



“The establishment of the Court is still a gift of hope to future generations, and a giant step forward in the march towards universal human rights and the rule of law.”

– Kofi Annan,
Former U.N. Secretary-General at the signing
of the Rome Statute of the International Criminal Court

The International Criminal Court is groundbreaking because:

- ➔ it will serve as a permanent deterrent to people considering these crimes. In most cases in the last 50 years, international mechanisms to prosecute people accused of these crimes have been set up only after the crimes were committed;
- ➔ it will have a much wider jurisdiction than existing ad hoc tribunals. For example, the work of the International Criminal Tribunals for the former Yugoslavia and Rwanda have been limited to crimes committed in a particular territory, while crimes committed in other territories have not been addressed; and
- ➔ the Statute contains advanced provisions for the protection of victims from retraumatization, and the Court may order a convicted person to provide reparation, in the form of compensation, restitution, rehabilitation, satisfaction, guarantees of non-repetition and any other type of reparation the Court deems appropriate.

The International Criminal Court

For more than half a century since the Nuremberg and Tokyo trials, states have largely failed to bring to justice those responsible for genocide, crimes against humanity and war crimes. With the creation of the International Criminal Court (ICC), the world has begun to fulfill the post-World War II promise of “never again.” The ICC is the world’s first permanent, international judicial body capable of bringing perpetrators to justice and providing redress to victims when states are unable or unwilling to do so. This represents a major stride for international justice.

On July 17, 1998, at a diplomatic conference in Rome, the international community adopted the Rome Statute of the International Criminal Court. The treaty has been hailed by governments, legal experts and civil society as the most significant development in international law since the adoption of the United Nations Charter. The treaty entered into force on July 1, 2002. The Court made its first arrest in March 2006 and is scheduled to begin its first trial in September 2007.

What crimes does the Court prosecute?

The ICC can prosecute and bring to justice individuals accused of genocide, war crimes and crimes against humanity. These crimes are defined in the Rome Statute, and reflect existing international law. Although the crime of aggression is mentioned in the Statute, the Court cannot exercise jurisdiction over the crime of aggression until the definition is agreed upon.

What countries have ratified the Rome Statute of the ICC?

As of September 2007, 105 countries are party to the ICC. Countries that ratify the Rome Statute accept the Court’s jurisdiction and agree to cooperate with the court in investigating and prosecuting crimes, as well as in enforcing penalties. State parties encompass countries from all regions of the globe, including major U.S. allies: all NATO members (except for Turkey) and two permanent members of the U.N. Security Council (France and the United Kingdom). The United States is not a party.

Where is the Court located, what is its structure and who funds it?

The ICC is located in The Hague, the Netherlands. The Court is composed of three branches: the judiciary, which is made up of 18 judges, the Office of the Prosecutor and the Office of the Registrar, which runs the administration of the Court. The Assembly of States Parties is composed of one representative from each country that has ratified the Rome Statute. The Assembly of States Parties oversees the management of the Court and votes on changes to the Court’s structure and jurisdiction, which includes the election of judges and prosecutors and adoption of the budget. The Court is funded by countries that have joined the ICC.

Is the Court able to prosecute individuals for crimes committed before the Court’s establishment?

No. The Court has jurisdiction only over crimes committed after July 1, 2002, when the Rome Statute entered into force.

How do cases come before the Court?

Cases come before the court in one of three ways: (1) The Court’s Prosecutor can initiate an investigation into a situation where one or more of the crimes has been committed, based on information from any source, including the victim or the victim’s family, but only if the Court



For additional information, updates and actions

AIUSA Program for International Justice and Accountability, amnestyusa.org/international_justice

American NGO Coalition for the ICC, <http://www.amicc.org>

International Criminal Court (official website), <http://www.icc-cpi.int>

Cases and investigations currently before the ICC

As of September 2007, there are four situations before the ICC: Uganda, the Democratic Republic of Congo, Sudan and the Central African Republic.

Uganda: The Prosecutor v. Joseph Kony, Vincent Otti, Raska Lukwiya, Okot Odhiambo and Dominic Ongwen.

In October 2005, the ICC unsealed arrest warrants for five high commanders of the armed uprising group the Lord's Resistance Army (LRA). They are charged with crimes against humanity and war crimes. None of the charged men has been arrested yet.

Democratic Republic of Congo (DRC): The Prosecutor v. Thomas Lubanga Dyilo.

Thomas Lubanga Dyilo, a national of the DRC and alleged founder and leader of a political and military movement, the Union des Patriotes Congolais (UPC), was handed over to the ICC in 2006. He is charged with the war crime of enlisting and conscripting children under the age of 15 and using them to participate actively in hostilities. In 2007, the ICC confirmed the charges against Thomas Lubanga Dyilo, paving the way to the first trial.

Sudan: The Prosecutor v. Ahmad Muhammad Harun ("Ahmad Harun") and Ali Muhammad Ali Abd-Al-Rahman ("Ali Kushayb").

In 2005, the U.N. Security Council passed a historic resolution calling for the ICC to investigate the crimes committed in Darfur. In 2007, the ICC issued arrest warrants for Ahmad Harun, former Sudanese interior minister, and Ali Kushayb, Janjaweed militia leader. They bear responsibility for 51 counts of alleged war crimes and crimes against humanity, including persecutions, murder, forcible transfer, rape, torture, and destruction of property and pillage in Darfur, Sudan.

Central African Republic (CAR)

In May 2007, the ICC Prosecutor began investigating allegations of rape and other violence committed in the Central African Republic (CAR). The Prosecutor stated that rapes and sexual violence perpetrated by armed individuals appeared to be a central feature of the conflict in the CAR. The ICC began monitoring the situation in the country in 2005 after the CAR government and the Cour de Cassation, CAR's highest criminal court, requested that the ICC do so.

has jurisdiction over the crime and individual. (2) States that have ratified the Rome Statute may ask the Prosecutor to investigate a situation where one or more of the crimes have been committed. (3) The U.N. Security Council can ask the Prosecutor to investigate a situation where one or more of the crimes have been committed, even if the crimes occurred in the territory of a state that has not ratified the Rome Statute or was committed by the national of such a state. In each of these situations, however, it is up to the Prosecutor, not the states or the Security Council, to decide whether to open an investigation and, based on that investigation, whether to prosecute, subject to judicial approval.

When can the Court prosecute an individual suspected of committing grave crimes under international law?

The Court may investigate and prosecute an individual when: (a) the accused is a citizen of an ICC member state; (b) the alleged crime took place on the territory of an ICC member state; (c) the U.N. Security Council asks the ICC to open an investigation; or (d) a country voluntarily accepts ICC jurisdiction. The ICC can bring to trial an individual regardless of his or her civilian or military status or official position. Note that the U.N. Security Council can vote to block any investigation or prosecution.

How does the Court secure the arrest of suspects?

The ICC does not have a police force of its own to arrest suspects. It must rely on the cooperation of national police services to make arrests and hand over suspects to the Court. For example, Thomas Lubanga was arrested and handed over to the Court by Congolese authorities.

What is the ICC's relationship to national courts?

The ICC is a court of last resort. It acts essentially as a safety net when national courts are unable to prosecute, either because the criminal justice system is unequipped or collapsed, or because the perpetrators continue to wield influence over the government. Under the principle of "complementarity," the ICC prosecutes crimes only when national courts are unable or unwilling to do so, because these crimes are most effectively and fairly prosecuted in the territories where they committed. The ICC will not act if a case is investigated or prosecuted by a national judicial system unless the national proceedings are not genuine, for example if formal proceedings were undertaken solely to shield a person from criminal responsibility. In addition, the ICC can serve as a catalyst and model for reform of domestic laws and procedures: in order for countries to join the Court, they need to bring their laws and procedures into conformity with ICC standards.

What is the difference between the ICC and the International Court of Justice and other international criminal tribunals?

The International Court of Justice (ICJ) is a civil court that hears disputes between countries. The ICC is a criminal court that prosecutes individuals. Other international criminal tribunals, namely the ad hoc tribunals for Rwanda and the former Yugoslavia, are similar to the ICC but are temporary and have a limited geographical scope. The ICC is a permanent court, and is global in its reach.

Does the Court guarantee fair trial rights?

Yes. The Rome Statute incorporates the best-evolved, most comprehensive understanding of what constitutes a fair trial. It ensures that the accused receives a public and fair hearing conducted impartially. With the exception of a jury trial, the Rome Statute contains every due process protection in the U.S. Constitution. The death penalty is excluded.

What is the U.S. position on the Court?

Despite the United States' long history of involvement in international justice, the current U.S. administration has opposed the ICC for fear that the Court will be used politically against U.S. nationals. The Rome Statute, however, incorporates safeguards against politically motivated prosecutions. Moreover, the ICC would only investigate cases involving U.S. nationals if the U.S. failed to investigate and, if appropriate, prosecute the individuals responsible. In 2005, the U.S. government opted to not block a U.N. Security Council vote to refer crimes committed in Darfur to the ICC Prosecutor. This move signaled willingness on the part of the United States to cooperate with the ICC in the investigation.

Why is the ICC important?

The ICC ensures that those who commit serious human rights violations are held accountable. Justice helps promote lasting peace, enables victims to rebuild their lives and sends a strong message that perpetrators of serious international crimes will not go unpunished.