

AMNESTY INTERNATIONAL

International Criminal Court

Fact sheet 1

Introduction to the International Criminal Court

“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, United Nations Secretary-General, 18 July 1998 at the signing of the Rome Statute of the International Criminal Court in Rome

1. What is the International Criminal Court?

The International Criminal Court (ICC) is a permanent independent judicial body created by the international community of states to prosecute the gravest possible crimes under international law: genocide, other crimes against humanity and war crimes.

2. When was the ICC established?

In July 1998 a diplomatic conference adopted the Rome Statute of the ICC (Rome Statute) by an overwhelming vote of 120 in favour and only seven against (21 abstained). The Rome Statute defines the crimes, how the court will work and what states must do to cooperate with it. The 60th ratification necessary to establish the ICC was deposited on 11 April 2002 and the Statute entered into force starting its jurisdiction on 1 July 2002. In February 2003, the first 18 judges of the ICC were elected and the first Prosecutor was elected in April 2003.

3. Why is the Court necessary?

Although, over the past half century the international community has created international and regional systems of human rights protection, millions of people have continued to be the victims of

genocide, crimes against humanity and war crimes.

Shamefully, only a handful of those responsible for these crimes have ever been brought to justice by national courts—most perpetrators have therefore committed these crimes in the knowledge that it was extremely unlikely they would be brought to justice for their actions.

The ICC serves the following purposes :

- It acts as a deterrent to people planning to commit grave crimes under international law;
- It prompts national prosecutors—who have the primary responsibility to bring those responsible for these crimes to justice—to do so;
- Victims and their families will have the chance to obtain justice and truth, and begin the process of reconciliation;
- It is a major step towards ending impunity.

4. What effect will the ICC have on national courts?

National courts will always have jurisdiction over such crimes. Under the principle of “complementarity,” the ICC will only act when national courts are unable or unwilling to do so. For example, a government may be unwilling to prosecute its own citizens, especially if they are high ranking, or where the criminal justice system has collapsed as a result of an internal conflict, there may be no court capable of dealing with these types of crimes.

5. When can the court prosecute individuals suspected of committing grave crimes under international law?

The court has jurisdiction to prosecute individuals when :

- Crimes have been committed in the territory of state which has ratified the Rome Statute;
- Crimes have been committed by a citizen of a state which has ratified the Rome Statute;
- A state which has not ratified the Rome Statute has made a declaration accepting the court's jurisdiction over the crime;
- Crimes have been committed in a situation which threatens or breaches international peace and security and the UN Security Council has referred the situation to the Court pursuant to Chapter 7 of the UN Charter.

6. Will the Court be able to prosecute individuals for crimes committed before the Court's establishment?

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

7. Who will decide which cases the Court will prosecute?

The Rome Statute provides that cases can originate in the Court three different 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 has jurisdiction over the crime and individual (see questions 4 and 5).
2. States which have ratified the Rome Statute may ask the Prosecutor to investigate a situation where one or more of the crimes has been committed, but only if the Court has jurisdiction.
3. The UN Security Council can ask the Prosecutor to investigate a situation where one or more of the crimes have been

committed. Unlike methods 1 and 2, the ICC will have jurisdiction when the UN Security Council refers the situation to the Prosecutor, even if the crimes occurred in the territory of a state which 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.

8. Why is it essential that as many countries as possible ratify the Rome Statute

The Prosecutor can only initiate an investigation where the crime has been committed in the territory of a state party to the Statute or the accused person is a citizen of a state party to the Statute, unless the Security Council refers a situation to the Court. The reluctance of the Security Council to establish *ad hoc* international criminal tribunals for situations other than the former Yugoslavia and Rwanda suggests that it is not likely to refer many situations to the Court. Therefore, to a great extent, the court's effectiveness will be measured by how many states ratify the Statute.

A publication of the International Justice Project