

## *BASIC FACTS ABOUT THE INTERNATIONAL CRIMINAL COURT (ICC)*

### Location

- The Hague, The Netherlands.
- The International Court of Justice (ICJ) is also located in The Hague and is a civil court that primarily resolves disputes between states. The ICC is a criminal court that can only try individuals.

### Rome Statute

- The ICC was created by the Rome Statute, which was adopted on July 17, 1998.
- The Rome Statute entered into force on July 1, 2002. **Over 100 countries** have ratified the Rome Statute (for a complete list of States Parties, see [http://www.amicc.org/icc\\_ratifications.html](http://www.amicc.org/icc_ratifications.html)).
- The Rome Statute currently covers **genocide, crimes against humanity and war crimes**.
- The ICC is a permanent institution meant to punish the most gross and serious atrocity crimes in these categories. It also has the ultimate purpose of deterring these crimes.
- The Rome Statute places a strong emphasis on victims' rights and protections, providing both punitive and redemptive justice.

### Governance

- The ICC is an independent institution. It is not part of the United Nations.
- The ICC is overseen by the **Assembly of States Parties**, which is composed of the States Parties to the Rome Statute.
- The Assembly of States Parties, among other duties, elects the judges and the prosecutor (and can remove them if they fail to uphold their duties), approves the budget and elects the Committee on Budget and Finance, debates and votes on any amendments to the Rome Statute, and exercises oversight over all aspects of the Court's work.
- The Court's budget is financed by mandatory dues from its member states. It may also receive voluntary contributions from other sources, including the UN, principally in cases of a Security Council referral.

### People

- The 18 ICC judges serve for non-renewable terms of nine years. Each of these judges is assigned to one of the three judicial chambers of the court: the Pre-Trial, Trial or Appeals Chamber.
- The first group of judges was elected in February 2003 and sworn in on March 11, 2003. New judges were elected in January 2006 and January 2009. Since March 2009, **Sang-Hyun Song** of the Republic of Korea has served as President; **Fatoumata Dembele Diarra of Mali** as First Vice-President; and **Hans-Peter Kaul** of Germany as Second Vice-President.
- The Court's first Chief Prosecutor, **Luis Moreno Ocampo** of Argentina, was elected on April 21, 2003 and was sworn in on June 16, 2003. The Deputy Prosecutor (Prosecutions), **Fatou Bensouda** of The Gambia, was elected on September 8, 2004.
- The Registrar, **Silvana Arbia** of Italy, oversees the administration of the Court and was elected on February 28, 2008 for a five-year term.





## Jurisdiction

- The ICC has jurisdiction over crimes committed since **July 1, 2002**, when the Rome Statute entered into force.
- The ICC is **complementary to domestic courts**: upon request it defers to a national court with jurisdiction over the crime. **The ICC will only reject this request when the relevant country/countries make it in bad faith or are actually unwilling or unable to proceed in a case.**
- The ICC has jurisdiction when:
  - The accused is a national of a State Party;
  - The alleged crime took place on the territory of a State Party; or
  - The UN Security Council refers a situation.
- States Parties or the UN Security Council can refer situations to the Court. Individuals, NGOs and other sources may submit evidence to the Office of the Prosecutor, which can initiate investigations of situations and potential cases with the approval of a pre-trial panel of judges.
- The Security Council can vote to block ICC investigations and prosecutions for renewable periods of one year.
- The ICC has formally initiated four investigations: **Democratic Republic of the Congo, Northern Uganda, Central African Republic and Darfur, Sudan.**

## The US and the ICC

- President Clinton signed the Rome Statute on December 31, 2000 and President Bush suspended this signature on May 6, 2002.
- The Bush administration has conducted a **Bilateral Immunity Agreement (BIA)** campaign to pressure states to agree that they will not transfer US citizens, officials, service members or contractors to the ICC for investigation or prosecution. This campaign provoked strong negative reactions from the international community including many key US allies, particularly the European Union. The US State Department reports that the US has concluded over 100 BIAs.
- The **American Servicemembers' Protection Act (ASPA)** was signed into law in January 2002. ASPA prohibits US cooperation with the ICC and until January 2008 stipulated that the US could withhold military aid from states parties (states that have ratified the Rome Statute) that have refused BIAs.
- Foreign operations appropriations bills for FY 2005, FY 2006 and FY 2008 contained the controversial **Nethercutt Amendment**, which ended Economic Support Fund assistance to ICC States Parties that refused BIAs with the US. The funds affected support initiatives including peacekeeping, anti-terrorism measures, democracy building and drug interdiction. Nethercutt was not renewed for FY 2009, meaning that all forms of anti-ICC sanctions have expired or been repealed.
- While the US is not currently a State Party to the ICC, public opinion polls consistently show **strong American support** for the ICC with **60-70% in favor of US ratification** of the Rome Statute of the ICC.
- **US abstention** on the **Security Council** referral of the **Darfur** atrocities to the Court is a new opening in US-ICC policy. In the case of Darfur, US public opinion in support of the ICC is even stronger.
- **The Obama administration** has expressed support for the ICC, especially on Darfur, and has vowed to end US hostility toward the Court. It will complete a formal review process before announcing its ICC policy.

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