

# ICC investigation into US War Crimes

June 25, 2020

In recent developments, the International Criminal Court has for the first time authorized its chief prosecutor to open an investigation into allegations of war crimes in Afghanistan including any that may have been committed by Americans. Washington revoked the visa of the court's chief prosecutor, Fatou Bensouda, last year after she had signaled her intentions to pursue the case.

## What is the International Criminal Court (ICC)?

□The ICC investigates and, where warranted, tries individuals charged with the gravest crimes of concern to the international community: genocide, war crimes, crimes against humanity and the crime of aggression. As a court of last resort, it seeks to **complement, not replace, national Courts**. It is an intergovernmental organization and international tribunal that **sits in The Hague, Netherlands**. Governed by an international treaty called the **Rome Statute**, the ICC is the world's first permanent international criminal court.

## ICC and US

The ICC **lacks universal territorial jurisdiction, and may only investigate and prosecute crimes committed within member states, crimes committed by nationals of member states, or crimes in situations referred to the Court by the United Nations Security Council**.

Although the United States is not a state party to Rome Statute, the treaty that created the court, American citizens can be subject to its jurisdiction if the court is investigating crimes in countries that have joined. Those countries include Afghanistan, Lithuania, Poland and Romania.

[The prosecutor at ICC had claimed that the court had enough information to prove that U.S. forces had committed acts of torture, cruel treatment, outrages upon personal dignity, rape and sexual violence in Afghanistan in 2003 and 2004, and later in clandestine C.I.A. facilities in Poland, Romania and Lithuania].

However experts have claimed that even if American officials, military or intelligence personnel were to be charged, they were unlikely to be arrested or face a trial, as the **ICC has no enforcement mechanism for making arrests.**

[111 states have currently ratified the 1998 Rome Statutes, which entered into force on July 1, 2002 after ratification by 60 countries. Many major countries, between them constituting the majority of the world's population, did not sign the Rome Statutes, including the **United States, Russia, China, India, Indonesia,** and many Islamic countries, including Pakistan].