

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

### **Location**

- The Hague, the Netherlands.
- The ICC differs from the International Court of Justice (ICJ), which is also located in the Hague, in that the ICC is a criminal court that only tries individuals while the ICJ is a civil court that primarily resolves disputes between states.

### **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. As of January 25, 2006, **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**, made up of every country that belongs to the Court.
- 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 ICC has 18 judges who serve for a non-renewable term of nine years. Each of these judges is assigned to one of the three judicial chambers of the court: the Pre-trial, Trial or Appeal Chamber.
- The first group of judges was elected in February 2003 and sworn in on March 11, 2003. After new elections in January 2006, six judges were sworn in on March, 10, 2006. Canadian **Philippe Kirsch** was elected President, Ghanaian **Akua Kuenyehia** was elected First Vice-President, and Bolivian **René Blattmann** was elected Second Vice-President.
- The first Prosecutor, Argentine **Luis Moreno Ocampo**, was elected on April 21, 2003 and was sworn in on June 16, 2003. The Deputy Prosecutor (Investigations), Belgian **Serge Brammertz**, was elected on September 9, 2003. The Deputy Prosecutor (Prosecutions), Gambian **Fatou Bensouda**, was elected on September 8, 2004.
- The Registrar, **Bruno Cathala** of France, oversees the administration of the Court and was elected on June 24, 2003 for a five-year term.

## Jurisdiction

- The ICC has jurisdiction over crimes committed since **July 1, 2002**, when the Rome Statute came into force.
- The ICC **complements** 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,
  - The UN Security Council refers the case, or
  - A country specifically accepts ICC jurisdiction over an entire situation.
- States Parties or the UN Security Council can refer cases. Individuals, NGOs and other sources may submit evidence to the Office of the Prosecutor, who can initiate investigations of potential cases with the approval of a pre-trial panel of judges. The Security Council can vote to block ICC investigations and prosecutions for one year at a time.
- The ICC has formally initiated three investigations: **Democratic Republic of the Congo, Northern Uganda and Darfur, Sudan.**

## The US and the ICC

- President Clinton signed the Rome Statute on December 31, 2000 and President Bush nullified 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 has provoked strong negative reactions from the international community including many key US allies, particularly the European Union. Currently, the US State Department reports that 100 BIAs have been signed.
- The **American Servicemembers' Protection Act (ASPA)** was signed into law in January 2002 and stipulates that the US may withhold military aid from states parties (states that have ratified the Rome Statute) that do not have BIAs with the US and prohibits US cooperation with the ICC. More recently, the Omnibus Appropriations bill signed on December 7, 2004 contains the controversial **Nethercutt Amendment**, which suspends Economic Support Fund assistance to states parties that have not signed BIAs with the US. The funds affected support initiatives including peacekeeping, anti-terrorism measures, democracy building and drug interdiction.
- 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** in 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. A recent opinion poll indicates that 91% of Americans are in favor of US cooperation with the ICC on Darfur.