 42); the Court's relationship with the UN (para. 43); and the potential third-party effects that the Statute may have on non-states parties in accordance with principles of international law (paras. 44–47). Specifically, the Court held that the Statute may produce third-party effects on non-party states consistent with international law as a result of the general characteristics of the Statute (para. 45), the application of certain provisions of the Statute (para. 46), or a decision of a non-party state to cooperate with the Court (para. 47). In a conclusion reminiscent of the famous paragraph in the ICJ's *Reparations Advisory Opinion* affirming the UN's objective international legal personality, the Pre-Trial Chamber asserted;

> In the light of the foregoing, it is the view of the Chamber that more than 120 States, representing the vast majority of the members of the international community, had the power, in conformity with international law, to bring into being an entity called the "International Criminal Court," possessing objective international legal personality, and not merely personality recognized by them alone, together with the capacity to act against impunity for the most serious crimes of concern to the international community as a whole and which is complementary to national jurisdictions. Thus, the existence of

[7] Vienna Convention on the Law of Treaties, May 23, 1969, 1155 UNTS 331 [hereinafter VCLT].

[8] Reparation for Injuries Suffered in the Service of the United Nations, Advisory Opinion, 1949 ICJ Rep. 174 (Apr. 11).

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> the ICC is an objective fact. In other words, it is a legal-judicial-institutional entity which has engaged and co-operated not only with States Parties, but with a large number of States not Party to the Statute as well, whether signatories or not. (Para. 48)

It was only after this elaborate discussion of its international legal personality that the Court returned to the central question under consideration: the assessment of its jurisdiction over the crime of deportation allegedly committed against the Rohingya (para. 49). The Court observed that this issue was "a pure question of law." As such, its findings were without prejudice to factual allegations and any eventual decision on the merits (para. 50). The Court interpreted, in turn, Article 7(1)(d) of the Statute, codifying deportation as a crime against humanity, and Article 12(2)(a)—the Rome Statute's territorial jurisdiction clause (para. 51).

As regards deportation, the Court noted at the outset that the Statute listed "deportation or forcible transfer" as a crime against humanity under Article 7(1)(d) (para. 52). It interpreted this provision by reference to its text, context, purpose, and object as well as to general international law and its own previous jurisprudence, concluding that deportation and forcible transfers are separate crimes due to the destination requirement, i.e. displacement across national borders (para. 57). Deportation is committed when the perpetrator deports, "without grounds permitted under international law, one or more persons to another State . . . by expulsion or other coercive acts" (para. 60). Many different types of conduct may amount to "expulsion or other coercive acts," including killing, sexual violence, or looting (para. 61).

Having concluded its examination of the legal nature, definition, and elements of the crime of deportation, the Court proceeded to examine the territorial jurisdiction clause (paras. 62–72). Under Article 12(2) of the Rome Statute, "the Court may exercise its jurisdiction if one or more of the following States are Parties to this Statute or have accepted the jurisdiction of the Court in accordance with paragraph 3: (a) [t]he State on the territory of which the conduct in question occurred . . . ."

Observing that it had not previously interpreted this provision, the Pre-Trial Chamber held that the requirements of Article 12(2) are satisfied if "at least one legal element of a crime within the jurisdiction of the Court or part of such a crime is committed on the territory of a State Party" (para. 64). The Court reached this conclusion through an interpretation of the provision in the context of general rules of international law and in the light of the Statute's object and purpose. In its contextual analysis, the Court emphasized the practice of states—including Myanmar and Bangladesh—supporting this approach to territorial jurisdiction, as reflected in their domestic laws and international agreements to which they are parties (paras. 65–68). Regarding the object and purpose of the treaty, the Court noted that Article 12(2) was adopted as a result of a diplomatic compromise. In its view, the drafters "intended to allow the Court to exercise its jurisdiction pursuant to article 12(2)(a) of the Statute in the same circumstances in which States Parties would be allowed to assert jurisdiction under their legal systems, within the confines imposed by international law and the Statute" (para. 70).

With that in mind, the Court declared that a restrictive interpretation of the provision would be incompatible with the permissive approach reflected in Article 12(2). The Court confirmed its conclusion by reference to the incorporation of the crime of deportation in the Statute. It reasoned that deportation means displacement across international borders. Since the drafters did not restrict the Court's jurisdiction only to deportations where the state of

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destination is a state party, but referred generally to "another state," they intended to extend the Court's territorial jurisdiction to crimes committed only in part in state-party territory (para. 71).

The Court further held that this interpretation applies to all crimes within its jurisdiction (paras. 74–79). Provided that a part or an element of a crime takes place within the territory of a state party, the ICC may assert territorial jurisdiction (para. 74). To make this point clear, the Court noted that the crime of persecution could be charged if it was proven that the Rohingya were deported from Myanmar to Bangladesh on any of the grounds enumerated in that provision (paras. 75–76). In this instance, the crossing of the international border into Bangladesh would be the critical element for the Court's territorial jurisdiction. The crime of persecution would be carried out through deportation that took place on certain grounds. Moreover, the prohibition of "other inhumane crimes" could be charged as well, due to Myanmar's alleged refusal to allow the Rohingya to return to their homes and their continued stay in the abysmal conditions of the refugee camps in Bangladesh (paras. 77–78).

Before the dispositive paragraph, the Court provided a few final remarks (paras. 80–88). First, it took issue with the stage of the proceedings in which the request was filed. It explained that the prosecutor already had enough information at her disposal and that delays in opening an investigation were not warranted. Moreover, the Court reminded the prosecutor of her duty to submit a request for authorization of an investigation if the "reasonable basis" standard under Articles 15(3) and 53(1) of the Statute is satisfied. This request should be submitted without delay, in order to ensure the investigation's effectiveness and efficiency. In closing, the Court reinforced this position by reference to the rights of the victims. It reminded the prosecutor that, pursuant to Article 21(3), human rights apply to the conduct of the preliminary examination, and it emphasized the rights of victims to the truth, to access to justice, and to reparation (para. 88).

Judge Perrin de Brichambaut appended a partially dissenting opinion.[9] He took the view that the Pre-Trial Chamber's ruling was incompatible with the system of the Rome Statute for procedural reasons (paras. 7–31). First, the dissenting judge explained that the ruling lacked a legal basis. Applying a contextual interpretation of the relevant provisions in light of the Rome Statute as a whole and international jurisprudence, the judge explained that Article 19(3)—the legal basis for the prosecutor's request—was inapplicable because it required a "case," which is possible only at a subsequent procedural stage. Moreover, the judge explained that Article 119—one of the legal bases invoked by the majority—was both irrelevant and inapplicable for the present proceedings, since the meaning of the "dispute" endorsed by the majority could not be sustained by reference either to the system of the Statute or to the jurisprudence of international courts (paras. 17–23). Finally, the judge argued that it was a mistake to rely on *Kompetenz-Kompetenz*, primarily because there is no lacuna in the Statute and because doing so risks jurisdictional excess. The judge also highlighted that deciding the matter now would likely cause prejudice to subsequent proceedings (paras. 31–32).

Moreover, the dissenting judge explained that due to the lack of binding effect under the Statute, the prosecutor was effectively requesting an advisory opinion, which the Court was not empowered to give (paras. 33–39). Finally, he closed his well-reasoned opinion with these

[9] ICC-RoC46(3)-01/18-37-Anx, Decision, Partially Dissenting Opinion of Judge Marc Perrin de Brichambaut (Sept. 6, 2018), *available at* https://www.icc-cpi.int/RelatedRecords/CR2018_04205.PDF.

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lines: "I deem necessary to reassert that the Court's paramount consideration should always be the interest of justice first, after which other factors may be considered. Expedience cannot come at the cost of full, robust, and in-depth contemplation of the issue of jurisdiction" (para. 42).

* * * *

The Court's reasoning can be criticized on a number of grounds. As the dissenting judge noted, the decision was delivered at a non-existent stage of the ICC proceedings and at odds with the Court's self-professed restriction against delivering advisory opinions. Additionally, this ruling has no binding effect on the prosecutor. It cannot force the prosecutor to open an investigation into certain crimes against the Rohingya. The Statute's drafters included no mechanism to force prosecutorial action,[10] although a number of obstacles were put in place to prevent politicized prosecutions.[11]

Additionally, the interpretation of the phrase "conduct in question" in Article 12(2)(a) is problematic. Although the Court claimed to apply the rule of interpretation enshrined in VCLT Article 31, it disregarded entirely the text of the provision. The text provides that the Court's jurisdiction attaches when the "conduct in question" occurs in the territory of a state party. The meaning of these three words has been a contentious point in the literature.[12] Taken literally, and in line with the Rome Statute's distinction between conduct, consequences, and circumstances in Article 30,[13] the phrase could be interpreted as giving the Court territorial jurisdiction only when the criminal conduct occurs in state-party territory, regardless of the territory where the consequences manifest. Failure to address the contours of this textual interpretation of the Statute renders the ruling vulnerable to allegations of judicial lawmaking.

Additionally, Myanmar's complaint of jurisdictional overreach is not fully answered by the Court's lengthy treatise on its objective international legal personality. In the *Reparations* advisory opinion, the ICJ explained that it examined legal personality because it was a condition precedent to the assessment of the UN's power to claim reparations for injuries of its agent caused by a non-member state. In contrast, the Pre-Trial Chamber makes no effort to explain how exactly the discussion on objective international legal personality responds to

[10] Situation on Registered Vessels of the Union of the Comoros, the Hellenic Republic and the Kingdom of Cambodia, ICC-01/13-51, Decision on the Admissibility of the Prosecutor's Appeal Against the "Decision on the Request of the Union of the Comoros to Review the Prosecutor's Decision Not to Initiate an Investigation," paras. 56, 58 (Nov. 6, 2015), *available at* http://www.legal-tools.org/doc/a43856/pdf. Statement of the ICC Prosecutor, Mrs. Fatou Bensouda, on the Situation on Registered Vessels of the Union of the Comoros et al. (Nov. 30, 2017), *at* https://www.icc-cpi.int//Pages/item.aspx?name=171130_OTP_Comoros.

[11] Situation in Kenya, ICC-01/09-19-Corr, Decision Pursuant to Article 15 of the Rome Statute on the Authorization of an Investigation into the Situation in the Republic of Kenya, para. 18 (Mar. 31, 2010).

[12] For a summary, MICHAIL VAGIAS, THE TERRITORIAL JURISDICTION OF THE INTERNATIONAL CRIMINAL COURT 91–100 (2014).

[13] Article 30 of the Rome Statute is entitled "Mental Element" and provides in paragraph 2 that "[f]or the purposes of this article, a person has intent where:

(a) In relation to conduct, that person means to engage in the conduct;
(b) In relation to a consequence, that person means to cause that consequence or is aware that it will occur in the ordinary course of events."

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Myanmar's claim that the prosecutor seeks to impose obligations upon it without its consent. In the alternative—and perhaps somewhat simplistically—the Court could have explained that the basis of its authority is Bangladesh's ratification of the Statute and leave any other matter for subsequent litigation. Arguably, this approach would kill two birds with one stone, insofar as it would also signal the Court's unwillingness to consider objections to jurisdiction filed through press releases.

Regardless of the merit of these critiques, however, this ruling has many positive aspects that make it stand out in the Court's jurisprudence. To begin with, even if only advisory, this decision is not doomed to collect dust in the Court's bookshelves. It has already had a significant impact on the plight of the Rohingya. For one, the prosecutor declared the opening of a preliminary examination into that situation as soon as the time period for appeal had lapsed.[14] For another, the UN Human Rights Council adopted a resolution in September 2018 referring to the Court's ruling and instructing the newly established, independent mechanism for the collection of evidence on Myanmar to cooperate closely with the prosecutor in the Rohingya affair.[15]

Additionally, this ruling appears designed to address a number of issues with far-reaching implications for the Court's internal function and its relationship with third states. As regards the Court's internal function, two points stand out. First, the Court explicitly went beyond the narrow scope of the prosecutor's request. It discussed not only deportation but also other possible bases of crimes against humanity, such as persecution and other inhumane acts. From the dissenting judge's perspective, these findings were problematic, insofar as they appear to substitute for the prosecutor's selection of crimes. Moreover, the Court's proactive approach might create difficulties if the same judges who recommended these charges are invited to consider whether or not to confirm them later in the proceedings. That said, the majority's suggestions were subjected to the appropriate caveats and confirmed the prosecutor's privilege to initiate proceedings. In reality, since the Court cannot force the prosecutor to act, these remarks may have performed another function—to support the prosecutor's future actions by addressing potential external political pressures aimed at restricting investigations of third-party nationals.

Second, the Court explicitly invoked Article 21(3), which provides that the ICC's activities must be consistent with human rights norms. It did so in order to highlight that human rights underpin every aspect of the Court's operation, including the prosecutor's investigation. The rights of victims to the truth, to access to justice, and to reparation were explicitly invoked to buttress the call for opening and conducting an effective investigation into the Rohingya crisis without delay. This ruling stands as a rare, yet significant reaffirmation that human rights inform the entire ICC system and the function of all its organs.

The greatest impact of this decision, however, is on the Court's relationship with non-party states. The Court's affirmation of its objective international legal personality appears designed to address a wider audience than just Myanmar's authorities. Arguably, it speaks to all non-

[14] Statement of the ICC Prosecutor, Mrs Fatou Bensouda, on Opening a Preliminary Examination Concerning the Alleged Deportation of the Rohingya People from Myanmar to Bangladesh (Sept. 18, 2018), *at* https://www.icc-cpi.int/Pages/item.aspx?name=180918-otp-stat-Rohingya.

[15] UN Human Rights Council, Situation of Human Rights of Rohingya Muslims and Other Minorities in Myanmar, para. 24, UN Doc. A/HRC/39/L.22 (Sept. 25, 2018).

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party states that continue to challenge the Court's operation.[16] Moreover, at the time the ruling was issued, Jordan's appeal of the Court's non-compliance decision for failure to arrest Sudanese President Omar Al-Bashir—who is currently under an outstanding ICC warrant—was pending before the Appeals Chamber.[17] This finding may prove a good foundation upon which the Appeals Chamber will construct the obligation of "third states" to surrender suspects under Article 98(1), or clarify the contested implied power of the Court to refer non-compliance to the Security Council.

Last, but not least, the conclusion that the Court may exercise territorial jurisdiction for crimes committed only in part within state-party territory allows the exponential extension of the ICC's jurisdictional reach. In an era of cross-frontier criminality, it may strengthen the Court's ability to prosecute the crimes within its jurisdiction. To be sure, as a matter of domestic criminal law, the exercise of territorial jurisdiction when only part of an offense takes place in state territory is hardly an innovation. National systems have used all sorts of variants of qualified territoriality for more than a century to administer justice in cross-frontier offences.[18] For the ICC, however, this is a new development.

On balance, for all its faults in legal reasoning and criminal procedure, this ruling bears the hallmarks of a groundbreaking judicial pronouncement, certain to feature in the Court's future jurisprudence. Arguably, it was not made lightly. In light of the withdrawals from the Rome Statute by Burundi[19] and the Philippines,[20] the Court could have chosen to shield itself from accusations of encroachment upon state sovereignty by postponing or avoiding a decision altogether. Instead, it tackled the issue head-on and quickly. In a rare constructive alignment of facts, prosecutorial initiative, and judicial courage, the Court dared go with this advisory opinion—or perhaps because of it—where no binding judgment has gone before it. One can only hope that this ruling will not remain isolated, but rather pave the way for further developments in the Court's jurisdictional jurisprudence.

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[16] Matthew Lee, *Bolton: International Criminal Court "Already Dead to Us,"* ASSOC. PRESS (Sept. 11, 2018), *at* https://apnews.com/4831767ed5db484ead574a402a5e7a85.

[17] Prosecutor v. Al-Bashir, ICC-02/05-01/09-319, Decision on Jordan's Request for Leave to Appeal (Feb. 21, 2018), *available at* https://www.icc-cpi.int/CourtRecords/CR2018_01458.PDF.

[18] CEDRIC RYNGAERT, JURISDICTION IN INTERNATIONAL LAW 75–76 (2015).

[19] Situation in the Republic of Burundi, ICC-01/17-9-Red, Public Redacted Version of "Decision Pursuant to Article 15 of the Rome Statute on the Authorization of an Investigation into the Situation in the Republic of Burundi," paras. 22–23 (Oct. 25, 2017), *at* https://www.icc-cpi.int/Pages/record.aspx?docNo=ICC-01/17-9-Red.

[20] ICC Statement on The Philippines' Notice of Withdrawal: State Participation in Rome Statute System Essential to International Rule of Law (Mar. 20, 2018), *at* https://www.icc-cpi.int/Pages/item.aspx?name=pr1371 (the Philippines withdrawal takes effect on March 17, 2019).