

HANDOUT 2: The International Criminal Court

The International Criminal Court

The shocking atrocities and war crimes that occurred in Europe and Asia during the Second World War opened the eyes of the world to the need for a strong international body that could prosecute war criminals.

The Nuremberg Trials (1945-1948) and Tokyo War Crimes Tribunal (1946-1948) used the power of international law to penalize those responsible for violations of Geneva conventions of war and crimes against humanity.



The trials were temporary and no permanent body was put in place by the newly formed United Nations (UN). More genocide and atrocities occurred in the decades following (Cambodia, Yugoslavia, Uganda and Rwanda) and temporary tribunals were put in place to bring these war criminals to justice (the International Criminal Tribunal for Yugoslavia and International Criminal Tribunal for Rwanda).

These were also temporary tribunals not courts with international jurisdiction to bring war criminals to justice. In 1998, shortly after the horror of genocide in Rwanda, the UN and a majority of member states agreed to the formation of a permanent world criminal court, the International Criminal Court (ICC).

The ICC's primary mandate is to bring to justice those who commit war crimes but are not put on trial by the home nation. The ICC is different from the International Court of Justice (ICJ) in a number of ways:

- ICJ does not have criminal jurisdiction to prosecute individuals
- ICJ is a civil tribunal that deals primarily with disputes between states
- ICJ is the principle judicial body of the UN
- ICC has jurisdiction to prosecute individual responsible for serious crimes of international concern such as genocide, war crimes and crimes against humanity
- ICC is independent of the UN and is not accountable to its member states

Like the ICJ, the ICC. is based in The Hague, Netherlands. The jurisdiction of the ICC will be complementary to national courts, which means that the Court will only act when countries themselves are unable or unwilling to investigate or prosecute. The ICC has strong protections for due process and procedural safeguards to protect it from abuse. It furthers victims' rights and gender justice under international law by taking cases that would not otherwise be prosecuted.

This past century has seen some of the worst atrocities in the history of humanity. In too many cases, these crimes have been committed without concern for accountability under the law. This has only encouraged others to flout the laws of humanity. States representative of the international community met in order to negotiate and agree upon the establishment of a treaty-based ICC to help end impunity and the gross violations of international humanitarian law.

War crimes will go unpunished and war criminals live freely without an international court capable of prosecuting these acts. Since its inception, the ICC has put hundreds of war criminals from Uganda, Sudan, the Democratic Republic of the Congo and the Central African Republic on trial for war crimes and acts of genocide. Adapted from <http://www.icc-cpi.int>.