

What are international courts?

International Court of Justice (ICJ)

The International Court of Justice (ICJ) is the principal judicial organ of the United Nations (UN), established by the UN Charter in 1945. The role of the ICJ is to settle, in accordance with international law, legal disputes submitted to it by member states of the UN. The ICJ also gives advisory opinions on legal questions referred to it by other organs of the UN. Only states can be party to a contentious case before the ICJ. This means there are no criminal prosecutions at the ICJ, only disputes between countries. States can agree to ask the court to settle a dispute, and some treaties, such as the Convention on the Prevention and Punishment of the Crime of Genocide (the “Genocide Convention”), specify that any dispute relating to that treaty must be settled by the ICJ.

In 2019, The Gambia instituted proceedings at the ICJ against the Republic of the Union of Myanmar (Myanmar). Both states are parties to the Genocide Convention, which specifies that the ICJ will settle any disputes relating to the Convention. The Gambia argued that Myanmar’s treatment of its Muslim Rohingya minority group is a breach of Myanmar’s legal obligations under the Genocide Convention. The case is still pending.

International Criminal Court (ICC)

The International Criminal Court (ICC) is a permanent international tribunal that was established by a treaty called the Rome Statute in 2002. The ICC is completely independent--it is not part of the UN, but has a relationship with the UN by agreement. The ICC can prosecute individuals for international crimes, namely genocide, war crimes, crimes against humanity, and the crime of aggression. The ICC has jurisdiction over crimes that took place after 2002. The ICC can have jurisdiction over a crime if the crime takes place in the territory of a member state of the ICC, or the accused is a national of a member state. In addition, the UN Security Council can refer a situation to the ICC for investigation, even if the relevant state is not a member of the ICC.

As of 2022, 123 states have ratified the Rome Statute. The Republic of Korea and Japan have ratified the Rome Statute, but China, the Democratic People’s Republic of Korea (DPRK), Russia and the United States of America have not. The Commission of Inquiry on human rights in the DPRK recommended in its report in 2014 that the Security Council refer the situation in the DPRK to the ICC, but the Security Council has not done this yet.

Ad hoc International Tribunals

Ad hoc international tribunals are courts established by the UN Security Council to deal with specific situations. After World War II, there were war crimes trials of German Nazi leaders in Nuremberg and of Japanese military leaders in Tokyo. For many years during the Cold War, the international community could not agree on having trials for other situations. However, in 1993, the UN Security Council agreed to establish the International Criminal Tribunal for the former Yugoslavia (ICTY), which was based in the Netherlands. Then in 1994 the UN Security Council established the International Criminal Tribunal for Rwanda (ICTR),

based in Tanzania. Both courts had jurisdiction over genocide, war crimes, and crimes against humanity. Because these two tribunals were established by the UN Security Council, all Member States of the UN were obligated to cooperate with the tribunals. The ad hoc tribunals helped to develop the current state of international criminal law and international humanitarian law.

Hybrid Courts

The “Hybrid” courts are courts that have an international component and a domestic component. These courts have been established by the UN General Assembly at the request of the relevant UN member state, with that state’s participation. The hybrid courts may have national and international judges and staff, and may apply a mix of international and national criminal law. The exact arrangement depends on the agreement between the member state and the UN. Some of the courts are based in the relevant member state, while others are based in other locations for safety reasons. Hybrid courts help provide accountability by hearing cases that the domestic legal system does not have the capacity to handle. This also helps to develop the capacity of the national judiciary. Like the *ad hoc* tribunals, the hybrid courts have, in some instances, helped to develop international law and provide a measure of accountability.

Examples of hybrid courts are the Extraordinary Chambers in the Courts of Cambodia (also called the “Khmer Rouge Tribunal”), the Special Court for Sierra Leone, and the Special Tribunal for Lebanon. Hybrid courts have also been established for East Timor and Kosovo.