

What Is the International Criminal Court?

The International Criminal Court (ICC) is the only permanent international court capable of trying individuals accused of genocide, war crimes and crimes against humanity when there is no other recourse for justice.

- The ICC has limited jurisdiction over individuals who are from, or committed crimes in, countries that have accepted the ICC, and only for the most extreme crimes.
- The ICC only takes cases when national systems are unwilling or unable to handle them – the Prosecutor cannot take up a matter that has been investigated by national authorities, even if they ultimately decide not to prosecute.
- The ICC currently has two cases – Uganda and the Democratic Republic of Congo. Both countries asked for the ICC’s help in investigating atrocities in their countries.
 1. In **Uganda**, more than 20,000 children have been abducted by rebels to serve as child soldiers and sex slaves.
 2. In the **Democratic Republic of Congo**, militias are raping and massacring thousands of civilians.
 3. The ICC Prosecutor is working with both countries to go after the worst of the worst – those individuals directing and planning the crimes – while supporting local efforts to try lesser perpetrators.
- The ICC’s limited jurisdiction and many safeguards work: the Prosecutor has already dismissed all claims against the U.S. and the UK in Iraq. In dismissing claims against the UK, an ICC member country, the Prosecutor emphasized that there was absolutely no evidence that the United Kingdom was unable or unwilling to deal with the claims through its own courts.

The International Criminal Court is about the world coming together to put to work fundamental American judicial principles and values, like accountability, due process, equality before the law and the protection of basic human rights.

- In the twentieth century, Americans were horrified by genocides in Germany, Armenia, Cambodia, and Rwanda. After World War II, the U.S. led the Nuremberg trials to provide justice for Hitler’s victims. In the 1990s we led efforts to halt ethnic cleansing in Bosnia and Kosovo. The ICC is part of the same mission – to provide justice for victims of atrocities.
- The ICC helps spread democracy, law and order, and human rights by requiring member countries to reform their laws and judicial systems to meet the ICC’s high standards. For example, some countries have had to update their legal codes to more fully define rape as a crime and outlaw the trafficking of women and children.
- Public opinion polls consistently show strong American support for U.S. membership in the ICC. For example, 76% of Americans agree that “the US should participate.” (Chicago Counsel on Foreign Relations, Sept 04)
- Countries like Afghanistan and Colombia joined the ICC to strengthen the rule of law and democracy within their own borders. By joining the ICC, countries like these are putting their leaders – as well as rebel groups, drug lords and warlords – on notice that the rule of law now applies to them, too.

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The International Criminal Court embodies the highest standards of fairness.

- The ICC enforces accepted international law, like the Geneva Conventions and the Genocide Convention.
- The ICC includes the highest standards of due process. Monroe Leigh, former State Department legal advisor to Henry Kissinger, said “The list of due process rights guaranteed by the [ICC’s] Rome Statute are, if anything, more detailed and comprehensive than those in the American Bill of Rights.”
- The ICC guarantees the right to a fair trial, including no trials *in absentia*, the right to cross-examine witnesses, protection against double jeopardy, and protection from self-incrimination.
- This Court is governed and controlled by the world’s democracies. More than 90% of the countries that have ratified the ICC treaty are rated “free” or “partly free” by the nonprofit Freedom House. Many of our closest allies are members of the ICC, including Britain, Australia, Canada, Germany, France, and many others. They have no interest in launching politically-motivated trials against the U.S.

Participation in the International Criminal Court is essential to American security, credibility, and leadership.

- When leaders think they can get away with atrocities, they provoke wars and threaten our security. By enforcing existing international law, the ICC can help spread law and order and break cycles of vengeance, reducing conflict and lessening the demand on the U.S. to help restore order.
- The ICC is a viable alternative to military intervention. International indictments delegitimize rogue regimes, ostracizing them from other countries and international business and weakening them domestically. For example, the indictment of Slobodan Milosevic was credited by many in Serbia as critical to his downfall.
- Since Nuremberg, the U.S. has been at the forefront of efforts to ensure justice for genocide and atrocities. By turning our back on the ICC, we are betraying this legacy of U.S. leadership.

The United States could take a “wait and see” approach to ratifying the ICC’s Rome Statute while supporting the Court’s efforts to bring to justice the world’s worst criminals.

- The U.S. can be a good neighbor to the Court even if it doesn’t become a member.
- The U.S. can refer cases that it wants to see investigated and prosecuted to the ICC through the Security Council.
- The U.S. can participate as an observer in the court’s oversight body, the Assembly of States Parties, influencing the Court’s development without any cost to the U.S.
- U.S. engagement with the ICC will help rebuild bridges with the international community. At a time when respect for America abroad is at an all-time low, a positive re-engagement with the Court is a win-win proposition for the U.S.
- The U.S. could bring to bear its unparalleled diplomatic and intelligence resources, like unclassified reports, satellite images and soft power, to help build cases against mass murderers and encourage other countries to cooperate with important investigations.