

Is the icc dangerous  
to democracy and  
doomed to fail



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Is the ICC dangerous to democracy and doomed to fail? Through the Rome Statute drafted and signed in 1998, states have created a world body and empowered international jurists and prosecutors to assess criminal culpability and, henceforth, punish guilty offenders. The International Criminal Court (ICC), which has evolved from the ad hoc tribunals established by the United Nations, acquired its jurisdiction over the most heinous crimes such as genocide, crimes against humanity, war crimes and aggression, among others. It commenced its operations in July of 2002. This is ideally a positive development because it reinforces the existing international laws and states are forced to respect the world bodies such as the United Nations.

One of the controversial issues, however, in regard to the existence of ICC is that it threatens democracy, the given reason why the United States withdrew its signature in the Rome Statute in December 2000.

The United States is highly suspicious of multilateral agreements and that the mandate of the ICC further heightened this uncertainty. With the provisions contained therein, ICC would have jurisdiction over American citizens and try them according to the international law, drafted according to a collaboration of international legal principles. This is seen as dangerous because the American jurisprudence is at significant points highly divergent with the ICC's. For instance, protections that are considered core requirements for a fair trial in the United States are greatly diluted or absent entirely. According to Carpenter (2002), instead of having a right to trial by an impartial jury, a defendant faces the prospect of trial by a panel of judges appointed by majority vote of member-states and could come from countries where there is no concept of independent jury or from a regime hostile to his

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or her government. (p. 197)

In addition to the above factor, there is also the fact that some statutes that would govern the ICC are overly broad. Consider these examples: there is the genocide definition that covers offenses relating to the commission of serious “ mental harm” to members of any national, racial, ethnic or religious group; then, war crimes would include committing outrages upon personal dignity, in particular humiliating or degrading treatment. (p. 197) With the seriousness of the crimes in question, it is a legitimate argument to say that the broadness of definitions and provisions may be wittingly or unwittingly interpreted differently than what was intended or taken advantage with. There is just a lot of room for a tribunal to infuse bias and still have a resolution or promulgation appear valid.

The withdrawal of the United States, including other countries such as China and Israel, endangers the ICC to fail. These countries have highly significant influences in the global incidence of war, aggression and violence. When these countries are not bound or could be made accountable for their or their citizens’ acts, then ICC would be rendered powerless.

With all the points raised by this paper, it is important to underscore that a world body such as the ICC that settles disputes and try criminals is necessary. The idea does necessarily pose a threat to democracy. Such multilateral initiative makes it easy to resolve atrocities with credibility, and hence, acceptable to most countries. ICC is important in world peace, otherwise states or individuals would feel freer to commit crimes and get away with it. The only question now is how to make the US and those other states dubious of the system agree to its existence.

#### Reference

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