



Coalition for the International Criminal Court

Africa and the International Criminal Court

In light of the recent arrest warrant issued for Sudanese President Omar Al-Bashir by the International Criminal Court, there have been allegations from some Arab and African leaders as well as certain prominent public figures and organizations that the ICC is a Western tool, designed to subjugate leaders of the African continent and advance an imperialist agenda.

Here are the facts on Africa and the ICC:

ON THE INVOLVEMENT OF AFRICAN STATES IN ESTABLISHING AN INTERNATIONAL CRIMINAL COURT:

- African countries have been actively involved in the establishment of the International Criminal Court and the Rome Statute since negotiations for the Court began more than 20 years ago.
- Among other African delegations, South Africa, Senegal, Lesotho, Malawi, and Tanzania participated in discussions regarding the creation of an International Criminal Court (ICC) as early as 1993 when the International Law Commission presented a draft ICC statute to the United Nations General Assembly for consideration.
- 47 African states were present for the drafting of the Rome Statute, the founding treaty of the ICC, at the Rome Conference in July 1998; many of these countries were members of the Like-Minded Group that pushed for adoption of the final Statute.
- Of the 47 African countries involved in drafting the Statute, the vast majority voted in favor of adopting the Rome Statute and establishing the ICC.

ON THE INVOLVEMENT OF AFRICAN CIVIL SOCIETY IN DEVELOPING THE COURT:

- More than 800 African civil society organizations are members of the Coalition for the International Criminal Court (CICC), representing approximately one-third of the Coalition's global membership.
- 21 African countries have national coalitions for the ICC that actively work on implementing Rome Statute provisions into national legislation and strengthening the Court's activities in Africa.

- Civil society organizations across the African continent are working to end impunity and protect the right to truth and justice for victims of atrocities. For these organizations, the Rome Statute provides standards for prosecuting grave crimes which can be drawn upon to help establish such high standards as the norm, rather than the exception, in the region.

ON CONTINUING AFRICAN SUPPORT OF THE COURT:

- 43 African countries are currently signatories to the Rome Statute of the ICC.
- 30 African states have ratified the Rome Statute, making Africa the most heavily represented region in the Court's membership. Approximately 20 African countries have final or draft national implementation legislation that incorporates Rome Statute crimes and/or enables cooperation with the Court. These laws ensure that the ICC's high judicial standards exist nationally and contribute to ensuring effective cooperation with the Court.
- In 2005, the African Commission on Human and Peoples' Rights issued a resolution on ending impunity in Africa and on the domestication and implementation of the Rome Statute of the ICC. It called on civil society organizations in Africa to work together and develop partnerships that further respect the rule of law internationally and strengthen the Rome Statute.
- In the 2004-2007 Strategic Plan of the African Union, one of the AU's five commitments was to ensure the ratification of the ICC treaty by all countries.

ON AFRICAN REPRESENTATION IN THE COURT:

- Five of the Court's current judges are African: Fatoumata Dembele Diarra (Mali), Akua Kuenyehia (Ghana), Daniel David Ntanda Nsereko (Uganda), Joyce Aluoch (Kenya), and Sanji Mmasenono Monogeng (Botswana). One former judge, Navanethem Pillay (South Africa), is now the UN High Commissioner for Human Rights.
- In the ICC's recent March 2009 judicial elections, 12 of the 19 judicial candidates were African citizens nominated by African governments.
- There are a number of Africans who occupy high-level positions at the Court, including the following: Deputy Prosecutor Fatou Bensouda (The Gambia); Judge Fatoumata Dembele Diarra (Mali), First Vice President Akua Kuenyehia (Ghana), and Deputy Registrar Didier Preira (Senegal).

ON THE COURT'S INVOLVEMENT IN AFRICA:

- Three of the four situations currently under investigation at the ICC were referred to the Court by African governments themselves; between 2003 and 2005, the

governments of the Democratic Republic of Congo, Uganda, and the Central African Republic referred situations on their own territory to the ICC Office of the Prosecutor. These governments, all of whom are states parties to the Rome Statute, recognized the inability of their national courts to address the grave crimes at issue and therefore requested the Court to open investigations in accordance with the complementarity principle of the Rome Statute.

- The fourth situation before the Court in Darfur, Sudan was referred by the UN Security Council in 2005; there were no dissenting votes among Council members on this resolution, including African Council members. Specifically, Benin and Tanzania voted for the referral and Algeria abstained from voting.
- The Court is currently analyzing situations outside of Africa, for instance in Colombia, Afghanistan and Georgia. The ICC prosecutor is also examining whether the ICC has jurisdiction over the Palestinian territories and any crimes that may have occurred there since 1 July 2002.

ON AFRICA’S NEED FOR AN INTERNATIONAL CRIMINAL COURT:

- In the past decade alone, millions of Africans have lost their lives in conflicts and have been the target of war crimes, crimes against humanity, and, in some cases, genocide against them by their own leaders.
- By attempting to punish those responsible for these crimes, the Court is standing up for African victims and attempting to prevent the future occurrence of atrocities.

THE ICC IS NOT A WESTERN COURT UNFAIRLY FOCUSING ON AFRICA.

IT IS A GLOBAL COURT WITH HISTORICALLY STRONG AFRICAN SUPPORT.

IT WOULD NOT BE THE COURT IT IS TODAY WITHOUT THE VALUABLE INPUT, INVOLVEMENT, AND SUPPORT OF THE MAJORITY OF AFRICAN STATES.

THE COURT SEEKS JUSTICE FOR VICTIMS OF GRAVE CRIMES, INCLUDING AFRICAN VICTIMS; IT NEEDS THE ONGOING SUPPORT OF AFRICAN GOVERNMENTS, CIVIL SOCIETY, AND THE PUBLIC IN ORDER TO ACHIEVE JUSTICE.

THE ICC IS AN INTEGRAL AND ESSENTIAL PART OF THE FIGHT AGAINST IMPUNITY ALL OVER THE WORLD.