

CHAPTER 3:

THE ROME STATUTE AND THE INTERNATIONAL CRIMINAL COURT – AN INTRODUCTION

The ad hoc tribunals of Nuremberg and Tokyo, and more recently those for the former Yugoslavia and Rwanda, were important steps forward. But only a permanent Court with universal jurisdiction can finally lay to rest the charge that the international community is being selective or applying double standards in deciding which crimes to investigate and punish.

I believe the establishment of such a Court will be a fitting way to inaugurate the new millennium.

It puts the world on notice that crimes against humanity, which have disfigured and disgraced this century, will not go unpunished in the next. And it gives concrete expression to Francis Bacon's famous principle that not even the Sovereign can make "dispunishable" those crimes which are "malum in se" - evil in themselves, "as being against the Law of Nature".

The best chance humankind has ever had to end the "culture of impunity" is within our grasp. We must not let it fall.

KOFI ANNAN
FORMER SECRETARY - GENERAL OF THE UNITED NATIONS¹

Introduction

The adoption of the Rome Statute on 17 July 1998 by the UN General Assembly marked an extraordinary development in the area of international criminal law. It was the culmination of a process began more than a century before and expressed the confirmed international consensus of the need to prosecute and punish the most serious crimes of international law through a workable system of international criminal justice. It draws on the lessons learnt from the past and has laid the foundation for a coherent and uniform system of international criminal justice.

The most notable feature is perhaps the relationship that the ICC shares with the states that created it. It is a relationship characterised by cooperation and an appreciation that justice for international crimes is best dispensed domestically, and so the Rome Statute provides guidance on how states can and should take ownership of international criminal justice issues. The sustainability of the ICC and the credibility of the international criminal justice project depends on the support individual states are willing to give it.

Under the Rome Statute, the ICC is tasked with prosecuting **genocide, crimes against humanity and war crimes**. After the adoption in 2010 of an amendment to the Rome Statute, the ICC will also be able to prosecute the **crime of aggression from 2017**, when the amendment enters into force.

When a state becomes party to the Rome Statute it authorises the ICC to exercise jurisdiction over these crimes when they are committed by its nationals or on its territory after ratification.

THE ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT FROM PAPER TO PRACTICE

PREAMBLE

"Conscious that all peoples are united by common bonds, their cultures pieced together in a shared heritage, and concerned that this delicate mosaic may be shattered at any time,

Mindful that during this century millions of children, women and men have been victims of unimaginable atrocities that deeply shock the conscience of humanity,

Recognising that such grave crimes threaten the peace, security and well-being of the world,

Affirming that the most serious crimes of concern to the international community as a whole must not go unpunished and that their effective prosecution must be ensured by taking measures at the national level and by enhancing international cooperation,

Determined to put an end to impunity for the perpetrators of these crimes and thus to contribute to the prevention of such crimes,

Recalling that it is the duty of every State to exercise its criminal jurisdiction over those responsible for international crimes,

Reaffirming the Purposes and Principles of the Charter of the United Nations, and in particular that all States shall refrain from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations,

Emphasising in this connection that nothing in this Statute shall be taken as authorising any State Party to intervene in an armed conflict or in the internal affairs of any State,

Determined to these ends and for the sake of present and future generations, to establish an independent permanent International Criminal Court in relationship with the United Nations system, with jurisdiction over the most serious crimes of concern to the international community as a whole,

Emphasising that the International Criminal Court established under this Statute shall be complementary to national criminal jurisdictions,

Resolved to guarantee lasting respect for and the enforcement of international justice."

CRIMES

WAR CRIMES (ARTICLE 8), CRIMES AGAINST HUMANITY (ARTICLE 7), GENOCIDE (ARTICLE 6) AND THE CRIME OF AGGRESSION (ARTICLE 8BIS – WILL COME INTO FORCE IN 2017) ARE CORE INTERNATIONAL CRIMES

CREATION OF THE INTERNATIONAL CRIMINAL COURT

THE ROME STATUTE CREATES THE WORLD'S FIRST PERMANENT INTERNATIONAL CRIMINAL COURT, WITH ITS SEAT IN THE HAGUE, THE NETHERLANDS.

JURISDICTION OF THE ICC

JURISDICTIONAL BASES

1. Personal Jurisdiction

A national or a state party commits an international crime.

2. Territorial Jurisdiction

An international crime is committed in a state party.

3. Ad Hoc Consent Based Jurisdiction

A non state party refers a matter to the ICC. The ICC will only be able to act in respect of the specific situation referred.

4. Conferred Jurisdiction

Security Council refers a matter to the ICC irrespective of whether the situation occurred in the territory of a state party or the crime committed was by a national or a state party.

EVEN THOUGH THE COURT HAS JURISDICTION OVER A PARTICULAR CRIME, THIS DOES NOT MEAN IT CAN AUTOMATICALLY EXERCISE JURISDICTION.

ITS JURISDICTION MUST BE TRIGGERED IN ONE OF 4 WAYS.

JURISDICTION OF THE ICC (CONTINUED)

TRIGGERING THE JURISDICTION OF THE COURT

1. Self Referral (article 14)

A state party refers a case to the ICC.

2. Prosecutor's Referral (article 15)

Permits the prosecutor of the ICC to initiate an investigation in a state party if authorisation is granted by the pre-trial chamber of the ICC.

3. United Nations Security Council Referral (article 13(b))

Permits the referral of a situation to the ICC even if the situation did not occur in a state party.

4. Non State Party Referral (article 12(3))

The ICC has NO jurisdiction over crimes committed before the Rome Statute came into force (July 2002).

COMPLEMENTARITY – ICC AS A COURT OF LAST RESORT – ARTICLE 17

The Rome Statute envisages international criminal justice being dispensed domestically, by national courts, taking the lead in the investigation and prosecution of serious international crimes. NATIONAL JURISDICTIONS are therefore the PRIMARY FORUM for the prosecution of international crimes.

The ICC will only intervene when a state is UNWILLING or UNABLE to institute proceedings domestically.

OBLIGATIONS OF STATES PARTIES

By signing the Rome Statute the state concerned agrees to a number of obligations stipulated in the Rome Statute.

IMPLEMENT THE ROME STATUTE DOMESTICALLY

States parties are required to enact legislation incorporating the Rome Statute into their domestic law.

Ensure sufficient capacity exists within prosecuting authorities, police services and judiciary to investigate, prosecute and adjudicate international crimes in national courts.

COOPERATION

States parties are required to cooperate fully with the ICC and this includes:

- Arresting and transferring indicted individuals to the ICC;
- Providing an environment that is safe and unimpeded for ICC investigators.

INTERNATIONALLY

NUMBER OF COUNTRIES THAT HAVE RATIFIED THE ROME STATUTE **122**

NUMBER OF COUNTRIES THAT HAVE ENACTED DOMESTIC LEGISLATION PROVIDING FOR COMPLEMENTARITY OR COOPERATION WITH THE ICC **65**

NUMBER OF SITUATIONS BEFORE THE ICC **8**

NUMBER OF NON-AFRICAN CASES **0**

NUMBER OF PRELIMINARY EXAMINATIONS RELATING TO SITUATIONS OUTSIDE AFRICA **5**

1 THE NUMBER OF VERDICTS HANDED DOWN BY THE ICC

IN AFRICA

NUMBER OF AFRICAN COUNTRIES THAT HAVE SIGNED/RATIFIED THE ROME STATUTE **34**

NUMBER OF AFRICAN COUNTRIES THAT HAVE ENACTED DOMESTIC LEGISLATION PROVIDING FOR COOPERATION AND COMPLEMENTARITY WITH THE ICC **6**

THE NUMBER OF SITUATIONS BEFORE THE ICC, ALL OF WHICH ARE AFRICAN **8**
1 PROSECUTOR'S REFERRAL
4 SELF REFERRALS
2 SECURITY COUNCIL REFERRALS
1 NON STATE PARTY REFERRALS

THE NUMBER OF AFRICAN CASES **18**

NUMBER OF PRELIMINARY EXAMINATIONS RELATING TO SITUATIONS IN AFRICA **2**

OFFICE OF THE PROSECUTOR

Having received information that war crimes, crimes against humanity or genocide have been committed the prosecutor looks at several criteria to determine whether there is a reasonable basis to initiate an investigation.

DOES THE COURT HAVE JURISDICTION?

Are the crimes war crimes, crimes against humanity or genocide?

State Party

Were the crimes committed in a state party or by nationals of a state party?

Self-Referral

Was the referral made by a state party?

Ad Hoc Declaration

Did a state that is not party to the Rome Statute lodge a declaration with the ICC accepting its jurisdiction over a particular situation?

UN Security Council Referral

Did the UNCS refer a situation in a state that is not a party to the Rome Statute to the Prosecutor for investigation.

ADMISSIBILITY

Are there genuine national investigations or prosecutions in the country?

Do the crimes meet the gravity threshold?

INTERESTS OF JUSTICE

The Court will not investigate if it is not in the interests of justice or of the victims.
This would be highly unusual.

NOTE: Interests of justice ≠ interests of peace and security. The prospect of peace negotiations is NOT a factor to be considered here.



PRELIMINARY INVESTIGATION

If these criteria are met the Prosecutor will open a preliminary investigation.

FORMAL INVESTIGATION

Based on the findings in the preliminary investigation the Prosecutor may decide to open a formal investigation.

CONFIRMATION OF CHARGES

If the Prosecutor believes that there is sufficient evidence against a suspect s/he will approach the ICC Pre-Trial Chamber to confirm the charges.

PROSECUTION AT THE ICC

Once the charges have been confirmed warrants of arrest may be issued, and the trial could begin.

SECURITY COUNCIL PROVISIONS

ARTICLE 16:

"No investigation or prosecution may be commenced or proceeded with under this Statute for a period of 12 months after the Security Council, in a resolution adopted under Chapter VII of the Charter of the United Nations, has requested the Court to that effect; that request may be renewed by the Council under the same conditions."

ARTICLE 13(b):

"The Court may exercise its jurisdiction with respect to a crime referred to in article 5 in accordance with the provisions of this Statute if ... A situation in which one or more of such crimes appears to have been committed is referred to the Prosecutor by the Security Council acting under Chapter VII of the Charter of the United Nations."

IMMUNITY

ARTICLE 27(2):

"Immunities or special procedural rules which may attach to the official capacity of a person, whether under national or international law, shall not bar the Court from exercising its jurisdiction over such a person."

ORGANS OF THE ICC

PRESIDENCY

This organ is responsible for the overall administration of the Court. It is, however, not concerned with administration of the Office of the Prosecutor. The Presidency is composed of three judges of the Court.

Currently these are:

President: **Judge Sang-Hyun Song**
First Vice-President: **Judge Sanji Mmasenono Monageng (Botswana)**
Second Vice-President: **Judge Cuno Tarfusser**

OFFICE OF THE PROSECUTOR

Responsibilities:

Receiving referrals and substantiated evidence on crimes within the Court's jurisdiction; examining and investigating this evidence; prosecuting the trials.

Prosecutor: **Fatou Bensouda (Gambia)**
Deputy Prosecutor: **James Stewart**

PRE-TRIAL CHAMBER

There are two Pre-Trial Chambers – each staffed by three judges.

These chambers are concerned mainly with proceedings up until the charges have been confirmed against suspects.

TRIAL CHAMBER

There are three Trial Chambers – each staffed by three judges.

APPEALS CHAMBER

The Appeals Chamber consists of the President of the Court and four other judges.

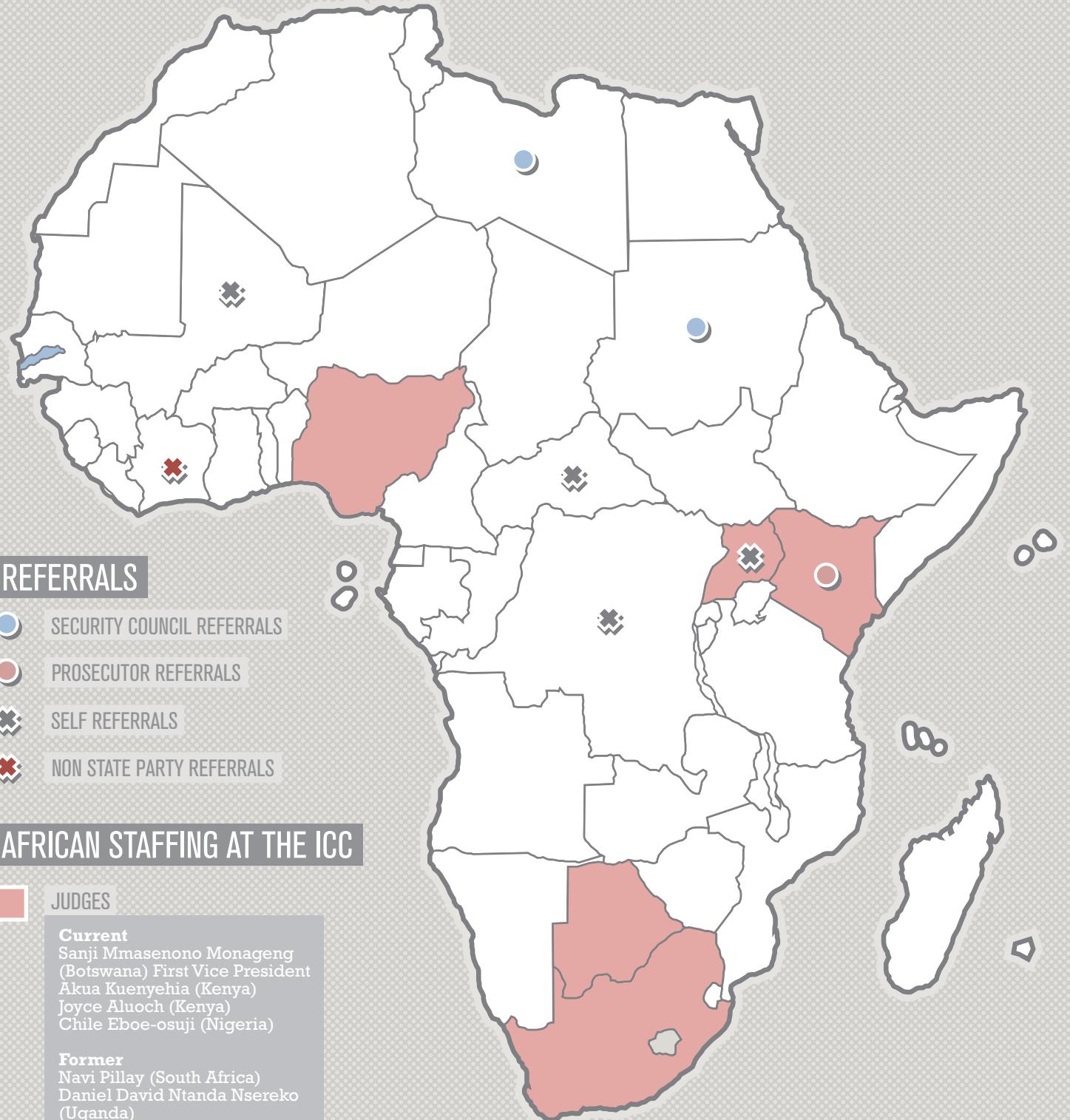
It hears all appeals from the Trial Chambers.

THE REGISTRY

This organ is responsible for all the non-judicial administration. It is headed by the Registrar – currently **Silvana Arbia** – who is under the authority of the President of the Court.

Office of Public Counsel for Victims

Office of Public Counsel for Defence



Cases Before the ICC

In its first ten years of operation, the ICC has opened investigations into eight “situations”, all of which are in Africa, and preliminary examinations are under way in a number of other countries.²



DECEMBER
2003
UGANDA

Situation

War involving the Lord's Resistance Army (LRA) in Northern Uganda.

Crimes Investigated

Crimes against humanity and war crimes: murder; enslavement; sexual slavery; rape; inhumane acts; cruel treatment of civilians; intentionally directing an attack against a civilian population; pillaging; inducing rape; forced enlistment of children.

Method of Referral

Self-referral by President Yoweri Museveni. Uganda ratified the Rome Statute in June 2002.

Status of the Case

The ICC Pre-Trial Chamber has issued arrest warrants for five LRA commanders.

Two have died and the other three are still at large.

Notable indictees: Joseph Kony; Vincent Otti; Okot Odhiambo; Dominic Ongwen.



MARCH 2004
DEMOCRATIC
REPUBLIC OF
THE CONGO
(DRC)

Situation

All international crimes committed on its territory since the Rome Statute entered into force.

Crimes Investigated

Crimes against humanity and war crimes: Enlisting and conscripting of children; attacking civilians; killings; destruction of property; pillaging; rape and sexual slavery; persecution; mutilation.

Method of Referral

Self-referral by President Joseph Kabila. The DRC ratified the Rome Statute in April 2002.

Status of the Case

Five cases have been brought before the ICC, including the Court's first completed case of Thomas Lubanga. There is one ongoing case, one has been dropped after the Pre-Trial Chamber refused to confirm the charges and two suspects remain at large.

Notable indictees: Thomas Lubanga Dyilo; Bosco Ntaganda; Mathieu Ngudjolo Chui; Callixte Mbarushimana; Sylvestre Mudacumura.



DECEMBER
2004
CENTRAL
AFRICAN
REPUBLIC
(CAR)

Situation

All international crimes committed on its territory since the Rome Statute entered into force.

Crimes Investigated

Crimes against humanity and war crimes: murder; rape; pillaging.

Method of Referral

Self-referral by the government. The CAR ratified the Rome Statute in October 2001.

Status of the Case

One case has been brought, against Jean-Pierre Bemba Gombo, the former vice-president of the DRC. The trial is ongoing.

Notable indictees: Jean-Pierre Bemba Gombo.

MARCH 2005
SUDAN

**Situation**

Crimes committed in the Darfur region of Sudan.

Crimes Investigated

Crimes against humanity, war crimes and genocide: murder; extermination; persecution; forcible transfer of population; rape; inhumane acts; imprisonment or severe deprivation of liberty; torture; intentionally directing attacks against the civilian population; attacking peacekeepers; destruction of property; pillaging; outrage upon personal dignity; violence to life and person; genocide by killing; genocide by causing serious bodily or mental harm; genocide by deliberately inflicting on each target group conditions of life calculated to bring about the group's physical destruction.

Method of Referral

Referred to the ICC by the Security Council, pursuant to its powers under article 13(b) of the Rome Statute, having determined that the situation constituted a threat to international peace and security.³

Status of the Case

The ICC has brought five cases involving seven individuals. Three suspects have appeared before the ICC voluntarily and the ICC confirmed the charges against two, but not against the other. Four suspects are still at large – including the president, Omar Bashir.⁴

Notable indictees: Ahmad Harun; Ali Kushayb; Omar Bashir; Abdallah Banda Abakaer Nourain; Saleh Mohammed Jerbo Jamus; Abdel Raheem Muhammad Hussein.

**NOVEMBER
2009**
KENYA

**Situation**

Crimes committed between 1 June 2005 and 26 November 2009, focusing on the post-election violence in 2008.

Crimes Investigated

Crimes against humanity: murder; deportation or forcible transfer of people; persecution; rape.

Method of Referral

The prosecutor sought permission from the ICC Pre-Trial Chamber⁵ to exercise his *proprio motu* powers after the Kenyan authorities failed to act.⁶ Kenya ratified the Rome Statute in March 2005.

Status of the Case

Two cases involving six individuals have been brought. The ICC confirmed the charges against four of the individuals and the trials are due to commence during the course of 2013.

Notable indictees: William Samoei Ruto; Joshua Arap Sang; Uhuru Muigai Kenyatta.

**FEBRUARY
2011**
LIBYA

**Situation**

Crimes committed in Libya after 15 February 2011.

Crimes Investigated

Crimes against humanity: murder; persecution.

Method of Referral

Referred to the ICC by the UN Security Council, pursuant to its powers under article 13(b) of the Rome Statute, having determined that the situation constituted a threat to international peace and security.⁷

Status of the Case

Arrest warrants were issued for three individuals, including for Muammer Gaddafi who is now deceased. Notable indictees: Abdullah Al-Senussi; Saif Al-Islam Gaddafi.

JUNE 2011
IVORY COAST

**Situation**

Crimes committed during the post-election violence in 2010.

Crimes Investigated

Crimes against humanity: murder; rape and sexual violence; persecution.

Method of Referral

The Ivory Coast had lodged a declaration in 2003,⁸ and notwithstanding on-going reports of abuses,⁹ the prosecutor maintained a watching brief over the situation. In 2011, he decided to request Pre-Trial Chamber III to authorise an investigation.¹⁰

Status of the Case

The ICC has issued arrest warrants for two individuals.

Notable indictees: former president Laurent Gbagbo and his wife, Simone.

JANUARY
2013
MALI

**Situation**

Crimes committed in its territory after January 2012.

Crimes Investigated

War crimes.

Method of Referral

Self-referral.

Status of the Case

A formal investigation was announced in January 2013.

PRELIMINARY INVESTIGATIONS

2006
COLOMBIA

**Situation**

War crimes committed in its territory after 1 November 2009 (when it ratified the Rome Statute, Colombia declared that it would not accept the Court's jurisdiction for seven years – that period ended on 1 November 2009).

Crimes Investigated

Crimes against humanity and war crimes: killings; enforced disappearances; rape and sexual violence; forcible transfer of the population; severe deprivation of liberty; torture; conscripting or enlisting children in hostilities.

Method of Referral

Prosecutor exercising his *proprio motu* powers.

Status of the Case

Preliminary investigation: the Office of the Prosecutor is monitoring Colombia's efforts to institute domestic prosecutions of those responsible for the international crimes that fall under the ICC's jurisdiction.



2007

AFGHANISTAN

Situation

Crimes committed in its territory or by its nationals from 1 May 2003 (the date Afghanistan ratified the Rome Statute).

Crimes Investigated

Crimes against humanity and war crimes: torture; attacks on humanitarian targets and the UN; attacks on protected objects; and recruitment of child soldiers; killing of civilians.

Method of Referral

Prosecutor exercising his *proprio motu* powers.

Status of the Case

Preliminary investigation.



2008

GEORGIA

Situation

Crimes committed in its territory or by its nationals after 1 December 2003 focusing predominately on the period after August 2008. Georgia ratified the Rome Statute on 5 September 2003.

Crimes Investigated

Crimes against humanity and war crimes: forced displacement of the Georgian population; attacks on peacekeepers; unlawful attacks; pillaging and destruction of property; torture.

Method of Referral

Prosecutor exercising his *proprio motu* powers.

Status of the Case

Preliminary investigation: the Office of the Prosecutor is monitoring Georgia's domestic efforts at prosecuting those responsible.



2009

GUINEA

Situation

Crimes committed in its territory or by its nationals after 1 October 2003, focusing predominately on crimes committed after September 2009 (the 28 September Massacre). Guinea ratified the Rome Statute on 14 July 2003.

Crimes Investigated

Crimes against humanity: killings and disappearances; rape and sexual violence; arbitrary detention; torture; persecution.

Method of Referral

Prosecutor exercising his *proprio motu* powers.

Status of the Case

Preliminary investigation: the Office of the Prosecutor is monitoring Guinea's domestic efforts at prosecuting those responsible.

**Situation**

Crimes committed in its territory after 13 November 2002.

Crimes Investigated

War crimes: the shelling of Yeonpyeong Island on the 23 November 2010, which resulted in the killing and injuring of South Korean marines and civilians and the sinking of a South Korean warship, the Cheonan, hit by a torpedo allegedly fired from a North Korean submarine on 26 March 2010, which resulted in the death of 46 persons.

Method of Referral

Prosecutor exercising his *proprio motu* powers.

Status of the Case

Preliminary investigation: the Office of the Prosecutor is considering whether the crimes mentioned constitute war crimes and so fall under the ICC's jurisdiction.

**Situation**

Crimes committed in Central Nigeria since mid-2004.

Crimes Investigated

Crimes against humanity: killings, rape and sexual violence; and abductions.

Method of Referral

Prosecutor exercising his *proprio motu* powers.

Status of the Case

Preliminary investigation.

**Situation**

Crimes committed between June 2009 and January 2010.

Crimes Investigated

Crimes against humanity: killings; torture; rape and sexual violence; deportation; persecution; imprisonment.

Method of Referral

Prosecutor exercising his *proprio motu* powers.

Status of the Case

Preliminary investigation: the Office of the Prosecutor is monitoring Honduras's domestic efforts at prosecuting those responsible.

The Role of States under the Rome Statute - Cooperation and Complementarity

Cooperation and complementarity¹² are the cornerstones of international criminal justice as conceived in the Rome Statute. The ICC's guiding principle of complementarity means that international justice should in the ordinary course of events take place within domestic judicial systems. In fact, while the enforcement of international criminal law by international courts is usually given more media and scholarly attention – many seeing international criminal justice as “justice delivered by international courts”¹³ – for much of the 20th century international criminal law was primarily the concern of domestic courts. Complementarity requires the commitment of states to the international justice project and it requires supporting states to create willingness and the capacity to prosecute international crimes. These domestic processes are supplanted only when the state concerned is unwilling and unable to initiate the prosecutions.

“As a consequence of complementarity, the number of cases that reach the Court should not be a measure of its efficiency. On the contrary, the absence of trials before this Court, as a consequence of the regular functioning of national institutions, would be a major success.”

Luis Moreno-Ocampo¹¹

whether a perpetrator is prosecuted before a domestic or international court. The international criminal justice project is founded on the belief that everyone is subject to justice and therefore a shared commitment to fighting impunity and providing accountability is essential. The pursuit of international justice should be a collaborative national and international effort.

Endnotes

1. Kofi Annan’s Statement at the Opening of the Preparatory Commission for the International Criminal Court, New York (16 February 1999) available at <http://www.ngos.net/un/icc.html>.
2. For an overview of all situations and cases see the ICC website available at http://www.icc-cpi.int/en_menus/icc/situations%20and%20cases/Pages/situations%20and%20cases.aspx.
3. United Nations Security Council Resolution 1593 (2005).
4. Warrant of Arrest for Omar Hassan Ahmad Al Bashir, Pre-Trial Chamber I ICC-02/05-01/09 (4 March 2009) (Bashir Arrest Warrant I). Bashir became the first sitting head of state to be indicted by the ICC. In their original ruling, the judges of the ICC’s Pre-Trial Chamber issued an arrest warrant against Bashir for a total of five counts of war crimes and crimes against humanity, but the panel threw out charges of genocide that had also been requested by former prosecutor Luis Moreno-Ocampo. The prosecutor appealed this decision, and on 3 February 2010, the Appeals Chamber rendered its judgment, reversing, by unanimous decision, Bashir Arrest Warrant I, to the extent that Pre-Trial Chamber I decided not to issue a warrant of arrest in respect of the charge of genocide. The Appeals Chamber directed the Pre-Trial Chamber to decide anew whether or not the arrest warrant should be extended to cover the charge of genocide, which it duly did in July 2010. See Second Warrant of Arrest for Omar Hassan Ahmad Al Bashir, Pre-Trial Chamber I ICC-02/05-01/09 (12 July 2010) (Bashir Arrest Warrant II).
5. Decision Pursuant to Article 15 of the Rome Statute on the Authorization of an Investigation into the Situation in the Republic of Kenya Pre-Trial Chamber II (31 March 2010).
6. For further detail see Human Rights Watch “ICC: Judges Approve Kenyan Investigation” (31 March 2010) available at <http://www.hrw.org/en/news/2010/03/31/icc-judges-approve-kenyan-investigation>.
7. United Nations Security Council Resolution S/RES/1970 (2011).
8. Republique de Cote d’Ivoire, Declaration de Reconnaissance de la Competence de la Cour Penale Internationale, 18 April 2003. This was done pursuant to article 12(3) of the Rome Statute which provides that “[i]f the acceptance of a State which is not a Party to this Statute is required under paragraph 2, that State may, by declaration lodged with the Registrar, accept the exercise of jurisdiction by the Court with respect to the crime in question. The accepting State shall cooperate with the Court without any delay or exception in accordance with Part 9”.
9. Cote D’ivoire Security Council Update Report Number 3 (20 April 2011) available at <http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Update%20Report%202020%20April%20202011%20Cote%20d’Ivoire.pdf>.
10. Office of the Prosecutor Request for Authorisation of an Investigation Pursuant to Article 15 ICC-02/11-3 (23 June 2011) at paras 1 and 40. The Pre-Trial Chamber authorised the investigation in 2011, but requested the prosecutor to “revert to the Chamber with any additional information that is available to him on potentially relevant crimes committed between 2002 and 2010”. See Pre-Trial Chamber III, Decision Pursuant to Article 15 of the Rome Statute on the Authorisation of an Investigation in the Situation in the Republic of Cote d’Ivoire ICC-02/11-14-Corr (3 October 2011) at paras 184-185. Pursuant to this, the prosecutor provided the chamber with additional information and the chamber duly expanded the scope of the investigation. See Office of the Prosecutor Prosecution’s Provision of Further Information Regarding Potentially Relevant Crimes Committed Between 2002 and 2010 ICC-02/11-25 (3 November 2011) and Pre-Trial Chamber III, Decision on the Prosecution’s Provision Of Further Information Regarding Potentially Relevant Crimes Committed Between 2002 And 2010 ICC-02/11-36 (22 February 2012).
11. Luis Moreno-Ocampo at the Ceremony for the Solemn Undertaking of the Chief Prosecutor of the International Criminal Court (16 June 2003).
12. C Stahn & M El Zeidy *The International Criminal Court and Complementarity: From Theory to Practice* (2011); W Burke-White “Proactive Complementarity: The International Criminal Court and National Courts in the Rome System of International Justice” (2008) 49 Harv Int L J 53; M du Plessis “Complementarity: a Working Relationship between African states and the International Criminal Court” in Institute for Security Studies (M du Plessis ed) *An African Guide to International Criminal Justice* (2008) 123 available at www.issafrica.org.
13. F Jessberger “International v National Prosecutions of International Crimes” in Antonio Cassese *The Oxford Companion to International Criminal Justice* (2009), 208.

Looking ahead, given the case load of the ICC, and appreciating its limited resources, if it is to continue to be able to discharge its mandate, individual states must step up and avail their courtrooms to the prosecution of persons accused of international crimes. The focus of CSOs for the next ten years should be on empowering domestic systems to enable them to meet the demands of domestic prosecutions. Creating a dividing wall between international criminal justice and domestic criminal justice is artificial and threatens the sustainability of the international criminal justice project. It should not make a difference, provided it is done properly,