

What does the International Criminal Court do?

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ICC

The International Criminal Court in The Hague has been part of the global justice system since 2002, but its concentration on African issues has led to accusations of bias.

The Rome Statute which established the court has been ratified by 123 countries, but the US is a notable absence.

What is the court designed to do?

To prosecute and bring to justice those responsible for the worst crimes - genocide, crimes against humanity, and war crimes. The court has global jurisdiction.

It is a court of last resort, intervening only when national authorities cannot or will not prosecute.

Aren't there already several international courts?

Yes, but they either do different jobs or have a limited remit.

The International Court of Justice (sometimes called the World Court) rules on disputes between governments but cannot prosecute individuals.



AFP

Fatou Bensouda (R), from Gambia, became the Chief Prosecutor of the ICC in 2012

The international criminal tribunals for the former Yugoslavia and Rwanda have tried individuals for crimes against humanity, but only if they were committed in those territories over a specified period.

Unlike the international tribunals, the International Criminal Court is a permanent body.

Are there any time limits on what it covers?

The court has no retrospective jurisdiction - it can only deal with crimes committed after 1 July 2002 when the Rome Statute came into force.

Additionally, the court has automatic jurisdiction only for crimes committed on the territory of a state which has ratified the treaty; or by a citizen of such a state; or when the United Nations Security Council refers a case to it.

What kind of cases does the court pursue?

The court's first verdict, in March 2012, was against Thomas Lubanga, the leader of a militia in the Democratic Republic of Congo. He was convicted of war crimes relating to the use of children in that country's conflict and sentenced in July to 14 years.

The highest profile person to be brought to the ICC is Ivory Coast's former President Laurent Gbagbo, who was charged in 2011 with murder, rape and other forms of sexual violence, persecution and "other inhumane acts".

Other notable cases included charges of crimes against humanity against Kenya's President Uhuru Kenyatta, who was indicted in 2011 in connection with post-election ethnic violence in 2007-08, in which 1,200 people died. The ICC dropped the charges against Mr Kenyatta in December 2014.



Joseph Kony, the leader of the Uganda-based Lords Resistance Army, is among those wanted by the ICC

Among those wanted by the ICC are leaders of Uganda's rebel movement, the Lord's Resistance Army (LRA), which is active in northern Uganda, north-eastern DR Congo and South Sudan. Its leader Joseph Kony is charged with crimes against humanity and war crimes, including abduction of thousands of children.

The court has an outstanding arrest warrant for Sudanese President Omar al-Bashir - the first against a serving head of state. When Mr Bashir - who faces three counts of genocide, two counts of war crimes and five counts of crimes against humanity - attended a African Union summit in South Africa in June 2015, a South African court ordered that he be prevented from leaving the country while it decided whether he should be arrested under the ICC warrant.

The South African government allowed Mr Bashir to leave and in the fallout a judge angrily accused the government of ignoring the constitution. The government in turn threatened to leave the ICC.

In 2015, the ICC began a preliminary investigation into the 2014 Gaza conflict. The Palestinian Authority submitted evidence to the court in June of what it claims were war crimes committed by the Israeli military. A UN report found evidence of war crimes by both Palestinian militant group Hamas and the Israeli military.

Alleged African bias

The ICC has been criticised, particularly by the African Union, for its focus on Africa. In the court's 11-year history it has only brought charges against black Africans.

The ICC denies any bias, pointing to the fact that some cases - such as the LRA in Uganda - were self-referred by the country affected, and some were referred by the UN.

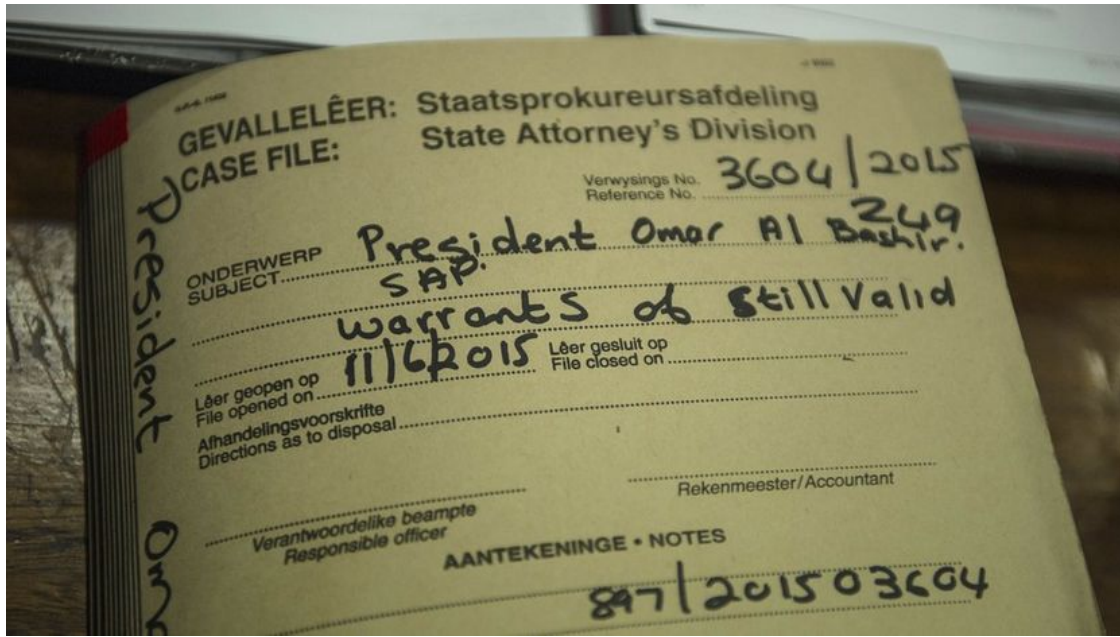
Fatou Bensouda, the chief prosecutor of the ICC, who is Gambian, has argued that the ICC is helping Africa by its prosecutions of criminals.

"The ICC is working with Africa, and working for African victims, so I don't think the African Union should be against that," she **said**.

How can the court secure the arrest and trial of suspects?

The ICC has no police force of its own to track down and arrest suspects. Instead it must rely on national police services to make arrests and seek their transfer to The Hague.

The case of Mr Bashir illustrates the problem this can present for the court. Several ICC signatory countries, including Chad and Kenya, have refused to co-operate in his arrest.



AFP

Omar al-Bashir, the president of Sudan, is wanted by the ICC in connection with war crimes

A South African court did order that he be prevented from leaving the country, only for the government to override the order.

The African Union has instructed members not to carry out the ICC arrest warrant against him while it conducts its own investigation.

How does the system work?

The prosecutor begins an investigation if a case is referred either by the UN Security Council or by a ratifying state.

He or she can also take independent action, but prosecutions have to be approved by a panel of judges.

Both the prosecutor and the judges are elected by the states taking part in the court. Luis Moreno Ocampo of Argentina was the first chief prosecutor of the court. He has been replaced by Ms Bensouda.

Each state has a right to nominate one candidate for election as a judge.

Who has agreed to co-operate with the court?

The Rome Treaty has been ratified by 121 states so far, meaning they have bound themselves to co-operate. A further 34 have signed and may ratify it in the future.

Only one Arab state has ratified so far - Jordan.

Why isn't the United States involved?

During negotiations, the US argued that its soldiers might be the subject of politically motivated or frivolous prosecutions.

Various safeguards were introduced, and Bill Clinton did eventually sign the treaty in one of his last acts as president but it was never ratified by Congress.

The Bush administration was adamantly opposed to the court and to any dilution of US sovereignty in criminal justice, and the US threatened to pull its troops out of the UN force in Bosnia unless they were given immunity from prosecution by the ICC.



Among the crimes prosecuted by the ICC is the abduction of children who are forced to fight

In a much-criticised decision, the UN Security Council voted on 12 July 2002 on a compromise that gave US troops a 12-month exemption from prosecution - renewed annually.

But the Security Council - prompted by then UN Secretary General Kofi Annan - refused to renew the exemption in June 2004, two months after pictures of US troops abusing Iraqi prisoners shocked the world.

The court's operation is seen as weakened without US involvement. However, Washington has not ruled out co-operation with the court in particular cases.

Are there other dissenters?

Yes, a number of important countries seem determined not to submit to the jurisdiction of the ICC. Some have not even signed the treaty, such as China, India, Pakistan, Indonesia and Turkey.



AFP

The ICC's first verdict was against Thomas Lubanga, the leader of a militia in Democratic Republic of Congo

Others, including Egypt, Iran, Israel and Russia, have signed but remain dubious and have not ratified.

It is unlikely that alleged crimes against humanity in those states will be prosecuted.

How does the ICC fit in with each nation's judicial system?

States that join the treaty may want to make sure that they themselves are able to prosecute all the crimes that it covers - otherwise the court may intervene.

Some governments have already introduced legislation to make changes to their own judicial systems.

Who is paying?

The states which take part. This will be according to the same rules that govern their contributions to the UN - roughly based on their national wealth.

The absence of the US in particular makes funding of the court more expensive for others.

Japan, Germany, France and Britain are among the the largest contributors.
