The International Criminal Court was created around a difficult but necessary idea: some crimes are so serious that the people responsible should not be protected by military rank, political office, national borders or the unwillingness of their own governments to prosecute them. When national leaders use government power to organize mass killing, forced displacement, torture or systematic attacks against civilians, their own courts may be unable or unwilling to act. The ICC was designed as a permanent court that could step in under limited conditions. It is not a world government, does not control national courts and does not possess universal authority over every country. Its power comes from a treaty, and that creates both its strength and its deepest weakness.

The modern idea of international criminal responsibility grew out of the destruction of the Second World War and the Holocaust. After the war, the Nuremberg and Tokyo tribunals prosecuted selected German and Japanese leaders. Those trials helped establish that government officials could be held personally responsible for international crimes. A leader could no longer defend mass atrocities simply by claiming that the state authorized them or that orders came from above. Yet those tribunals were temporary, and critics reasonably described parts of them as “victors’ justice” because the winning powers judged the defeated powers without placing their own conduct under the same examination.

During the Cold War, political conflict between the United States and the Soviet Union prevented the creation of a permanent international criminal court. The idea returned with urgency during the 1990s as the world witnessed ethnic cleansing, concentration camps, mass rape and killing in the former Yugoslavia, followed by the 1994 genocide in Rwanda. The United Nations created separate tribunals for those conflicts, but each tribunal had to be built after the killing had already occurred. Governments began asking why a permanent institution did not already exist to handle the gravest international crimes.

Representatives of countries gathered in Rome in 1998 to negotiate the treaty that became known as the Rome Statute. The treaty was adopted on July 17, 1998, and entered into force on July 1, 2002, after receiving the required ratifications. The International Criminal Court then began operating from The Hague in the Netherlands. As of August 2026, 125 countries are parties to the Rome Statute, meaning they have formally agreed to the Court’s legal framework. Major countries outside the system include the United States, China, Russia, India and Israel. <u>The Court’s current membership is maintained by the Assembly of States Parties.</u>

The ICC is not the same institution as the International Court of Justice. Both are located in The Hague, which causes understandable confusion. The International Court of Justice, commonly called the ICJ, handles legal disputes between countries and gives advisory opinions on questions of international law. The International Criminal Court prosecutes individual human beings. The ICC cannot place a country, government, military organization or corporation on criminal trial. It can prosecute presidents, generals, rebel commanders, government ministers or other individuals when evidence connects them personally to crimes within the Court's jurisdiction.

The ICC handles four main categories of crime: genocide, crimes against humanity, war crimes and the crime of aggression. These categories overlap in some situations, but they are not interchangeable. A terrible act does not automatically qualify as every international crime. Prosecutors must prove the legal elements of the specific charge, connect the accused person to the conduct and establish the required level of knowledge or intent.

Genocide is one of the most narrowly defined international crimes. It requires certain prohibited acts committed with the specific intention of destroying, completely or partly, a national, ethnic, racial or religious group. Those acts can include killing members of the group, causing serious physical or mental harm, deliberately imposing destructive living conditions, preventing births or forcibly transferring children. Large numbers of deaths may provide evidence, but numbers alone do not prove genocide. Prosecutors must establish the intention to destroy the protected group as such, which is why genocide can be difficult to prove even when the suffering is enormous.

Crimes against humanity involve particular crimes committed as part of a widespread or systematic attack directed against a civilian population. They can include murder, extermination, enslavement, deportation, torture, enforced disappearance, sexual violence, apartheid and persecution. Unlike war crimes, crimes against humanity do not require an official war. A government can commit them against its own citizens during peacetime. The important requirement is that the conduct forms part of a larger attack rather than being an isolated ordinary offense.

War crimes are serious violations of the laws governing armed conflict. They include intentionally attacking civilians, torturing prisoners, taking hostages, directing attacks against protected hospitals, using child soldiers and carrying out certain forms of sexual violence, pillage or unlawful destruction. War crimes can be committed by government forces, rebel groups or other armed organizations. The identity of the side does not determine whether an act is lawful. A country may have a legitimate reason to defend itself and still commit war crimes in the way it conducts military operations.

Civilian deaths during war are not automatically war crimes. International humanitarian law recognizes that civilians may be harmed during an otherwise lawful attack on a military target. Commanders must still distinguish civilians from combatants, take feasible precautions and avoid attacks in which the expected civilian harm would be excessive compared with the concrete military advantage anticipated. Intentionally attacking civilians is unlawful, but accidentally harming civilians and deliberately targeting them are not legally identical. Investigators must examine the target, available information, weapon used, expected consequences and the commander's decision at that time.

The crime of aggression focuses on the decision to use a state's armed force in a manner that clearly violates the United Nations Charter. It is mainly a leadership crime because it applies to someone able to control or direct a state's political or military actions. Planning or launching an invasion can potentially qualify when the violation is sufficiently serious in character, gravity and scale. The ICC's authority over aggression is much narrower and more complicated than its jurisdiction over the other three crimes, especially when a country involved has not joined the Rome Statute. This limitation is one reason separate proposals have been developed for tribunals devoted to particular invasions.

The ICC does not normally become involved simply because a crime occurred somewhere in the world. There must be a legal connection giving it jurisdiction. Usually, the accused must be a national of a country that has accepted the Rome Statute, or the alleged crime must have occurred on the territory of such a country. A nonmember country can also lodge a declaration accepting jurisdiction over a particular period or situation. In addition, the United Nations Security Council can refer a situation to the Court even when the country involved has not joined the treaty.

Territorial jurisdiction is especially important. Suppose a military officer is a citizen of a country that never joined the ICC, but the alleged crimes occur inside a country that did join. The Court may claim jurisdiction because the conduct happened on the territory of a member state. This is similar to the ordinary rule that a visitor can be prosecuted under the laws of the country being visited. The accused person's home government may reject the ICC's authority, but the Court's position is that the territorial country had the legal power to give it jurisdiction.

The Court generally cannot prosecute conduct committed before July 1, 2002. It also cannot ordinarily prosecute crimes committed in a country before the Rome Statute became legally effective for that country, unless another valid jurisdictional route exists. This protection against retroactive prosecution matters because people should not be criminally punished under a court's authority for conduct that occurred before that authority existed. The ICC was not created to reopen every atrocity in human history.

A situation can reach the prosecutor in three major ways. A member country may refer a situation occurring within its territory or involving another state party. The United Nations Security Council may make a referral while acting under its peace-and-security authority. The prosecutor may also seek to begin an investigation independently, but judges must authorize that course when the necessary conditions are satisfied. This judicial review is intended to prevent the prosecutor from possessing unrestricted power to open politically motivated investigations.

Receiving a referral does not mean the prosecutor is required to charge everyone accused in public discussion. Investigators first examine jurisdiction, available evidence, seriousness, admissibility and whether proceeding would serve the interests of justice. Prosecutors must identify individual suspects and prove their personal responsibility.

The Court is not supposed to declare an entire nation, ethnicity, political movement or military guilty. Criminal guilt belongs to individuals and must be established through evidence.

The ICC is a court of last resort. This principle is called complementarity, and it is one of the most important parts of the Rome Statute. National governments retain the first responsibility to investigate and prosecute crimes committed within their territories or by their citizens. If a country conducts a genuine investigation and fair prosecution, the ICC should generally step aside. The Court is meant to complement national justice systems, not replace them. The Rome Statute places this principle at the center of the Court's authority.

A country cannot avoid the ICC merely by pretending to investigate. Judges may examine whether national proceedings are designed to protect the suspect, involve unjustified delays or lack independence. A country may also be unable to act because its courts have collapsed, officials cannot obtain evidence or the government lacks control over the territory. The question is not whether the ICC prefers its own approach. The question is whether the national system is genuinely addressing substantially the same conduct and responsible person.

This creates an important protection for national sovereignty. If the United States, Britain, Kenya, Colombia or another country properly investigates an allegation and, where supported by evidence, conducts a genuine prosecution, the ICC does not become an extra level of appeal simply because outsiders dislike the result. However, complementarity can also be manipulated. Governments may open limited investigations aimed at lower-ranking personnel while refusing to examine the officials who designed or authorized the policy.

The prosecutor's office gathers documents, witness statements, photographs, satellite images, videos, medical records, military communications and forensic evidence. Digital evidence has become increasingly important, but online material must be authenticated. A video circulating on social media may show a real crime, an event from another country or material altered to create a false impression. Prosecutors must determine when and where it was recorded, who created it and whether its history can be traced reliably.

International cases are extraordinarily difficult to build. Crimes may occur in active combat zones where investigators cannot safely enter. Governments and armed groups may destroy records, move bodies, intimidate witnesses or flood the internet with false information. Witnesses may be traumatized, displaced or afraid that speaking will endanger relatives. A prosecutor can reasonably believe that atrocities occurred yet still lack sufficient admissible evidence to prove a particular leader's responsibility beyond a reasonable doubt.

Command responsibility allows certain military commanders and civilian superiors to be prosecuted for more than acts committed with their own hands. A commander may be responsible when forces under effective control commit crimes and the commander knew, or under the applicable legal standard should have known, but failed to prevent the conduct or punish those responsible. Rank alone is not enough. Prosecutors must show real authority, the necessary knowledge and a failure to take reasonable measures.

If judges find reasonable grounds to believe a person committed a crime, they may issue an arrest warrant or a summons to appear. A warrant is an accusation backed by judicial review, not a conviction. The person remains legally presumed innocent. Public discussion often skips this distinction and speaks as if a warrant proves guilt, but criminal justice requires a trial and tested evidence.

Once a suspect is brought before the Court, judges hold an initial appearance and later determine whether the charges should be confirmed for trial. The confirmation stage requires stronger evidence than the initial arrest-warrant stage, but it is still not a final judgment. At trial, prosecutors must prove guilt beyond a reasonable doubt. Defendants have rights to legal representation, disclosure of evidence, interpretation, presentation of a defense and appeal. The Court has issued acquittals as well as convictions, showing that the prosecution does not automatically win.

The ICC generally does not conduct criminal trials in the defendant's absence. This becomes a major obstacle when a government refuses to surrender a suspect. The Court has no international police force, military or arrest squad. It relies on countries to locate, arrest and transfer defendants. A warrant against a powerful leader may remain unenforced for years if that leader stays inside friendly territory or travels only to countries unwilling to cooperate. The Court openly acknowledges that state cooperation is essential because it has no enforcement service of its own. The ICC explains that limitation in its description of how the Court works.

Former Sudanese president Omar al-Bashir illustrated this weakness. The ICC issued warrants accusing him of genocide, crimes against humanity and war crimes connected to Darfur. He traveled to several countries without being arrested, including some that had obligations under the Rome Statute. The legal warrant existed, but political leaders controlled whether police acted upon it. This exposed the distance between having jurisdiction and possessing power.

If convicted, a defendant can receive up to thirty years' imprisonment or, in exceptionally grave circumstances, life imprisonment. The Court does not impose the death penalty. It may also order fines, forfeiture and reparations for victims. Sentences are served in countries that agree to receive convicted persons because the ICC does not operate a large permanent prison system of its own.

Victims have a more visible role at the ICC than they do in many traditional criminal courts. Under certain conditions, victims can present their views and concerns through legal representatives without becoming part of the prosecution team. Judges may order individual or collective reparations, including compensation, rehabilitation or community programs. The Trust Fund for Victims can assist with carrying out reparations and supporting affected communities. These measures cannot restore murdered relatives or erase trauma, but they recognize that international justice should address more than the punishment of an offender.

The Court's first conviction came in 2012 against Thomas Lubanga of the Democratic Republic of the Congo for recruiting and using children under fifteen in armed conflict. The case demonstrated that turning children into soldiers is not a minor side effect of war. It is a crime that steals education, security and childhood while exposing children to killing, sexual violence and psychological destruction. The Court was criticized, however, because the charges did not cover the full range of alleged crimes surrounding the conflict.

In 2016, Ahmad al-Faqi al-Mahdi pleaded guilty to directing attacks against historic and religious buildings in Timbuktu, Mali. This case showed that war crimes can include deliberate attacks on protected cultural property. Destroying a shrine, manuscript or historic building may be an attempt to erase a community's memory and identity. Some critics questioned why buildings received attention while people had been killed and abused, but the law does not require a choice between protecting human beings and protecting irreplaceable cultural heritage.

Dominic Ongwen's case exposed a more complicated human reality. He was abducted as a child by the Lord's Resistance Army in Uganda and forced into the organization. He later became a senior commander and was convicted of numerous war crimes and crimes against humanity. His childhood victimization was real, but the judges concluded that it did not erase responsibility for crimes he committed as an adult commander. The case forced the Court to consider how one person can be both a victim of serious abuse and a perpetrator of later atrocities.

The Court has also acquitted defendants or overturned convictions when prosecutors failed to meet the legal standard. Jean-Pierre Bemba, a former vice president of the Democratic Republic of the Congo, was initially convicted over crimes committed by forces under his authority, but the Appeals Chamber later reversed the conviction. Many people criticized that result, while others viewed it as evidence that appellate review and the presumption of innocence were functioning. A court proves its value through fair procedure, not by producing convictions in every politically important case.

Recent investigations have placed the ICC under its greatest political pressure. The Court issued a warrant for Russian president Vladimir Putin in 2023, accusing him of responsibility for the alleged unlawful deportation and transfer of Ukrainian children. Other Russian officials have also been accused in connection with alleged attacks and wartime conduct. Russia rejects the Court's jurisdiction and has retaliated against ICC officials. Ukraine formally became the Court's 125th state party in January 2025, after having accepted ICC jurisdiction over earlier periods through special declarations.

In the Palestine situation, ICC judges issued warrants in 2024 for Israeli prime minister Benjamin Netanyahu and former defense minister Yoav Gallant over alleged war crimes and crimes against humanity. The warrants are accusations, not findings of guilt. Israel rejects the Court's jurisdiction and argues that it is capable of investigating its own forces. The Court's jurisdictional position rests partly on Palestine's status as a party to the Rome Statute and alleged conduct occurring on Palestinian territory. The case has produced fierce legal and political disagreement, but a government's rejection does not by itself cancel a judicial decision.

The ICC has also issued warrants connected to the Taliban's persecution of women and girls in Afghanistan. In July 2025, judges issued warrants for Taliban supreme leader Haibatullah Akhundzada and chief justice Abdul Hakim Haqqani, alleging the crime against humanity of persecution on gender grounds. These warrants treat the systematic denial of education, movement, employment and public participation as more than harsh domestic policy when it forms part of a qualifying attack against a civilian population. The warrants and allegations are described in the Court's official Afghanistan announcement.

The United States has never become a member of the ICC. President Bill Clinton signed the Rome Statute in 2000 but did not submit it to the Senate for ratification. The George W. Bush administration later announced that the United States did not intend to become a party. American objections include concerns that an international prosecutor might bring politically motivated cases against American soldiers or officials without sufficient democratic accountability. Congress passed the American Servicemembers' Protection Act in 2002, limiting certain forms of American cooperation with the Court.

The American relationship with the ICC has not been consistent. The United States has sometimes supported international prosecutions, assisted particular investigations or allowed Security Council referrals to proceed. It strongly supported accountability for alleged Russian crimes in Ukraine while rejecting ICC authority over American and Israeli personnel. This produces a serious credibility problem: international law cannot appear universal if powerful governments support the Court mainly when it targets their enemies.

In February 2025, President Donald Trump issued an executive order authorizing sanctions connected to ICC actions involving the United States and Israel. The administration later sanctioned prosecutors and judges, arguing that the Court had overstepped its lawful authority. The ICC and its supporters described the sanctions as an attempt to intimidate independent judicial officials and interfere with investigations. The executive order explains the United States government's position and sanctions framework.

The dispute reveals a question the Rome Statute has never fully escaped. If only countries that voluntarily join can ever be affected, leaders from powerful nonmember states may operate with greater protection than leaders from smaller member states. Yet if the Court can prosecute nonmember nationals for conduct on member-state territory, those countries may argue that they never consented to its authority. The territorial principle provides a legal answer, but it does not eliminate the political conflict.

The Court has also faced serious problems within its own leadership. In July 2026, the Assembly of States Parties removed Prosecutor Karim Khan from office after finding that he had committed serious misconduct and a serious breach of duty arising from allegations he denied. This was the first removal of a sitting ICC prosecutor. Deputy prosecutors Mame Mandiaye Niang and Nazhat Shameem Khan are leading the office while the states parties organize the selection of a successor. The Assembly announced the removal on July 24, 2026.

That scandal matters beyond the reputation of one official. An institution created to demand accountability from national leaders must also police misconduct within its own offices. Removing a powerful prosecutor can demonstrate institutional accountability, but procedural disputes surrounding the decision may also weaken trust. The Court cannot ask victims, witnesses and defendants to trust its fairness while ignoring failures among its leadership.

One of the oldest criticisms of the ICC is that it has focused too heavily on Africa. Many of its earliest investigations and defendants came from African countries, while atrocities involving powerful Western states received less effective attention. The criticism cannot be dismissed. A court that appears to punish leaders from weaker states while powerful states remain beyond reach will struggle to claim equal justice.

The complete picture is more complicated because several African governments referred situations in their own countries to the ICC. African lawyers, judges, victims and civil society organizations have also played major roles in supporting the Court. Some governments welcomed ICC involvement when it targeted rebel leaders but became hostile when investigations moved closer to state officials. The early African focus came from a mixture of self-referrals, Security Council decisions, grave conflicts, available jurisdiction and global power imbalance. Recognizing the imbalance does not require pretending the crimes investigated were unimportant.

The United Nations Security Council adds another layer of inequality. It can refer nonmember countries to the ICC, as it did with Darfur and Libya. Yet any of the five permanent members—the United States, Russia, China, France and the United Kingdom—can veto a proposed referral. Three of those permanent members are not parties to the Rome Statute. This means countries outside the Court can influence whether other nonmembers are sent before it while protecting themselves or their allies through the veto.

The ICC has also been criticized for slow cases, enormous expenses, failed investigations and a relatively small number of completed trials. These criticisms have force. Justice that takes decades may arrive too late for victims, while a warrant that is never enforced can seem symbolic. At the same time, an international court operating across borders and active war zones cannot safely copy the speed of an ordinary local prosecution. Rushing an atrocity case may produce weak charges, endanger witnesses and lead to acquittal.

Some people argue that criminal warrants can interfere with peace negotiations. A leader facing arrest may refuse to surrender power because leaving office could expose that person to prosecution. Governments may also need to negotiate with armed leaders to stop immediate killing. Others answer that sacrificing justice for peace can encourage future violence by showing powerful people that mass atrocities are negotiable. There is no simple rule that resolves every conflict between ending a war and prosecuting its architects.

The Court’s defenders sometimes speak as though law naturally overcomes politics, but international law operates inside a world still organized around state power. Powerful countries possess militaries, intelligence services, economic pressure and vetoes. The ICC possesses judges, investigators and legal documents. It can establish an official record, identify suspects and make international travel more difficult, but it cannot force a nuclear-armed government to surrender its president.

That limitation does not make the Court meaningless. Arrest warrants can remain active long after a leader loses power. Evidence collected during a conflict can prevent later denial. Victims can gain legal recognition that the acts committed against them were crimes rather than unfortunate accidents. A court can also place pressure on national governments to conduct genuine proceedings so the ICC will not need to intervene.

The ICC should therefore be understood neither as an all-powerful world court nor as an empty performance. It is a real criminal court with judges, evidentiary standards, defendants’ rights, convictions, acquittals and reparations. It is also dependent on cooperation from the same governments whose officials may become suspects. Its history shows meaningful achievements, uneven enforcement, political courage, institutional failure and the continuing influence of global power.

Its deepest challenge is consistency. If international criminal law reaches only defeated leaders, isolated African commanders or officials from countries lacking powerful allies, it will resemble organized inequality rather than universal justice. If it can investigate credible allegations without changing its standards according to the suspect’s nationality or political friendships, it can strengthen the principle that human life does not lose value at a border. The International Criminal Court remains an unfinished attempt to place law above raw power—and the world has not yet decided how much power it is truly willing to give that law.