Teaching

THE RECKONING:
UNDERSTANDING THE INTERNATIONAL CRIMINAL COURT

Created to accompany film modules of

THE RECKONING:
The Battle for the
International Criminal Court

a film by Skylight Pictures
Facing History and Ourselves is an international educational and professional development organization whose mission is to engage students of diverse backgrounds in an examination of racism, prejudice, and antisemitism in order to promote the development of a more humane and informed citizenry. By studying the historical development of the Holocaust and other examples of genocide, students make the essential connection between history and the moral choices they confront in their own lives. For more information about Facing History and Ourselves, please visit our website at www.facinghistory.org.

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ABOUT FACING HISTORY AND OURSELVES

Facing History and Ourselves is a nonprofit educational organization whose mission is to engage students of diverse backgrounds in an examination of racism, prejudice, and antisemitism in order to promote a more humane and informed citizenry. As the name Facing History and Ourselves implies, the organization helps teachers and their students make the essential connections between history and the moral choices they confront in their own lives, and offers a framework and a vocabulary for analyzing the meaning and responsibility of citizenship and the tools to recognize bigotry and indifference in their own worlds. Through a rigorous examination of the failure of democracy in Germany during the 1920s and ’30s and the steps leading to the Holocaust, along with other examples of hatred, collective violence, and genocide in the past century, Facing History and Ourselves provides educators with tools for teaching history and ethics, and for helping their students learn to combat prejudice with compassion, indifference with participation, myth and misinformation with knowledge.

Believing that no classroom exists in isolation, Facing History and Ourselves offers programs and materials to a broad audience of students, parents, teachers, civic leaders, and all of those who play a role in the education of young people. Through significant higher education partnerships, Facing History and Ourselves also reaches and impacts teachers before they enter their classrooms.

By studying the choices that led to critical episodes in history, students learn how issues of identity and membership, ethics and judgment have meaning today and in the future. Facing History and Ourselves’ resource books provide a meticulously researched yet flexible structure for examining complex events and ideas. Educators can select appropriate readings and draw on additional resources available online or from our comprehensive lending library.

Our foundational resource book, Facing History and Ourselves: Holocaust and Human Behavior, embodies a sequence of study that begins with identity—first individual identity and then group and national identities, with their definitions of membership. From there the program examines the failure of democracy in Germany and the steps leading to the Holocaust—the most documented case of twentieth-century indifference, de-humanization, hatred, racism, antisemitism, and mass murder. It goes on to explore difficult questions of judgment, memory, and legacy, and the necessity for responsible participation to prevent injustice. Facing History and Ourselves then returns to the theme of civic participation to examine stories of individuals, groups, and nations who have worked to build just and inclusive communities and whose stories illuminate the courage, compassion, and political will that are needed to protect democracy today and in generations to come. Other examples in which civic dilemmas test democracy, such as the Armenian Genocide and the United States civil rights movement, expand and deepen the connection between history and the choices we face today and in the future.

Facing History and Ourselves has offices or resource centers in the United States, Canada, and the United Kingdom as well as in-depth partnerships in Rwanda, South Africa, and Northern Ireland. Facing History and Ourselves’ outreach is global, with educators trained in more than 80 countries and delivery of our resources through a website accessed worldwide with online content delivery, a program for international fellows, and a set of NGO partnerships. By convening conferences of scholars, theologians, educators, and journalists, Facing History and Ourselves’ materials are kept timely, relevant, and responsive to salient issues of global citizenship in the twenty-first century.

For more than 30 years, Facing History and Ourselves has challenged students and educators to connect the complexities of the past to the moral and ethical issues of today. They explore democratic values and consider what it means to exercise one’s rights and responsibilities in the service of a more humane and compassionate world. They become aware that “little things are big”—seemingly minor decisions can have a major impact and change the course of history.

For more about Facing History and Ourselves, visit our website at www.facinghistory.org.
ACKNOWLEDGMENTS

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ABOUT OUR PARTNER

For 25 years Skylight Pictures has been committed to producing artistic, challenging and socially relevant independent documentary films on issues of human rights and the quest for justice. Through the use of film and digital technologies, they seek to engage, educate and increase understanding of human rights amongst students, the public at large and policy makers, contributing to informed decisions on issues of social change and the public good.

www.skylightpictures.com
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Our interest in issues of justice began more than 35 years ago when the first Facing History students raised essential questions about judgment as they studied the rise of the Nazis and the steps leading to the Holocaust. They asked: Who is responsible for these crimes? How do you decide who is guilty? What should happen to people who do terrible things? What are the consequences for people who stand by while injustice and violence take place around them? In response to students’ authentic curiosity, we asked scholars to help us add materials about judgment and justice to our resource book, *Facing History and Ourselves: Holocaust and Human Behavior*. Resources about the Nuremberg Tribunals, the trials that followed the Holocaust, helped adolescents learn about the first time in history that “crimes against humanity” were tried in a court of law. Encouraged by the ideas and questions these new materials elicited in students, we extended our educational journey for classrooms—what we call our scope and sequence—to encourage students and educators to reflect on judgment, prevention, and legacy after they have studied a particular moment in history. We also began to learn about how people in different contexts have addressed questions of judgment after periods of conflict, injustice, violence, and human rights abuses. We explored the work of truth commissions in post-apartheid South Africa, we studied traditional justice systems in Rwanda, and we looked at reconciliation efforts in Northern Ireland. More questions emerged: “How can a society rebuild after experiencing the trauma of hatred, division, or genocide?” And ultimately, “how can we prevent these atrocities from happening again?” Our online module, *Transitional Justice: Reconstructing Self and Society*, is an attempt to address these questions.

With the publication of the online study guide and website, *Teaching The Reckoning: Understanding the International Criminal Court* (www.facinghistory.org/reckoning), we continue to explore important questions of judgment by looking at the creation of the International Criminal Court (ICC). Ever since the Nuremberg Trials, individuals around the world have imagined how an international judicial body could be used to prevent genocide, crimes against humanity, and other violations of civil and human rights. In 2002, over 100 nations made this vision a reality with the establishment of the International Criminal Court in The Hague. To help classrooms explore some of the successes and challenges this new court has faced, Facing History has partnered with Skylight Pictures, the producers of the film *The Reckoning: The Battle for the International Criminal Court*. The filmmakers have collaborated with a team at Facing History to create three short video modules—each one focusing on an important dilemma raised by the court related to issues of sovereignty, impunity, and peace. These modules help students confront the complexity of justice and judgment in a global context, and make connections to their own lives, by raising questions such as: Are wrongdoers less likely to commit crimes when they think they might be caught and punished? What is justice? Does it look the same in all communities? Under what conditions does an institution have the right to intervene in the affairs of an individual or an independent nation? How can individuals and nations work together to create a safer, more just community? Can post-conflict communities attain peace without first achieving justice for the victims? This study guide has been developed to help classrooms investigate these important questions and to engage students as moral philosophers and civic agents. It is our belief that helping adolescents think deeply about justice builds their capacity to work toward the prevention of violence and injustice in their own communities and around the world.
The purpose of this study guide is to help students learn about dilemmas of international justice through exploring the creation of the International Criminal Court (ICC). These materials have been designed to be used with three film modules based on the feature-length documentary *The Reckoning: The Battle for the International Criminal Court* by Skylight Pictures. Each module focuses on a specific theme and content area.

### Description of The Reckoning Film Modules

Go to [www.facinghistory.org/reckoning](http://www.facinghistory.org/reckoning) to view all three film modules.

The 15-minute film *Law or War: The Creation of the International Criminal Court* describes the creation of the first permanent international court in history established to investigate and prosecute individual perpetrators, no matter how powerful, for genocide, war crimes, and crimes against humanity. This module provides details about the structure of the court and presents the challenges and opportunities this new court raises for the international community.

The 16-minute film *Seeking Peace and Seeking Justice: The ICC and Uganda* explores the role of the ICC in Uganda, where a civil war between the government and the Lord’s Resistance Army (LRA) has resulted in the abduction of children to be used as child soldiers and the displacement of more than a million Ugandans from their homes. This module focuses on dilemmas raised by pursuing justice and peace at the same time.

The 13-minute film *International Law, Testing the Limits: The ICC and Darfur* investigates the role of the ICC in bringing perpetrators to justice in the Darfur region of Sudan, where genocide has claimed hundreds of thousands of lives and violence has displaced more than two million Darfuri children, women, and men. This module illuminates a major challenge for the ICC: how to bring the accused to trial without any authority to make arrests.

Students from middle school to graduate school can engage with these films. Recognizing the uniqueness of each classroom context, we have developed flexible **Viewing Guides** for each module. Viewing Guides include the following parts:

- **Background**: The information in this section provides basic context for the material students will see in the modules.
- **Viewing guide questions**: These sets of questions explore each module’s specific content, as well as the larger themes that the module addresses. The questions on these viewing guides can be used to facilitate large and small group discussions, prompt reflective writing, develop projects, and evaluate student understanding.
- **Documents**: Six documents, two for each module, have been selected to illuminate different perspectives and to deepen students’ understanding of key themes, such as justice and sovereignty. Each document is framed by an introduction and followed by Connections questions.
- **Lesson ideas**: We suggest a variety of classroom activities to support students’ exploration of the films and the documents. In addition to lesson ideas relevant to each module, we have also
developed a pre-viewing lesson idea, designed to prepare students to engage with this material, and a post-viewing lesson idea, which includes assessment and extension activity suggestions.

- **Related links:** To learn more about the content addressed in the modules, refer to the online resources we have identified.

Additionally, at the back of this study guide you will find additional materials we have developed to support students' work with this material:

- **International Justice Glossary:** This glossary includes key ideas and terms mentioned in the film and can be a helpful resource to students before or after they view the modules or while reading the documents.

- **Timeline:** The timeline places the creation of the ICC in historical context and provides links directing students to more information about key moments in the history of international criminal justice.

Educators will use these materials differently. If time is limited, some classrooms might view one module and focus on one or two questions from the related viewing guide. Other teachers might use many of these materials as the backbone of an entire unit focused on the theme of justice. Regardless of how much time students will spend exploring these materials, we recommend a similar journey:

1. **Pre-viewing *The Reckoning***: Before learning about the particulars of the International Criminal Court, we hope all students have the opportunity to reflect on the meaning of justice and the role of courts, in general. “Pre-viewing *The Reckoning*” (found on page 10) suggests several ways you can prepare students to view the modules.

2. **Watching *The Reckoning* film modules**: Facing History has worked with Skylight Pictures to produce three film modules that can be viewed on their own or as a series. Whether students view one module or all three, we hope they have the opportunity to deeply consider the dilemmas that emerge as the ICC begins to investigate and prosecute crimes. According to an ICC staff member interviewed in the film, “Justice is easier said than done,” and we want this message—the complexity of pursuing justice on an international scale—to come through for students. Viewing guide questions help highlight this complexity by illuminating different perspectives related to international justice. The ideas in these viewing guides are meant to complement, not replace, the questions raised by students themselves as they watch the modules. After exposure to new material, the best questions are often the simplest: What have you just seen? What ideas strike you as important or interesting? What questions does this material raise for you? What perspectives were represented? Which perspectives were left out or de-emphasized?

Below are some other ways to use the viewing guide questions to support students’ comprehension and interpretation of ideas raised in these film modules:

- To help students record notes as they view the film, design a **graphic organizer**. Students can use their notes to address one or more of the questions on the viewing guide.
- To give students the opportunity to process this material in writing, pause the film at important moments and ask students to record ideas, questions, and reactions in a journal. You could also use a specific viewing question to structure students’ journal writing. See our
teaching strategy “Journals in a Facing History Classroom” for more specific ideas about how to structure writing opportunities for students.

- To structure discussions about ideas in the films, use the think-pair-share or the fishbowl teaching strategies. Both of these discussion formats help students focus on both sharing their ideas and listening to the ideas of others. Or, you could have small groups of students facilitate their own discussions, possibly drawing from one of the viewing guide questions.

3. **Deepening understanding through post-viewing activities:** Listening to students’ reactions to the film—noting their interests, questions, and misconceptions—should inform your decisions about which activities or questions you will explore next. We have provided several resources, such as supplementary documents and lesson ideas that can help you construct the most appropriate journey for your particular students.

4. **Evaluating students’ understanding:** Students reveal their mastery of material through the questions they ask and the comments they share. Writing assignments and projects provide another way for students to demonstrate and deepen their understanding of this material. The lesson idea *The Reckoning: Extensions and Assessments* provides specific examples of assignments and activities that can be used to evaluate students’ understanding of key ideas and themes related to international justice.
LESSON IDEAS
Detailed descriptions of all teaching strategies referred to in this lesson idea can be found in the teaching strategies section of our website: [www.facinghistory.org](http://www.facinghistory.org). For related Facing History resources, refer to [www.facinghistory.org/reckoning](http://www.facinghistory.org/reckoning).

1. **What is justice?** A quick opening activity might ask students to complete the statement “Justice is . . . .” You could have all students share their responses as a **wraparound**. You could also challenge small groups or the whole class to reach consensus on a class definition of justice. After viewing the film or the modules, students can discuss how their definition of justice applies to the material they just viewed. They may also want to revise their definition based on new information they encounter.

2. **International justice word wall.** While studying international justice, students will likely encounter new vocabulary. Building a word wall in your classroom is an effective way to familiarize students with new terms. Students, individually or working in pairs, can be assigned a word from the International Justice Glossary found at the end of this guide to define for the word wall. It often helps students retain definitions if the word is connected to a visual. So you might ask students to provide an image, hand-drawn or found in a magazine or on the Internet, that represents their assigned word.

3. **Justice anticipation guide.** You can ask students to respond to an anticipation guide that asks students to express an opinion about justice-related statements. Here are some examples of statements you might use:
   - A strong judicial system can deter individuals from committing crimes.
   - The international community has the obligation to prosecute perpetrators of crimes against humanity if those perpetrators are not being held accountable in their own nation.
   - When a conflict is ongoing, achieving justice is equally as important as achieving peace.
   - After grave crimes have been committed, justice can best be achieved through reparations for the victims rather than punishment for the perpetrators.
   - Achieving justice for crimes committed against one group advances the civil and human rights for all people.

After students have studied international justice by watching one or more of the modules and/or reading the supplementary documents, you can have them review their anticipation guides to see how learning new information has changed their opinions. The **four corners debate** teaching strategy can be used to structure a whole-class discussion about statements on the anticipation guide.

4. **Reviewing prior knowledge about courts:** The film modules assume the viewers understand the basic workings of a criminal court. Before students view the films, you may want to see what they already know about how courts work, especially about the specific purpose of criminal courts (as opposed to civil courts) and the role of the prosecutor. You might ask students to draw and label a courtroom. Or students could create an **identity chart** for a court. After stu-
dent students identify what they know about courts ask them to consider questions such as: What is the purpose of a court? Why do nations establish court systems? Who are they for? How might society be different if there were no courts? Facing History interviewed Allan Ryan, who worked as a lawyer prosecuting Nazi war criminals for the United States Department of Justice. In this interview Ryan speaks about the purpose of trials in a court of law. Having students listen to or read Ryan’s remarks is another way to help students think more deeply about the purpose of courts. This would be an appropriate text to use as the basis of a Socratic seminar or fishbowl discussion. The interview can be found on Facing History’s online module, Transitional Justice: Reconstructing Self and Society.

5. **International justice timeline:** Another way to introduce the material covered in the film is by familiarizing students with the history of international justice. Students can read the International Justice Timeline for homework before viewing the film. Or students can review the timeline during class using the human timeline teaching strategy.

6. **Defining “reckoning”:** The three modules are adaptations of a feature-length documentary called [The Reckoning: The Battle for the International Criminal Court](http://www.facinghistory.org/transitional-justice-reconstructing-self-and-society). The word “reckoning” has many definitions. It can refer to a calculated guess, the act of considering options, or the settlement of rewards or penalties for an action. You can introduce any of the modules by first having students define the word “reckoning.” Have they ever heard this word before? In what context? (Students may be familiar with the expression “the day of reckoning” and “to reckon with.”) Then you can share the whole title with students and ask them to predict what this film will be about. Finally, you can share the filmmakers’ explanation of the title:

The title *The Reckoning* has three meanings: the reckoning of a world trying to bring the worst perpetrators of massive crimes to justice; the reckoning of the International Criminal Court becoming an effective global arbiter of justice; and the reckoning with the international community over whether or not we have the political will to carry out the arrest warrants and fulfill the mandate of this new Court. ([Point of View Discussion Guide](http://www.facinghistory.org/transitional-justice-reconstructing-self-and-society), page 3)
VIEWING GUIDE

LAW OR WAR
THE CREATION OF THE INTERNATIONAL CRIMINAL COURT
The 15-minute film module *Law or War: The Creation of the International Criminal Court* explores the creation of the first permanent international court in history created to investigate and prosecute individual perpetrators, no matter how powerful, for genocide, war crimes, and crimes against humanity. When the court was established in 2002, the idea of international criminal justice was still relatively new. As long ago as 1899, 26 nations convened for an International Peace Conference, where they drafted the *Convention with Respect to the Laws and Customs of War on Land*, one of the first formal statements of international laws related to war and war crimes. Nearly 50 years later, it took the atrocity of the Nazi Holocaust to bring the international community together to hold perpetrators responsible for war crimes. The prosecution of Nazi leaders at the Nuremberg Tribunals marks the first time that an international criminal court was established. This tribunal set a precedent for the creation of later temporary tribunals, such as the tribunals for perpetrators of genocide in Rwanda and the former Yugoslavia.

In the hope of deterring future crimes, representatives from a wide range of nations met under the auspices of the United Nations to craft a draft treaty for a permanent international criminal court. That draft was formally presented at a 1998 conference in Rome, now known as the Rome Conference. A total of 120 national representatives voted for the treaty, but the Court could only become operational after a minimum of 60 nations ratified the treaty through their state legislatures—a goal that was accomplished in 2002. As the International Criminal Court (ICC) began investigating its first cases in 2004, the international community has had to confront difficult decisions about how to balance important, yet often competing, values of justice, peace, and sovereignty.

For more information about the ICC, refer to the [frequently-asked-questions](http://www.icc-cpi.int) page of the ICC’s website.
The following questions can be used to facilitate large and small group discussions, prompt reflective writing, develop projects, and evaluate student understanding. For more ideas about how to use these questions to deepen students’ understanding of issues related to international justice, refer to the teaching strategies section of the Facing History website (www.facinghistory.org).

1. How did World War II and the Holocaust influence the development of international law? Describe the development of international justice since World War II. What factors and key moments led up to the establishment of the International Criminal Court? Why do you think it took 50 years after Nuremberg for nations to come together to establish the Court?

2. In his opening remarks at the Nuremberg Tribunal, Prosecutor Benjamin Ferencz stated, “We ask this court to affirm by international penal action man’s right to live in peace and dignity regardless of his race and creed.” What does this statement mean in your own words? In your community, what institutions, customs, and laws exist to protect “man’s right to live in peace and dignity regardless of his race and creed”? What else can be done, on a school, local, national, or global level, to protect the rights of all people to “live in peace and dignity”?

3. What does it mean for law to be “international”? What does it mean for law to be “national”? What challenges does pursuing international law present that working in a national legal system does not? What can international law achieve that national law cannot achieve? What can national law achieve that international law cannot achieve?

4. One hundred ninety-two nations are members of the United Nations. Representatives from 140 governments, including the United States, participated in the Rome Conference. What does this information tell you about the creation of the ICC? What does it mean for a court to be international? What gives an international court legitimacy?

5. Do you think that all nations have an ethical obligation to work toward preventing genocide, crimes against humanity, and war crimes, within their own boundaries and around the world? Why or why not?

6. What can nations do to prevent genocide, crimes against humanity, and war crimes? To what extent does joining the ICC support this goal of prevention? Why or why not?

7. The ICC is the first permanent international criminal court. What are the differences between temporary tribunals, such as those created after the genocides in the former Yugoslavia and Rwanda, and the ICC? What is the purpose of a criminal court (as opposed to a civil court)? What might a permanent criminal court be able to accomplish, if anything, that a temporary tribunal cannot accomplish?

8. What does the ICC do? What is the jurisdiction of the court? What crimes can the ICC prosecute? What are three ways that cases get to the ICC? Consider other cases that you believe should go to the ICC. How would those cases get there? Under what conditions would a
genocide or war crimes case not come before the ICC?

9. In the film, Christina Chung refers to the ICC as a “court of last resort.” Why does Christina Chung call it that? What does this expression mean?

10. What is the Complementarity Principle? Because of this principle, how would you compare the power of the ICC and national courts? Under what conditions, if any, are national systems more powerful than the ICC? Under what conditions, if any, is the ICC more powerful than national legal systems? Under what conditions, if any, should an international court like the ICC be more powerful than a national court?

11. What beliefs or experiences have inspired young people from all over the world to join the staff of the ICC? What are some beliefs or experiences that have been especially significant in shaping your life? How might these beliefs or experiences influence your future career choices?

12. One ICC staff member comments on how working at the court has taught her that “justice is easier said than done.” Based on what you know about the workings of the ICC and about justice systems in your community, to what extent do you agree or disagree with this statement? What could happen to make justice easier to achieve?

13. What reasons does Bolton give for the United States government’s decision not to join the ICC? If you represented the United States, what other reservations might you want clarified if you were deciding whether the United States should join the court? How do individuals in the film counter any of these arguments? What actions or arguments might the prosecutor of the court make as they try to ease concerns raised by critics?

14. Does the ICC need United States participation for it to be credible? Does it need United States participation to be successful?

15. Fatou Bensouda, the ICC Deputy Prosecutor, explains the purpose of the ICC as follows:

   During the previous century millions of people, many of them children, were victims of unimaginable atrocities. The International Criminal Court symbolizes the hope that by ending impunity for such crimes we might prevent their occurrence and contribute to the peace, security and well-being of the world.

   Why might many supporters of the ICC believe that the establishment of a permanent international criminal court would help prevent future crimes? To what extent do you believe that perpetrators might think twice about their actions if they know that they can be caught and punished? Consider examples from your own life or your knowledge of history when answering this question. Besides prevention, what other reasons might encourage a nation to join the ICC?

16. At the end of this module, Benjamin Ferencz states, “It is so obviously correct that law is better than war.” Do you think it is possible for legal systems to prevent violent conflict? Can you
identify any examples, from history or from your own experience, of when rules have prevented violence? What kind of laws would best help communities and nations avoid violent conflict?

17. What message do you think the filmmakers are trying to express in this module? What leads you to this conclusion? What might be their motivation? If you were making a film about the ICC, how might it be different? What message might you want to express?

18. What other information would you need in order to have a better understanding of the ICC and how it works?
A VISION FOR INTERNATIONAL JUSTICE: THE PREAMBLE TO THE ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT

According to the International Association of Genocide Scholars, “In the twentieth century, genocides and state mass murder have killed more people than have all wars.” In addition to these deaths of innocent women, children, and men, millions more have been stripped of their rights, property, and dignity as human beings and as victims of violence. In many cases, the perpetrators of these crimes were never held accountable for their actions. Sometimes the nations in which these crimes occurred did not have a sufficiently robust judicial system to try alleged criminals; other times the governments themselves were complicit in the crimes.

In 1945, after the end of World War II, the international community embarked on a new approach to justice. Following the Nazi Holocaust, the Allied nations confronted an incredible moral and legal challenge: with Germany in shambles, who would hold Nazi perpetrators accountable for the unimaginable crimes they committed? To answer this challenge, France, Great Britain, Russia, and the United States joined together to establish the first ever international criminal trials—the International Military Tribunal at Nuremberg. The Nuremberg Tribunals set a precedent for other temporary international courts that were established after genocides in Yugoslavia (1993) and Rwanda (1994). The prevalence of temporary international tribunals coupled with continued violence around the world raised the question: Could it be possible to create a more permanent international criminal court? Could such a court serve as a deterrent for the worst atrocities? What crimes would come under the jurisdiction of an international criminal court? Under what conditions would this international court be able to supersede the authority of national courts? To address these questions, representatives from over 160 countries gathered in Rome from June to July of 1998 at a meeting called the Rome Conference. Coming from diverse cultures with differing views on justice, reaching agreement about the structure of an international criminal court required careful negotiation and compromise. Despite these challenges, the document drafted at this conference, the Rome Statute, was ultimately approved by 120 countries. The Rome Statute went into effect on July 1st 2002, thus beginning the process of establishing the International Criminal Court (ICC).

The Rome Statute consists of two parts: The Preamble of the Rome Statute articulates the purpose and vision of the ICC; and the Articles of the Rome Statute outline the details of the court, including the jurisdiction of the court, the relationship of the court to the United Nations, and the penalties that the court can enforce.
The States Parties to this Statute,

Conscious that all peoples are united by common bonds, their cultures pieced together in a shared heritage, and concerned that this delicate mosaic may be shattered at any time,

Mindful that during this century millions of children, women and men have been victims of unimaginable atrocities that deeply shock the conscience of humanity,

Recognizing that such grave crimes threaten the peace, security and well-being of the world,

Affirming that the most serious crimes of concern to the international community as a whole must not go unpunished and that their effective prosecution must be ensured by taking measures at the national level and by enhancing international cooperation,

Determined to put an end to impunity for the perpetrators of these crimes and thus to contribute to the prevention of such crimes,

Recalling that it is the duty of every State to exercise its criminal jurisdiction over those responsible for international crimes,

Reaffirming the Purposes and Principles of the Charter of the United Nations, and in particular that all States shall refrain from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations,

Emphasizing in this connection that nothing in this Statute shall be taken as authorizing any State Party to intervene in an armed conflict or in the internal affairs of any State,

Determined to these ends and for the sake of present and future generations, to establish an independent permanent International Criminal Court in relationship with the United Nations system, with jurisdiction over the most serious crimes of concern to the international community as a whole,

Emphasizing that the International Criminal Court established under this Statute shall be complementary to national criminal jurisdictions,

Resolved to guarantee lasting respect for and the enforcement of international justice...
1. Luis Moreno-Ocampo, Chief Prosecutor for the International Criminal Court, believes people need judicial institutions to help them behave well. He explains:

We all had the dream: If we put the bad guys in jail, the problem is solved . . . . It’s a more complex issue . . . . Because it’s not just bad guys and good guys . . . . 80% of us, we behave according with the circumstances. If you have $1 million in front of you in cash, and no one [will catch] you, and you can get the money—maybe you are tempted. But if you know the money is there—but there are cameras, and a bodyguard, and you’ll be in jail—you are not touching the money. It’s not about your values—it’s about the external circumstances . . . . You have to educate people in values, but we need institutions helping people to behave well, and not behave bad. That’s the point. So as humanity, we cannot change the individual behavior. But we can develop institutions to provide the right incentives to control the behavior.®

Why do you think Moreno-Ocampo believes so strongly in the importance of the ICC? How does the ICC provide incentives to help people “behave well”? What other types of institutions help people “behave well”? Besides institutions that help control behavior, Moreno-Ocampo states, “You have to educate people in values.” What values do you think need to be nurtured in order to sustain peaceful, productive communities? What are effective ways of instilling these values?

2. José Ayala Lasso, former United Nations High Commissioner for Human Rights, reports, “A person stands a better chance of being tried and judged for killing one human being than for killing 100,000.”®

What point do you think Lasso is trying to express in this comment? To what extent do you agree with this argument? What needs to be in place in order to bring someone to trial? What are the consequences if the conditions in a community or nation do not allow for perpetrators to be tried in a court of law?

3. Review each of the phrases in the preamble. Which statements do you most agree with? Are there any statements that you disagree with or that concern you? If so, which ones? Do you believe that nations should sign on to this document as it is currently written? Why or why not? What should nations consider as they make this decision?

4. The preamble to the Rome Statute states, “Determined to put an end to impunity for the perpetrators of these crimes and thus to contribute to the prevention of such crimes.” What is impunity? What evidence, from history and your personal experience, suggests that crimes can be prevented if individuals believe they will be punished for committing them? Can you think of any evidence that demonstrates that the fear of “getting caught” and punished does not stop individuals from committing crimes? What do you think can be done to prevent people, especially those in positions of power, from committing crimes?

5. While the drafters of the Rome Statute believe that the ICC will prevent future atrocities, others doubt that the establishment of a permanent international criminal court will deter perpetrators from committing crimes. Besides prevention, what other reasons for joining the ICC does the preamble put forward? Do you agree or disagree with these reasons?

6. The Rome Statute reads, “Emphasizing that the International Criminal Court established under this
Statute shall be complementary to national criminal jurisdictions." This means that the ICC is not intended to take the place of national courts; rather, the ICC has been established to step in only when national courts are unable or unwilling to bring perpetrators to justice. Why do you think the drafters of the Rome Statute included this idea in the Rome Statute? What might happen if the ICC could prosecute any case, regardless of how it was being handled by an independent nation?

7. According to Benjamin Ferencz, who was present at the Rome Conference, there were many details where it was difficult for representatives to find common ground. One of these areas of contention concerned the crimes that could be prosecuted by the court. They finally agreed on three crimes: genocide, war crimes, and crimes against humanity. Why do you think they selected these three crimes? Do you agree with their decision? Are there other crimes that you think should come under the jurisdiction of the International Criminal Court? For example, participants considered including torture, drug trafficking, and terrorism in the Rome Statute but ultimately decided to delay this decision.

8. While the statute reads “nothing...shall be taken as authorizing any state party to intervene in an armed conflict or in the internal affairs of any state,” some argue that for the court to truly be effective it will have to interfere in what some leaders view as internal affairs. Others fear that the court, influenced by politics, may intervene in state affairs when it is not justified. How would you reconcile this paradox?
SHOULD THE UNITED STATES JOIN THE ICC?: STATEMENTS BY JOHN BOLTON AND BENJAMIN FERENCZ

On July 17, 1998, the Rome Statute, the founding document of the International Criminal Court, was overwhelmingly approved by the countries attending the Rome Conference. One hundred twenty voted in favor of the document. While representatives from the United States made many important contributions to the Rome Statute, the United States was ultimately one of only seven nations who voted against it.* President Bill Clinton signed the treaty in the last days of his presidency in 2000. However, it was never submitted to the Senate for ratification. The fact that the United States is not a member of the ICC has sparked strong opinions on both sides of the issue. In this reading you will find two documents that exemplify the debate around the United States decision not to join the ICC.

In a speech in November, 2003 (excerpted below), John Bolton, an under-secretary of State who was later appointed Ambassador to the United Nations by President George W. Bush, expresses concerns that while the United States agreed with goals of the court, he believed that the court itself was flawed. While Bolton supported temporary international courts, he feared that membership in the ICC threatens United States sovereignty and could put American citizens and leaders in danger. In a statement to the Senate Foreign Relations Committee, Bolton explains his belief that the United States should not join, or even support, the ICC:

We should isolate and ignore the ICC. Specifically, I propose for the United States policy . . . the Three No’s: no financial support, directly or indirectly; no collaboration; and no further negotiations with other governments to improve the Statute. [. . .] This approach is likely to maximize the chances that the ICC will wither and collapse, which should be our objective.⁹

Since Bolton made this statement, American opposition to the ICC has decreased. As of 2009, United States officials have not indicated that they would adopt the Rome Statute, but they have demonstrated increasing support for the court.** Secretary of State Hillary Clinton explains the current United States position toward the ICC as follows: “Whether we work toward joining or not, we will end hostility toward the ICC and look for opportunities to encourage effective ICC action in ways that promote U.S. interests by bringing war criminals to justice.”¹⁰

Benjamin Ferencz is one of many Americans who have been trying to convince government officials to ratify the Rome Statute and officially join the ICC. In 1946, he served as Chief Prosecutor of Nazi criminals at the Nuremberg Tribunals. This experience had a profound influence on Ferencz. He shares, “Nuremberg taught me that creating a world of tolerance and passion would be a long and arduous task.

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* Israel, Iraq, China, Yemen, Qatar, and Libya also voted against adopting the Rome Statute for their own reasons.

** The United States’ position on the ICC is evolving. For updated information about the United States’ relationship to the court, refer to the United States State Department website (www.state.gov/) or the website of The Coalition for the International Criminal Court (www.icccnow.org/) and refer to the section on the United States.
And I also learned that if we did not devote ourselves to developing effective world law, the same cruel mentality that made the Holocaust possible might one day destroy the entire human race.”

After his success at Nuremberg (22 defendants charged with murdering over one million people were convicted) Ferencz has made the pursuit of international justice his life’s work. In his 2002 statement, “Know the truth about the International Criminal Court,” he attempts to counter arguments made by Bolton and others that the ICC is a threat to national sovereignty, and instead offers up reasons to support the ICC.
The problems inherent in the ICC are . . . matters that touch directly on our national interests and security, and therefore also affect the security of our friends and allies worldwide.

For numerous reasons, the United States decided that the ICC had unacceptable consequences for our national sovereignty. Specifically, the ICC is an organization that runs contrary to fundamental American precepts and basic Constitutional principles of popular sovereignty, checks and balances, and national independence.

U.S. military forces and civilian personnel and private citizens are currently active in peacekeeping and humanitarian missions in almost 100 countries at any given time. It is essential that we remain steadfast in preserving the independence and flexibility that America needs to defend our national interests around the world . . . . Subjecting U.S. persons to this treaty, with its unaccountable Prosecutor and its unchecked judicial power, is clearly inconsistent with American standards of constitutionalism. Our concerns about politically motivated charges against U.S. persons are not just hypothetical . . . . Without sufficient protection against such frivolous charges, responsible officials may be deterred from carrying out a wide range of legitimate functions across the spectrum, from actions integral to our national defense to peacekeeping missions or interventions in humanitarian crises or civil wars . . . . Simply launching criminal investigations has an enormous political impact. Although subsequent indictments and convictions are unquestionably more serious, a zealous independent Prosecutor can make dramatic news just by calling witnesses and gathering documents, without ever bringing formal charges.

Accumulated experience strongly favors a case-by-case approach to resolving serious political and military disputes, rather than the inevitable resort to adjudication . . . . The international effort should encourage warring parties to resolve questions of criminality within national judicial systems, as part of a comprehensive solution to their disagreements.

We strongly support states fulfilling their sovereign responsibility to hold perpetrators of war crimes accountable rather than abdicating that responsibility to the international community. In matters of international justice, the United States has many foreign policy instruments to utilize that are fully consistent with our values and interests. We will continue to play a worldwide leadership role in strengthening domestic judicial systems and promoting freedom . . . .

John Bolton is a diplomat and lawyer with expertise in international law. He was the United States representative to the United Nations from 2005–2006.
On July 1, 2002, for the first time since the Nuremberg war crimes trials, a permanent International Criminal Court (ICC) was created to hold accountable those leaders responsible for major war crimes and crimes against humanity. As part of an ongoing campaign against the ICC, the United States threatened to withdraw its peacekeeping forces unless the new international court was divested of any authority to try Americans . . . . The main argument made by the US is that American peacekeepers might be subjected to politically motivated prosecutions by the new tribunal . . . . There is no such danger.

Only crimes committed after July 1, 2002, can be considered by the ICC. Jurisdiction of the court is limited to genocide, crimes against humanity and major war crimes of concern to the international community as a whole. Surely, American soldiers do not intend to commit such crimes . . . . Only leaders responsible for planning or perpetrating the major crimes are the intended targets and only if their own state is unable or unwilling to give them a fair trial. The US is not in that category . . . . The American Bar Association . . . and the leading international lawyers in the country, including every living former Nuremberg prosecutor, all agree that it is in the interest of the US and its military to support the ICC . . .

. . . The US inspired the world at Nuremberg by demanding that never again would crimes against humanity be allowed to go unpunished. We weaken our standing in the world when we insist that law applies to everyone else but not to the United States. No nation and no person has a sovereign right to commit crimes against humanity with impunity.

The best way to protect our military, and the peace of the world, is through universal and equal enforcement of the rule of law for everyone.
1. Both Ferencz and Bolton refer to national sovereignty in their statements. What does national sovereignty mean? How does Bolton use the concept of sovereignty to defend why the United States should not join the ICC? How does Ferencz use the concept of sovereignty to explain why the United States should join the ICC? What do you think of their arguments? Under what conditions, if any, should the international community be able to intervene in the affairs of a particular country?

2. In the cases of Germany, the former Yugoslavia, and Rwanda, the United States has supported the establishment of temporary international tribunals to prosecute individuals accused of genocide, war crimes, crimes against humanity, and aggression. What is the difference between supporting these temporary international criminal courts and joining the ICC—a permanent international criminal court? Some critics of the ICC, including Bolton, have claimed that a permanent criminal court is not necessary because international tribunals can be set up when they are needed. How might Ferencz respond to this argument? What can a permanent criminal court achieve that temporary tribunals cannot accomplish?

3. Ferencz is known for saying that we need to replace “the rule of force with the rule of law.” What do you think he means by this statement? What are examples of the “rule of force”? What are examples of the “rule of law”? What do you think needs to happen in order for the rule of law to replace the rule of force? How might the establishment of the ICC help work toward this goal? In your communities, what is more powerful: force or law?

4. Bolton and other critics of the ICC are concerned that signing the Rome Statute would be a mistake. What arguments does he make in defense of his belief the United States can still support holding perpetrators accountable of war crimes without joining the court? How does Ferencz counter Bolton’s argument?

5. Based on the information in The Reckoning and in these documents, do you think the United States should join the ICC? Why or why not? What other information do you need to better answer this question?
Detailed descriptions of all teaching strategies referred to in this lesson idea can be found in the teaching strategies section of our website: [www.facinghistory.org](http://www.facinghistory.org). For related Facing History resources, refer to [www.facinghistory.org/reckoning](http://www.facinghistory.org/reckoning).

1. **Paraphrase the Rome Statute Preamble**: The Rome Statute Preamble consists of 11 statements. To help students better understand the purpose of the International Criminal Court, ask students, possibly working in pairs or triads, to rewrite a statement from the Rome Statute Preamble in their own words. Then groups can share their statements with the class. An extension of this activity might ask students to compare this preamble to other preambles, such as the preamble to the United States Constitution.

2. **Big paper: Building a silent conversation**: One way to structure a conversation about the ideas in this module is to select questions from the Viewing Guide or from the Connections questions for the document *A Vision for International Justice* and the document *Should the United States join the ICC?* and use these questions as the focus of a big paper activity. With this teaching strategy, pairs begin by responding to these questions in writing, and then the whole class has the opportunity to read the conversation and contribute their own comments and questions.

3. **Discussing dilemmas**: The establishment of the ICC has introduced many dilemmas—a choice between two or more equally valued options—for the international community. After watching this module, you can ask students to identify a dilemma raised in the film. (Note: Before asking this question, you might want to spend some time having students construct a working definition for “dilemma”). One significant dilemma raised in this module pits national sovereignty vs. international accountability and can be seen through the lens of whether or not a country, such as the United States, should join the ICC. This question is worthy of debate because both sides present compelling, reasonable arguments. After watching this module and reading the document *Should the United States Join the ICC?*, we recommend giving students the opportunity to do outside research on this topic. They can start by reviewing some of the resources on the related links page. You could also assign students to a particular side of this dilemma and have them share information through a debate. The SPAR (Spontaneous Argumentation) teaching strategy could be used to structure this debate. The purpose of having students debate is to deepen understanding of a topic, so it is essential that after the debate students have the opportunity to synthesize arguments from both sides in order to come to their own opinion.

4. **Journal writing**: Facing History teachers have found that writing is an effective way to help students reflect on what they are learning. Any of the viewing guide questions can be used as prompts for a journal writing activity. You might allow students to respond to the question that most interests them. For ideas on how to structure journal writing, refer to the teaching strategy “Journals in a Facing History Classroom” found on our website: [www.facinghistory.org/teachingstrategies](http://www.facinghistory.org/teachingstrategies).

5. **Exploring sovereignty**: Sovereignty is a central theme in this film. For example, when United States government officials object to joining the ICC, they raise the question of when, if ever,
it is appropriate for the international community to intervene in the affairs of an independent nation. Because understanding the concept of sovereignty is essential to understanding international criminal law, you might want to ask students to create a working definition for “sovereignty.” Students can deepen their understanding of “sovereignty” through a discussion about questions such as “Under what conditions should national sovereignty be respected? Under what conditions is it appropriate to intervene in the affairs of an independent nation?” One way to address these questions is by using the barometer teaching strategy with the statement:

The ICC has the authority to investigate and prosecute crimes in member countries and in cases referred to the court by the United Nations General Assembly. For example, the ICC just issued an arrest warrant for the president of Sudan. Should an international court have the right to tell a sitting head of state that he or she has committed a crime?

One side of the barometer can be labeled “International community has the right to intervene,” and the other side of the continuum can be labeled “Sovereignty should be respected; international community does not have the right to intervene.” “What gives someone the right to tell me what to do?” is a question on the minds of many adolescents, so as students discuss questions about national sovereignty, they might make connections to personal autonomy. You might ask students to consider how issues of sovereignty or autonomy have played out in their life. For example, the United States federal government’s involvement in school desegregation touches on the issue of sovereignty at the state level. While national sovereignty is clearly different than personal autonomy, both of these concepts relate to questions about rights and responsibilities, for often in society we give up rights (at the personal, state, or national level) in order to fulfill a larger social responsibility.
Benjamin Ferencz website ([www.benferencz.org](http://www.benferencz.org))

Beginning in 1945 with his prosecution of war criminals during the Nuremberg War Crimes Tribunal, the work of Benjamin Ferencz has long focused on issues of international criminal justice and world peace. This website includes an archive of speeches, essays, and articles by Ferencz.

Coalition for the International Criminal Court ([www.iccnow.org](http://www.iccnow.org))

This website, published by a coalition of nonprofit groups, provides background material about the ICC, an extensive inventory of ICC-related documents, and information about what people around the world are doing to support the work and mission of the ICC.

IJCentral ([www.ijcentral.org](http://www.ijcentral.org))

IJCentral is designed to be a resource for concerned citizens around the world who want an effective International Criminal Court. It posts updated news related to the ICC and international justice. People from around the world contribute to their blog. The site also posts an [Interview with ICC Prosecutor Luis Moreno-Ocampo](http://www.ijcentral.org/interviews/luis-moreno-ocampo), where he speaks about the influence of the Nuremberg Trials on international law.

The International Criminal Court ([www.icc-cpi.int](http://www.icc-cpi.int))

The International Criminal Court provides a well-organized page of [common questions](http://www.icc-cpi.int) about the court with links to brief answers. This is an excellent resource to help students better understand how the court works.

The Los Angeles Times, March 16, 2009 ([www.latimes.com](http://www.latimes.com))

This [editorial](http://www.latimes.com) presents arguments for and against the United States joining the ICC.

Nuremberg Human Rights Centre ([www.menschenrechte.org](http://www.menschenrechte.org))

The Nuremberg Human Rights Centre has developed [16 informative slides](http://www.menschenrechte.org) that can be used to help students understand international justice from 1945 to 2006.

On Point Radio, August, 2009 ([www.onpointradio.org](http://www.onpointradio.org))

In this [interview](http://www.onpointradio.org), National Public Radio program “On Point” interviewed Pamela Yates, the director of the film *The Reckoning*, and Christine Chung, former trial attorney at the ICC. The program focused on the role of the International Criminal Court in preventing crimes against humanity and other international crimes. You can listen online or download a podcast of this show, which also includes questions from listeners.


In this article, journalist Adam Hochschild writes about the ICC’s first trial, describing how Lubanga’s case made it to the ICC and Congolese reactions to the trials. This article also illuminates the workings of the ICC and raises questions about the purpose and effectiveness of the court.


VIEWING GUIDE

SEEKING PEACE AND SEEKING JUSTICE
THE ICC AND UGANDA
BACKGROUND

Over the last two decades, Uganda has been embroiled in a violent conflict between the government of Uganda and the Lord’s Resistance Army (LRA). The LRA has claimed to fight on behalf of the Acholi people, an ethnic group living primarily in northern Uganda who have been the targets of discrimination and government neglect. Abducting young Acholi boys and girls to use as child soldiers has been one of the LRA’s strategies in fighting the Ugandan military. Unable to defeat the LRA and protect the civilian population, the government of Uganda has been looking for ways to achieve peace. One of the government’s strategies has been to ask the International Criminal Court (ICC) to investigate LRA abuses, in the hopes that high-ranking LRA leaders might be arrested. In 2005, after extensive investigation of both the government and the LRA, the ICC issued arrest warrants for five LRA leaders. While the ICC acknowledged that the government of Uganda also committed crimes, these occurred before 2002, placing them outside of the court’s temporal jurisdiction. (To learn more about the civil war in northern Uganda, see the Uganda page on the Enough Project’s website: www.enoughproject.org).

The 16-minute film module Seeking Peace and Seeking Justice: The ICC and Uganda explores how the ICC’s involvement in Uganda has sparked conversation and action throughout Ugandan society. For example, in the bush, LRA leaders have used the arrest warrants as a bargaining chip in peace negotiations; in displaced persons’ camps, Ugandans are debating the merits of the ICC versus traditional justice mechanisms; at a national level, the government of Uganda is restructuring its own judicial system.
The following questions can be used to facilitate large and small group discussions, prompt reflective writing, develop projects, and evaluate student understanding. For more ideas about how to use these questions to deepen students’ understanding of issues related to international justice, refer to the teaching strategies section of the Facing History website (www.facinghistory.org).

1. In the film, Former ICC lawyer Christina Chung states, “The ICC was founded on the premise: You can't have lasting peace without, at least, a component of justice.” What do you think of this claim? How would you describe the relationship between peace and justice? Is it possible to have a peaceful community in which perpetrators are not punished for wrongdoing? Why or why not?

2. Why did the government of Uganda refer this case to the ICC? What have been the consequences of this decision? In the case of Uganda, what decisions did the ICC make in terms of who to prosecute and who not to prosecute? What factors or rules guided these decisions? For example, how does the fact that the ICC cannot prosecute crimes committed before 2002 affect the indictments in this case?

3. What does this film teach us about child soldiers? What choices are they forced to make? The ICC does not hold young people responsible for crimes committed before the age of 15. What do you think of this policy? How do you balance justice for the victims with compassion for young people who have been indoctrinated to commit violent acts? At what age, if at all, should individuals be held responsible for crimes they have committed as part of a civil war?

4. Based on the information in this film, how has the ICC impacted the people of Uganda? Specifically, what are some ways the presence of the ICC has impacted the following groups: the LRA, villagers living in IDP camps, and the government of Uganda?

5. This module highlights the complicated relationship between justice and peace. Based on what you viewed in this film, what are the challenges to Ugandans’ achieving both justice and peace? What steps could be taken to confront these challenges?

6. Do you think the Ugandan government should offer amnesty to LRA leaders and soldiers in exchange for peace? What are reasons to support offering LRA members amnesty? What are reasons to reject this policy?

7. The ICC believes that there should be no impunity for the worst crimes. What is impunity? Can you think of any examples of impunity—when perpetrators are not punished after committing a crime—from your community or country? What are the consequences of impunity for the perpetrator? For the victims? For larger society?

8. One scene of the module shows LRA leaders speaking to villagers at a displaced persons camp in Northern Uganda. One LRA leader asks the villagers to raise their hands if they want the arrest
warrants dropped. What do you notice? How do you interpret the meeting between the LRA leaders and the local population? How might factors such as intimidation, fear, propaganda, obedience, conformity, or resistance have influenced the villagers’ responses to this speech?

9. Former child soldier Jimmy Otim now works as an outreach coordinator for the ICC. Why do you think the ICC has a position called “outreach coordinator”? What is the purpose of this position? Who do you think needs to understand what the ICC is and how it works? What are ways to help people understand the ICC?

10. Why might some residents of northern Uganda believe the ICC is a stumbling block to peace? Do you agree or disagree with this sentiment? What is the ICC doing to help counter the assumption that the arrest warrants are interfering with the peace process?

11. When speaking at a public information session, the ICC representative said that one reason to arrest LRA leaders would be to deter crimes from happening in the future. Do you think this is a valid argument? Under what conditions, if any, do you believe that the possibility of arrest might keep perpetrators from committing crimes?

12. At the end of the film, former ICC lawyer Christina Chung says, “Civilized societies and peaceful societies have a foundation in a rule of law.” What does “rule of law” mean? How does the “rule of law” help people maintain peace? Is it possible to have a peaceful society without the rule of law? Why or why not?

13. How should we measure the success of the ICC? By the number of perpetrators brought to trial? By the number of perpetrators convicted of crimes? What other factors might be used to evaluate the value of the ICC?

14. What message do you think the filmmakers are trying to express in this module? What leads you to this conclusion? What might be their motivation? If you were making a film about the ICC, how might it be different? What message might you want to express?

15. What other information would you need in order to have a better understanding of the ICC and how it works?
FROM CHILD SOLDIER TO PEACEMAKER: 
AN INTERVIEW WITH JIMMY OTIM

Growing up in regions with violent conflicts presents dangerous challenges to children living around the world: they may be orphaned and responsible for raising younger siblings, they often have been forced out of their homes without any of their possessions, and they typically struggle securing access to food, clean water, medical care, and even a basic education. For some young people, living in a conflict zone has brought additional, unspeakable tragedy to their lives. In areas around the world, hundreds of thousands of young children and adolescents have been forced by rebels, warlords, and military leaders to serve as child soldiers* and sex slaves.¹

During the two decades of civil war in Northern Uganda, approximately 20,000 children have been abducted by the Lord’s Resistance Army (LRA) and used to fight against the local population and the Ugandan military.² Jimmy Otim was one of these children. Today, he works as a Public Information and Outreach Coordinator for the International Criminal Court. In an interview excerpted below, Otim recounts how his experience as a child soldier has shaped his views on peace and justice in Uganda, especially the belief that LRA leaders must be held accountable for the crimes they have committed.

* For more information about child soldiers, refer to the Coalition to Stop the Use of Child Soldiers, [www.child-soldiers.org](http://www.child-soldiers.org).
Interview with Jimmy Otim (2006)

School has a lot of good memories for me . . . .This school gave me a lot of resilience—that, however difficult life is, you have to strive; you have to try; you have to find alternatives. You have to find your purpose in life. And, also, this school also taught me that the world is not always easy . . . . It was extremely difficult, in that my parents, at first, could not afford to bring me in this school. But, also, they had no choice; they had to sacrifice. Sometimes, people at home would even sleep hungry. Because I had to study, at all costs, you know?

I was abducted by the rebels of the Lord’s Resistance Army in 1996 . . . . I was 17 years old. When they abducted us, they actually tied us in a row. They used a rope . . . just to make sure that you don’t run. And we went. I was very afraid . . . . I was about to sit for my national exam that would take me to a higher school . . . . So it was very devastating for me. I didn’t see anything, hope, in my future, and . . . I thought they were going to kill me.

I was in captivity with the Lord’s Resistance Army for nine months. And in those nine months it was like I had spent 10 years—or even 20 years . . . . They would force you to kill; they will force you to abduct; they will force you to commit atrocities against your own people. Say, if you abduct your relative, they’ll force you to kill your relative, so that you fear coming home . . . . And you, yourself, if you refuse, that’s the end of you so, basically, you have no choice.

The rebels of the Lord’s Resistance Army abduct children, because children are very easy to manipulate; children are very easy to brainwash; and children can be used to do anything . . . . And they used to tell us funny things: Oh, when we take over government, you will be driving these buses. When we take over government, we will give you big houses. So, for a child, a house is something very big. A vehicle is actually something that nobody has ever dreamed of. So it is, it was really kind of a psychological kind of recruitment. For me, because of my level of education, it was extremely difficult for me to believe in them . . . . But for a child who was abducted from the village . . . .

I escaped in a cross fire between the [LRA] rebels and the government troops of the Uganda People Defense Force . . . . I was lucky. I found some old man digging in the garden . . . . That person was afraid, because he knew I was a rebel . . . . But I shouted to him: Please, help me! . . . . Then I said: I was a student, I was abducted, but now I have escaped. Then that man was kind enough. He had to carry me, ’cause my leg was actually swollen. Of the 24 students that I was abducted with in this school, all I know, of those who have returned are only five. The rest, I don’t know what happened to them . . . .
The war has taken 20 years, and people have been in camp for 20 years . . . . They want to find a way out of their suffering . . . . And they want the conflict to be resolved peacefully, so they would have their children back . . . . But that should not be mistaken that they want only that . . . . When you went to a person who has suffered terribly, for instance, a mother whose kids were killed by the rebel Lord’s Resistance Army and the husband was also killed, for them, they want justice . . . . *Mato oput* is basically a traditional justice mechanism that is used to resolve conflict . . . . But in *mato oput*, there is no death penalty. And, yet, you will have taken life. For me, all I know is that *mato oput* cannot be used in this scale.

I believe that peace can only come when justice is done. I’ve been with the rebels. I know them. These people have committed a lot of atrocities—and, still, they continue to commit a lot of atrocities. So, for me, ideally, the international community must enforce the [ICC] arrest warrant, so [that] these top commanders are arrested. If these people are arrested, and they stand accountable for whatever they have done in Northern Uganda, I think peace will return . . . . The arrest warrant of the International Criminal Court has forced these people [leaders of the LRA] to the table . . . . It has forced them to go into hiding . . . . People are peaceful here because of that. The International Criminal Court arrest warrant has contributed to the peace process positively.

When I came back from the captivity all I kept thinking was, “What can I do, as a person, to make a contribution, to change this?” So, I devoted my life to human rights issues.
1. What role did education play in Jimmy's life before, during, and after his abduction? What does his story reveal about the value of education?

2. Even though they may have committed atrocities as child soldiers, the ICC considers young people (defined as those under 15 years old) as victims of war and does not prosecute them for crimes committed under duress and manipulation. At what point, though, is someone old enough to be accountable for their actions? What about individuals who were abducted as children but go on to commit crimes as adults? How do you balance justice for the victims with compassion for people who have been raised in a culture that demands violence?

3. Barney Afaso, an Ugandan human rights lawyer, explains some reasons why many residents of northern Uganda are interested in traditional approaches to justice that focus more on reconciliation (restoring relationships) than retribution (punishment):

   Many conflicts yield meaningful distinctions between victims and perpetrators. Yet the majority of Acholi recognize that most combatants in the LRA were forcibly abducted and have themselves been victims. This generates the realization that anyone could be subjected to the conditions that produced the perpetrators of the crimes experienced in the conflict. Combined with a profound weariness with the war and the suffering it has caused, this creates a moral empathy with the perpetrators and an acknowledgement that the formal justice system is not sufficiently nuanced to make the necessary distinctions between legal and moral guilt. As a result, most Acholi have decided to promote reconciliation through traditional mechanisms, rather than a retributive understanding of justice.

   What do you think Afako means when he writes about “the realization that anyone could be subjected to the conditions that produced the perpetrators?” What kinds of conditions make it possible for people, especially children, to commit horrible crimes? What is the difference between “legal and moral guilt”? How could Afako’s words help us when thinking about judging child soldiers for the crimes they have committed?

4. While some Ugandans want the ICC to lift the indictments against LRA leaders, Thadaus Mabasi, a lawyer in Uganda, defends the ICC’s involvement in Uganda, writing:

   The criticism that the ICC obstructs peace is untenable on two grounds. First, international criminal justice deters the commission of future crimes. Global justice has a preventative effect. The deterrence effect is at work in Uganda because as the LRA case gained momentum in 2004, the humanitarian situation dramatically improved. Secondly, it is evident that the ICC indictments have generated such pressure that the LRA was left with no other option but to negotiate. This is because the ICC focused the international community’s attention on the conflict in Northern Uganda and the horrific crimes committed by the LRA . . . . If in some cases it makes peace negotiations difficult, that may be the price that has to be paid.
How should the value of the ICC be measured? By the number of perpetrators brought to trial? By the number of perpetrators convicted of crimes? What other factors might be used to assess the value of the ICC?

5. Jimmy Otim shares, “Normally, when children are abducted by the rebel Lord’s Resistance Army, when they come back to the community, they find a lot of problems, especially in terms of reception and reintegration.” What might be the effects of being a child soldier on young people? How might communities be impacted when hundreds or thousands of their children have been abducted? After someone has been through a trauma, what can help them reintegrate into their communities and rebuild their lives?
THE PARADOX OF PEACE AND JUSTICE: MATO OPUT* VERSUS THE ICC IN UGANDA

Justice is complicated; it operates on many levels. In the home, parents often create their own system to punish inappropriate behavior and restore fairness and peace to the household. Countries establish judicial systems where judges, juries, and teams of lawyers work within a legal framework. And, since 2002, criminal justice on an international level exists: the ICC was founded to ensure that justice could be achieved in cases where other legal systems were non-existent or not holding perpetrators accountable for the most heinous of crimes. But the system is still being worked out, and in the meantime the question of how to balance national and international justice mechanisms has become increasingly complicated.

The situation in Northern Uganda highlights this complexity. In 2003, the government of Uganda felt unable to prosecute LRA leaders who allegedly organized the abduction of children, the destruction of villages, and other crimes. So the government asked the ICC to investigate. Two years later, the Chief Prosecutor of the ICC issued arrest warrants for Lord’s Resistance Army rebel leaders Joseph Kony, Vincent Otti, Dominic Ongwen, Okot Odhiambo, and Raska Lukwiya on charges of war crimes and crimes against humanity. Ever since the indictments were issued, the LRA and, increasingly, the government of Uganda, have demanded that the Court drop the charges. They argue that the indictments threaten a potential peace process that would end over 20 years of violence in the region—a process that the LRA leaders refuse to participate in until the arrest warrants have been revoked.

In the article below, Joseph Yav Katshung, Coordinator of the United Nations Educational, Scientific, and Cultural Organization’s (UNESCO) Chair for Human Rights, Peace, Conflict Resolution and Good Governance, addresses the “paradox between peace and justice” that has emerged in discussions about the relationship between the ICC and traditional forms of justice, namely the Acholi tradition of mato oput. While he sees the merit of using a traditional system he also points out the potential danger of using these mechanisms as an excuse to avoid moral and legal accountability.

* Meaning “to drink the bitter root,” mato oput is a traditional Acholi justice practice used to restore peace to the community after an accidental or intentional murder. After the perpetrator accepts responsibility for the crime and the victim’s family has granted forgiveness, a special ceremony is performed. The perpetrator and the victim’s family drink mato oput—a bitter drink—out of a shared bowl. This act symbolizes the reconciliation of the families as they bury the bitterness of the past. For more information, the Justice and Reconciliation Project provides a detailed description of mato oput and posts images of mato oput ceremonies.
Defining justice is a difficult task . . . . There are different kinds of justice: retributive justice, deterrent justice, compensatory justice, rehabilitative justice, exonerative justice and restorative justice. Each has a time and a place in a given situation and no one model of justice covers all needs.

It is important to note that restorative justice views crime essentially as a violation of people and relationships between people. Its primary objective is to correct such violations and to restore relationships . . . . It focuses upon the end result (harmonious community relations) and it is characterised by community participation that involves both the victim and the perpetrator, with a view to restoring rights that have been abused.

In fact, *mato oput*, which in the Acholi language literally means “to drink a bitter potion made from the leaves of the ‘oput’ tree,” is one of the mechanisms for forgiveness and reconciliation among the Acholi people in Northern Uganda. The drinking of this bitter herb means that the two conflicting parties accept the bitterness of the past and promise never to taste such bitterness again. The payment of compensation follows the ceremony. The victim or his/her family is compensated for the harm done, for example, in the form of cows or cash. Is such kind of compensation enough to satisfy people? . . . It doesn’t aim at establishing whether an individual is guilty or not, rather it seeks to restore marred social harmony in the affected community.

The question of using *mato oput* for gross violations of human rights: The Kony’s Case . . . .

Not everybody welcomed these arrest warrants. On the one hand, proponents of prosecution argue that individuals who commit crimes against humanity should be punished for the sake of justice. They say that it would be unprincipled—as well a dangerous message worldwide—for the prosecutor to submit to the demands of armed thugs who have been maiming, raping and killing with impunity. On the other hand, opponents of prosecution argue that the ICC should give peace a chance, as it is more important to save civilians than to judge perpetrators . . . . This group prefers traditional justice to the ICC, and argues that modern justice will have a negative impact on the peace process in Northern Uganda . . . .

. . . one could ask if the *mato oput* is an attempt by Uganda to justify or disguise impunity? . . .
Is the *Mato opui* designed to generate more truth, more justice, reparations, and genuine institutional reform? If the objective is to evade the State and society's legal, ethical and political obligations to their people, it should be rejected . . . .

Suffice it to say that the paradox between peace and justice is an open question that we should all try to answer.
1. When the International Center for Transitional Justice (ICTJ) and the Human Rights Center at Berkeley conducted a survey at Internally Displaced Persons camps in northern Uganda, they found that 70% of the residents want perpetrators of human rights abuses to be held accountable for their crimes. What does it mean to hold individuals accountable for crimes they have committed? What are different ways that communities hold individuals responsible for their misdeeds? Under what conditions, if any, might it be possible for multiple systems—international, national, and traditional—to operate at the same time?

2. Joseph Yav Katshung describes two systems of justice: restorative and retributive. Which system do you believe is most appropriate to achieve justice in Northern Uganda? Is it possible to have a judicial system with both retributive and restorative qualities? What might this look like?

3. A report by two nonprofit groups in Uganda, the Refugee Law Project and the Human Rights and Peace Centre, is critical of the ICC’s role in Uganda. The authors explain:

   Whereas advocates of [ICC] prosecution like to present it as an absolute, the reality is that, like beauty, justice resides—at least in part—in the eye of the beholder, and what people understand by ‘justice’ differs widely . . . . In some Ugandan languages, there are no direct translations for the words “crime” or “punishments”. More readily translatable are the concepts of “wrong” and “righting a wrong”. In this world view, reparations figure large when it comes to righting a wrong; prosecutions do not.

To what extent do you agree with the idea that justice resides “in the eye of the beholder”? Are there any universal ideas about justice that transcend cultural differences and should always be upheld? If so, what are they? Who should be responsible for defining what justice is, and is not, for a community?

4. Michael Otim, director of the [Gulu NGO forum], believes that “truth-seeking” should be a central part of any plan aimed at achieving a sense of justice in Uganda. He writes:

   There is a growing feeling for most victims of the conflict that knowing the truth will help them understand the root causes of the conflict as essential to prevention of future conflicts, and for reconciliation. In a recent survey with 1,145 northern Ugandan displaced persons, a resounding 97 percent stated that they wanted the ‘truth’ about the conflict to be known.

Why do you think that finding and documenting the truth of what happened is so important to many victims? What might happen if the truth about crimes is silenced or denied? Who benefits when the truth about injustices, however painful, are brought to light?

5. The [Refugee Law Project], a nonprofit organization in Uganda that works with victims of the civil war, believes that the ICC’s arrest warrants should be lifted. In a 2006 report, they argued:

   By bringing pressure to bear on the LRA to talk peace, the ICC has served its purpose. . . . It is time to leave . . . . Withdrawal of indictments does not at this point imply ceding to impunity.
Rather it is recognition that . . . peace and justice often have to be sequenced.8

What do you think they mean by the phrase “peace and justice often have to be sequenced”? Which one should come first?

6. Fatou Bensouda, deputy prosecutor for the ICC, states: “I don’t think that there can be peace without justice. The mere fact that there is peace negotiated without justice sends the message that people can commit atrocities and then are not held accountable. There cannot be true reconciliation, I don’t think, unless the people who suffered are at least made to see that justice has been done for their suffering.” Is it possible to build and maintain peaceful communities when the perpetrators of horrible crimes have gone unpunished? Why or why not? If the ICC arrest warrants in Northern Uganda are withdrawn, what happens when the violence begins again?
LESSON IDEAS

Detailed descriptions of all teaching strategies referred to in this lesson idea can be found in the teaching strategies section of our website: www.facinghistory.org. For related Facing History resources, refer to www.facinghistory.org/reckoning.

1. Identity charts: This film illustrates that individuals have different definitions and ideas about justice. Where do our beliefs about justice come from? Jimmy Otim, a former child soldier, currently works as an outreach coordinator for the ICC. He is profiled in the film and in the document From Child Soldier to Peacemaker. Creating an identity chart for Jimmy can help students identify and organize the key factors about Jimmy’s background and experiences that have shaped his beliefs about justice. After sharing these identity charts, students can reflect on the factors that they think have been most significant in shaping Jimmy’s beliefs about justice. Then, students can create identity charts for themselves and reflect on how their own backgrounds and experiences have influenced their views on justice.

2. Visualizing the relationship between peace and justice: This film underscores the complicated relationship between peace and justice. Must justice be achieved before a society can be at peace? Or does establishing peace come before achieving justice? Some people phrase the relationship as justice vs. peace, while others think of the two concepts working in tandem. Often the arts help us clarify and express these complex ideas. Ask students to construct their definition of the relationship between peace and justice. They might develop a metaphor using words, or they could dramatize the relationship between peace and justice. Or students could express their metaphor visually through a drawing, a collage, or an image they find. After students complete their metaphor, they can write a statement explaining their work.

3. Discussing dilemmas: The establishment of the ICC has introduced many dilemmas—a choice between two or more equally valued options—for the international community. After watching this module, you can ask students to identify a dilemma raised in the film. (Note: Before asking this question, you might want to spend some time having students construct a working definition for “dilemma”.) One significant dilemma raised in this module pits restorative justice against retributive justice. Joseph Yav Katshung represents this dilemma in his article, Mato Oput versus the International Criminal Court in Uganda. After reading this article, students can consider these two conceptions of justice. The barometer teaching strategy can be used to frame this discussion. On one end of the continuum, you can post a sign reading: After genocide or crimes against humanity have occurred, retributive justice should be used: perpetrators should be tried and punished for their crimes. On the other end of the continuum, the sign can read: After genocide or crimes against humanity have occurred, restorative justice should be used: perpetrators should be forgiven, victims should be compensated, and reconciliation should be sought. Remind students that they do not need to stand at either end; standing closer to the middle represents the perspective that both elements of justice are needed, to a greater or lesser degree.

4. Journal writing: Facing History teachers have found that writing is an effective way to help students reflect on what they are learning. Any of the viewing guide questions can be used as prompts for a journal writing activity. You might allow students to respond to the question that
most interests them. For ideas on how to structure journal writing, refer to the teaching strategy “Journals in a Facing History Classroom” found on our website: www.facinghistory.org.

5. **Big Paper: Building a silent conversation**: One way to structure a conversation about the ideas in this module is to select questions from the Viewing Guide or from the Connections questions for the document From Child Soldier to Peacemaker and the document The Paradox of Peace and Justice and use these questions as the focus of a big paper activity. With this teaching strategy, pairs begin by responding to these questions in writing, and then the whole class has the opportunity to read the conversation and contribute their own comments and questions.
RELATED LINKS

Coalition for the International Criminal Court (www.iccnow.org)
This website contains background information as well as frequently updated press releases about developments in Uganda.

International Center for Transitional Justice (ICTJ) (www.ictj.org)
The International Center for Transitional Justice assists countries in pursuing accountability for past mass atrocity or human rights abuses. This page provides background information on issues of justice in Uganda and provides links to relevant publications and press releases.

The International Criminal Court (www.icc-cpi.int)
The International Criminal Court provides a well-organized page of common questions about the court with links to brief answers. This is an excellent resource to help students better understand how the court works.

Invisible Children (http://www.invisiblechildren.com)
Motivated by the conflict in Northern Uganda, Invisible Children was created by three young filmmakers with a mission to use the power of stories to change lives around the world. The Invisible Children website provides information about how the conflict in Uganda has affected the lives of children there and what can be done to improve their situation.

Refugee Law Project (www.refugeelawproject.org)
The Refugee Law Project, sponsored by the Faculty of Law at Makerere University, works on behalf of the legal rights of asylum seekers, refugees, and internally displaced persons living in Uganda.

The Times Online, June 2006. (www.timesonline.co.uk)
In this article, Sam Farmar shares information from his exclusive interview with LRA leader Joseph Kony.

IJCentral (www.ijcentral.org)
IJCentral is designed to be a resource for concerned citizens around the world who want an effective International Criminal Court. It posts updated news related to the ICC and international justice. People from around the world contribute to their blog. The site also posts an interview with ICC Prosecutor Luis Moreno-Ocampo where he speaks about the influence of the Nuremberg Trials on international law.


7. The Gulu NGO forum is a network of organizations that are working together to protect human rights and empower northern Ugandans to develop their communities in the wake of two decades of civil war [www.ugandafund.org/Empowering_Gulu_NGO.html](http://www.ugandafund.org/Empowering_Gulu_NGO.html).

VIEWING GUIDE

INTERNATIONAL LAW, TESTING THE LIMITS
THE ICC AND DARFUR
Ethnic groups living in Darfur, a territory in the southwest region of Sudan, have competed for essential resources (e.g., land and water) for centuries. These primarily agrarian tribes felt marginalized by the central government in Khartoum, especially since the military coup in 1989. This coup, led by Sudanese president Omar al-Bashir, favored Sudanese Arabs over Sudanese Africans and has ignored the basic needs of many of the people living in Darfur. This conflict reached a new level, however, when rebels representing the three main African ethnic groups in the region (Fur, Massalit, and Zaghawa) attacked a government air force base in 2003. Khartoum responded to the rebels’ attack by not only targeting members of the rebel groups but also by attacking Darfuris belonging to the tribes associated with the rebels (Fur, Massalit, and Zaghawa). International observers, journalists, and human rights organizations report that the Janjaweed and Sudan’s own army are responsible for horrific war crimes: the raping of women is widespread; innocent civilians, especially men, have been killed en masse; children have been kidnapped; wells have been poisoned and villages have been burned. (To learn more about the genocide in Darfur, see the [Darfur and Southern Sudan](http://www.enoughproject.org) page on the Enough Project’s website: [www.enoughproject.org](http://www.enoughproject.org).)

In recent years, charges of genocide have been leveled against the government of Sudan for violent attacks on Darfuris. In 2005, the United Nations Security Council asked the [International Criminal Court](http://www.icc-cpi.int) (ICC) to investigate these charges. The 13-minute film module [International Law, Testing the Limits: The ICC and Darfur](http://www.facinghistory.org/video/reckoningmodule3) tells the story of the ICC’s investigation in Darfur led by Luis Moreno-Ocampo, Prosecutor for the ICC.
The following questions can be used to facilitate large and small group discussions, prompt reflective writing, develop projects, and evaluate student understanding. For more ideas about how to use these questions to deepen students’ understanding of issues related to international justice, refer to the teaching strategies section of the Facing History website (www.facinghistory.org).

1. ICC Prosecutor Luis Moreno-Ocampo argues, “National sovereignty cannot be a limit to the international community’s duty to protect.” Do you agree with Moreno-Ocampo that the international community has a “duty to protect” victims of persecution, wherever they may live? Why or why not?

2. What is sovereignty? Why is it important for nations to have control over what happens within its borders? Under what conditions, if any, is it appropriate for the international community to intervene in a nation's affairs?

3. The ICC is the first permanent international criminal court. What can a permanent court achieve that a temporary court cannot? What does it mean for a court to be international? What is the purpose of a criminal court (as opposed to a civil court)?

4. Currently, the ICC can only prosecute three crimes: genocide, war crimes, and crimes against humanity. Why do you think that the nations that drafted the Rome Statute agreed that only these crimes should fall under the jurisdiction of the ICC? What qualities do these crimes share? What other crimes, if any, do you think should fall under the jurisdiction of the ICC?

5. During the Rome Conference in 1998, there was debate whether aggression—an unprovoked attack on another country—should be a crime that comes under the jurisdiction of the ICC. Representatives decided to renew this debate in 2010, when member states will meet for a conference to review the Rome Statute. What arguments should ICC member states consider when voting on this issue? Do you think that the ICC should be able to prosecute countries for “the crime of aggression”? Why or why not?


7. Several members of the United Nations Security Council, including China, the United States, and Russia, are not ICC members themselves. These countries could have blocked the referral to send the Darfur case to the ICC. Yet, no vetoes were issued. How do you explain this situation? Why do you think that some countries that have not joined the ICC still allowed its use in this case?

8. What do you learn from the film about the life of ICC prosecutor Luis Moreno-Ocampo? How do you think Moreno-Ocampo's past has shaped his views about justice? How have your experiences shaped your beliefs about justice?
9. What is the role of the Office of the Prosecutor? What steps does a prosecutor take when trying to bring a case to trial? What challenges has Prosecutor Luis Moreno-Ocampo confronted in his attempt to prosecute Sudanese officials for alleged crimes committed in Darfur?

10. How did the government of Sudan react to the arrest warrants for two of its citizens? What responsibility, if any, does the Sudanese government have to hand over its citizens to the ICC for prosecution? Should the ICC be able to force a country to turn over its citizens to The Hague?

11. Moreno-Ocampo describes the ICC as follows: “This is a court based on voluntary cooperation of sovereign states.” What does this mean? What challenges does the ICC face that a national legal system does not encounter? How can an international court balance the autonomy of individual nations and the capacity to bring perpetrators to justice?

12. A legal precedent is a principle established by a prior case or cases. What precedent is being set by the case against President al-Bashir? What does this case suggest about how leaders who commit crimes against their own citizens will be treated by the international community?

13. Sudan’s ambassador to the United Nations asserts that the actions of the ICC are “politically motivated.” What does this mean? For what other reasons, besides wanting to achieve justice, would a nation or the United Nations refer a case to the ICC? What can be done, if anything, to ensure that the ICC is used to prosecute wrongdoing and not for other purposes?

14. Moreno-Ocampo explains, “The law is not just for judges, prosecutors and criminals.” According to Moreno-Ocampo, who else is the law for? Who do you think laws are written for?

15. Does the ICC share any responsibility for the damage caused when the Sudanese government expelled humanitarian aid workers from Darfur following the ICC’s issuance of an arrest warrant for President al-Bashir? The Sudanese government claims that the ICC is threatening the peace process. Should the ICC lift arrest warrants if this is the only way that the government will negotiate peace deals or improve treatment of its citizens? Why or why not?

16. What message do you think the filmmakers are trying to express in this module? What leads you to this conclusion? What might be their motivation? If you were making a film about the ICC, how might it be different? What message might you want to express?

17. What other information would you need in order to have a better understanding of the ICC and how it works?
WHEN WOULD BE A BETTER TIME TO ARREST HARUN?:
ICC PROSECUTOR LUIS MORENO-OCAMPO’S SPEECH TO THE
UNITED NATIONS GENERAL ASSEMBLY

Of course it’s complex, but when you see entire villages raped and killed, wells poisoned and then filled with the bodies of its villagers, then all complexities disappear and it comes down to simply right and wrong. It’s not getting better. It’s getting much, much worse. And it is only the international community that can help us . . . . It is the first genocide of the 21st century. And if it continues unchecked it will not be the last.¹

—George Clooney, actor and activist, speaking to the United Nations Security Council on September 14, 2006

Ethnic groups living in Darfur, a territory in the southwest region of Sudan, have competed for essential resources (e.g., land and water) for centuries. These primarily agrarian tribes felt marginalized by the central government in Khartoum, especially since the military coup in 1989. This coup, led by Sudanese president Omar al-Bashir, favored Sudanese Arabs over Sudanese Africans and has ignored the basic needs of many of the people living in Darfur. However, this conflict reached a new level when rebels representing the three main African ethnic groups in the region (Fur, Massalit, and Zaghawa) attacked a government air force base in 2003. Khartoum responded to the rebels’ attack not only by targeting members of the rebel groups but also by attacking Darfuris belonging to the tribes associated with the rebels (Fur, Massalit, and Zaghawa). International observers, journalists, and human rights organizations report that the government-supported Janjaweed* and Sudan’s own army are responsible for horrific war crimes: the raping of women is widespread; innocent civilians, especially men, have been killed en masse; children have been kidnapped; wells have been poisoned and villages have been burned. In 2004, Colin Powell, United States Secretary of State at the time, said these acts amounted to genocide and called on the United Nations to launch an investigation into the Sudanese government’s involvement in these crimes.²

On March 31st, 2005, noting the violent events that were occurring unchecked in the region, the UN Security Council referred the situation in Darfur to the ICC. Luis Moreno-Ocampo, Prosecutor of the ICC, and his team spent two years investigating matters, gathering enough evidence to demonstrate that government officials have been directly involved in organizing attacks on Sudanese citizens living in Darfur. On May 7th, 2007, the prosecution issued arrest warrants against Ahmad Harun, the Minister of State for Humanitarian Affairs of Sudan, and Ali Kushayb, an alleged leader of the Janjaweed militia.

* The Janjaweed are government-supported militias, consisting mostly of Sudanese Arabs. Evidence connects the Janjaweed to widespread and repeated attacks against Darfuri civilians.
Six months later the government of Sudan still adamantly refused to hand over the indicted men to face trial in the Hague. While the ICC has no authority to make arrests, ICC member nations do have the power to arrest individuals indicted by the ICC. Harun and Kushayb have remained in Sudan where they are safe from arrest. When Moreno-Ocampo presented his semi-annual report to the UN Security Council in December 2007, he argued passionately that these men need to be arrested to protect the victims of violence in Darfur and to send a signal to the Sudanese government that their crimes would not be tolerated by the international community.
Statement of Luis Moreno-Ocampo, Prosecutor of the International Criminal Court, to the United Nations Security Council
December 5, 2007

Mr. President, Excellencies,

Thank you for the opportunity to brief the Council on the activities of my Office . . . . On 27 April, the Pre-Trial Chamber of the International Criminal Court issued arrest warrants against Ahmad Harun, former Minister of State for the Interior of the Sudan, and Ali Kushayb—a Militia/Janja-weed leader—who committed crimes against humanity and war crimes . . . . The Sudan, a member of the United Nations, has the legal obligation to cooperate to arrest and surrender Ahmad Harun and Ali Kushayb, and has the ability to do so.

I report today to the Security Council that the Government of the Sudan has not complied with its legal obligations . . . . Ahmad Harun and Ali Kushayb have not been arrested and surrendered . . . .

In Darfur today, in the few remaining villages, civilians are still being attacked and forced to flee . . . . In the camps, 2.5 million victims already displaced are subjected to persecution and abuses—sexual violence, illegal detentions, unlawful killings . . . . In the camps, 2.5 million victims are deliberately kept in a state of destitution. Obstacles to the delivery of aid are part of the pattern of attacks . . . .

The Sudan is not fulfilling its duty to protect its citizens, and is allowing members of the Government to attack them. As Minister of State for Humanitarian Affairs, Ahmad Harun, a man indicted by the International Criminal Court, shares responsibility for the safety and well-being of the displaced population. In reality, he joins in constant abuses against them . . . .

When will be a better time to arrest Harun? How many more women, girls, have to be raped? How many persons have to be killed? Must we really wait, again, for the destruction of entire communities? . . .

The only realist solution today is to request the removal and arrest of Harun as a first step to any solution. It will send a signal to the perpetrators of crimes in Darfur that the international community is not only watching, but will hold them accountable for their actions. You can make a difference; you can break the criminal system. What is at stake is, simply, the life or death of 2.5 million people.

Thank you.
1. Speaking about the challenges faced by the ICC, Luis Moreno-Ocampo explains:

   The most interesting part of this court is, normally, when you are a criminal prosecutor, you or a judge have the possibility to give instruction to the police. When I was prosecutor in Buenos Aires, I had 30,000 policemen who can follow my instructions. Here I have at least 102 states [in my] jurisdiction and zero policemen.¹

How does the fact that the ICC cannot make arrests influence the power of the court? Since the ICC cannot make arrests, who do you think should be responsible for carrying out the arrest warrants for Sudanese indicted for crimes against humanity and war crimes, including Harun, Kushayb, and, now, President al-Bashir? What are the implications if these men are never arrested?

2. In his book *Planethood*, Benjamin Ferencz, a legal scholar and Chief Prosecutor of Nazi criminals at the Nuremberg Tribunals, suggests that an “International Peace Force” should be established.² One of the responsibilities of this force would be to arrest perpetrators of crimes against humanity, genocide, and war crimes. What arguments can you provide to support the idea that the international community needs its own police organization to work with the ICC? What are reasons against establishing an international police force? Ultimately, would justice be better served with or without an international police force that could support the work of the ICC?

3. As Moreno-Ocampo mentions in his speech, the Sudanese government has consistently refused to cooperate with the ICC. For example, ICC prosecutors have not been permitted safe access to people and places within Sudan. Abdalmamood Mohamad, Sudan’s Ambassador to the United Nations, explains Sudan’s position on the ICC:

   This issue to the ICC has been . . . very much politically motivated. The judiciary in Sudan is very well known for its integrity and competence, and we think that it is within the competence of our system that we will prosecute whoever is committing crimes in Darfur . . . . The irony of the situation is that the ICC has never visited Darfur. The evidence was gathered from people outside Sudan. So, we question the credibility of the ICC. As far as Harun and Kushayb are concerned, we are in no way going to hand over any of our citizens to the ICC . . . . The government [has the] authority to protect its own citizens.³

How does the ambassador justify Sudan’s refusal to cooperate with the ICC? What does this statement reveal about the challenges faced by the ICC as it tries to investigate and prosecute crimes in regions hostile to their work? How might the ICC respond to these obstacles?

4. Given that the United Nations Security Council asked the ICC to investigate alleged crimes committed in Darfur, what responsibility does the United Nations have to support this investigation? Should the United Nations pressure Sudan to cooperate more fully? If so, how? What should the United Nations do if Sudan insists on blocking the arrest of these men?
TO ARREST OR NOT TO ARREST: REACTIONS TO THE ICC’S ARREST WARRANT FOR PRESIDENT AL-BASHIR

Part 1: Chis Waluk, “Can the ICC Save Darfur?”

The arrest warrant issued on March 4th, 2009 against Sudan’s president, Omar al-Bashir, represents the first time a sitting head of state has been indicted by the International Criminal Court (ICC). A day after the warrant was issued, Bashir reacted by expelling and disbanding aid organizations that provided at least half of the humanitarian assistance received in the Darfur region. This decision, on top of that of the indictment, has attracted international attention, and people from around the world—students, activists, and concerned citizens—closely follow news that comes out of Sudan. Among those interested people is Chris Waluk, a teacher from North Carolina. On March 6, 2009, two days after the ICC issued the arrest warrant for Bashir, he wrote a blog post titled, “Can the ICC Save Darfur?” He worries that the arrest warrant might cause more harm than good:

**Chris Waluk’s Blog, March 2009: Can the ICC Save Darfur?**

On Wednesday, the ICC issued a warrant for the arrest of Sudanese president Bashir . . . . This is the first warrant for a head of state issued by the ICC since it’s creation in 2002 . . . . Clearly Bashir is directly responsible for supporting the Janjaweed tribes responsible for all the death and rape in Darfur over the last 5 years. Over 300,000 people have died and the Western world is struggling to find any notion of a solution. . . . Finally, after years of deliberation, a case was brought before the ICC and a warrant was handed down for the arrest of Sudan’s president. Justice.

Well, it’s only been a few days and we are already seeing several predictable problems emerging. The most obvious being that it will be impossible to capture Bashir. The UN peacekeeping force already said they would not do the job, and I’m not sure who else the ICC could send. To go into Khartoum and arrest the guy would require a large scale military operation resulting in thousands of casualties, with a limited possibility of success. It’ll never happen. But just for the sake of argument, let’s say they were actually able to capture Bashir. Would that help Sudan? . . . Bashir is very popular amongst the Arab majority of Sudan, and you can’t just rob a country of their president without a significant backlash from his supporters. This might in fact be the worse scenario for Darfur . . . . The simple truth is that the ICC will not be able to capture Bashir. In retaliation for the warrant, Bashir has already removed 13 aid organizations from Darfur . . . . If things were bad before, I’m deathly afraid that it could get much worse.

So without justice, how do we find peace? I firmly believe that the answer lies in the freedom of the press. The overwhelming majority of people who suffer from human rights violations live in countries who deny freedom of speech. Only when lines of communication are opened can
equality be attained . . . . The power of the open media is a powerful deterrent to those who burn down villages and rape women. People only commit these atrocities when they know they are not being watched. Instead of demanding justice, what the West needs to demand is openness. That is the pathway to lasting peace.

Unfortunately, what is left of Darfur is a group of people without modern weaponry, without media, and without doctors, waiting to defend themselves against radical militias who wish to destroy them completely. My prayers go out to them, and I truly hope that the ICC is right and that I am the one who is wrong.
Part 2: Rebecca Hamilton, “Do Sudanese Think Their President Should Be Arrested?”

Many Sudanese, especially Darfuris living in displaced persons camps, do not feel safe speaking openly to the media. Therefore, it is difficult to gain access to Darfuris’ views about the ICC. Rebecca Hamilton, a lawyer and an international justice activist, has spent significant time in Sudan. Her account gives us access to how Sudanese, especially Darfuris, have reacted to news that the ICC has issued an arrest warrant for President al-Bashir.

Rebecca Hamilton’s Journal, August 2009:
Do Sudanese Think Their President Should Be Arrested?

I traveled to the refugee camps on the Chad-Darfur border shortly after July 14, 2008 when Luis Moreno-Ocampo, the ICC Prosecutor and my boss at the time, filed his application for the arrest of Sudanese President Omar al-Bashir. For the security of both myself and the people I spoke with, I did not reveal that I was working for the ICC. And despite my curiosity about what refugees thought about the ICC, I decided not to ask them questions about it. As it turned out, I did not have to. There was not one single camp I went to where the ICC was not the first, and in some cases only, topic the refugees wanted to discuss.

Darfuri refugees living in the IDP camp I visited expressed happiness when thinking that President al-Bashir might be brought to justice. Amira told me about the night she found out the ICC Prosecutor was applying to have Bashir arrested: We heard the news in the middle of the night. When I heard it I ran to my neighbors’ and we started shouting and laughing . . . . The first thought that came to me was, “Now there is peace.” But later I found out that there is going to be a delay. To those people who are saying that there should be a delay to give peace a chance I say no—a delay will give him [Bashir] a chance to kill more people.

Seven months later, the ICC judges did issue an arrest warrant for Bashir. I left the ICC just before the announcement was made and so was free to travel to Sudan and listen to what the people there, including those displaced inside Darfur, had to say. In the aftermath of the warrant being issued, President al-Bashir expelled 13 of the international aid organizations, and disbanded the three best domestic organizations that had been working in Darfur. The impact on the displaced population was significant, and I went to Darfur expecting those displaced by the violence to blame the ICC for threatening their already perilous existence. Amazingly, this seemed not to be the case.

* Rebecca (Bec) Hamilton’s blog “The Promise of Engagement” (www.bechamilton.com) focuses on civic advocacy and government policies related to stopping the genocide in Darfur and alleviating suffering in the region.
One group of Omdas (leaders) told me that before the arrest warrant was issued, they believed the ICC was “the” solution to their problems. They thought that as soon as there was a warrant, al-Bashir would be taken to The Hague. Now, they say, it is clear that this is not the case. But they still hope he will be arrested in time. One woman in Kalma camp put it this way: *We would love to see Bashir arrested because he is the cause of our suffering. All this camp, we are fully supportive of the ICC decision. It is my only hope—to wake up one day and find he has been arrested. Our frustration is that we see he is still in power. There is no one arresting him.*

However, many of the Sudanese citizens I have spoken with in the capital, Khartoum, do not look at this in the same ways as the refugees or displaced. Rather, they see the application to arrest Bashir as an affront to Sudanese sovereignty (and there are billboards plastered all across the city that reinforce this message).

As criticism and concerns over the arrest warrant has mounted, others have stepped in to support the ICC’s decisions. Notably, nearly 4 months after the ICC issued the arrest warrant for Bashir, prominent peace activists and African leaders, including Nobel Peace Prize Laureates Wangari Maathai and Archbishop Desmond Tutu, issued a statement which highlights the potential of the ICC to have a positive role in securing peace and justice in Sudan.

**African Civic Leaders Statement on the Situation in Sudan (June 25, 2009)**

We, the undersigned, are deeply concerned by the ongoing violence, displacement and repression in Sudan. We seek to urge the international community—including Sudan’s neighbors and friends and, in particular, the leaders and peoples of Africa—to support the search for credible justice and accountability in Sudan and the International Criminal Court’s role in promoting these.

We view the need for justice and accountability for the peoples of Sudan, in addition to adequate humanitarian assistance and physical protection, as vital to any durable peace, and support the role of the ICC in achieving these objectives. We are hopeful that this work will help break the cycles of violence and the culture of silence in the Darfur region and throughout Sudan.

We are convinced that the ICC can be one effective vehicle, alongside national and regional mechanisms, for achieving justice for the gross violations committed by all sides in the conflict in Darfur. The people of Darfur deserve more than negotiating warlords forgiving each other for the violence—including brutal sexual violence—they have perpetrated primarily against women, children and other non-combatants. There can be no real peace without justice and security.

The people of Darfur have clearly vocalized a desire for justice and accountability. The ICC has the potential to help break the cycle of death and devastation caused by years of violent conflict and abuses of power.

We are deeply disheartened by the response of the government of Sudan to the ICC’s decision on March 4, 2009 to issue an arrest warrant for President Omar Al-Bashir. By expelling and restricting humanitarian NGOs and relief workers in the desperate Darfur region, the government of Sudan further endangers the estimated 4.7 million people in the region who rely on food, medical and water aid. The expelled organizations were responsible for some 50 percent

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* For a deeper understanding of reservations about the ICC’s decision to issue an arrest warrant for President Al-Bashir, we suggest reading the work of two prominent scholars and human rights activists: Alex de Waal [www.blogs.ssrc.org/darfur/category/darfur](http://www.blogs.ssrc.org/darfur/category/darfur) and Eric Reev [www.sudanreeves.org](http://www.sudanreeves.org).
of this aid. The Sudanese government has an obligation to ensure that the needs of its people are met and to that end must either allow these organizations back into the region, or ensure that alternative and equally capable delivery mechanisms are promptly deployed without further delay . . . .

We believe that progress in the peace talks must happen in tandem with the ICC’s work for justice and cooperation by all in restoring the capabilities of Sudan’s institutions to ensure accountability for crimes. We call on the friends of Sudan to join in supporting the independence of the ICC and the ICC’s work for justice and peace in Sudan.
1. Chris Waluk and Rebecca Hamilton represent millions of people around the world who have followed events in Sudan and taken action to stop the violence in Darfur. What factors motivate individuals to get involved in stopping and preventing injustice, even when it is happening halfway around the world? What responsibility do individuals have to prevent violence and injustice wherever it occurs? Do all people share the same level of responsibility, or do some people (those who are geographically closer to events, those who have more power, those who belong to the same cultural, gender, or religious affiliations) have a greater responsibility to protect those in harm’s way? What is an appropriate role for citizen-activists like Rebecca Hamilton and Chris Waluk?

2. A Sudanese blogger living in Britain posted this comment immediately after the ICC issued the arrest warrant for President al-Bashir:

   What about the millions of Sudanese citizens that have clearly demonstrated their opposition to your request to arrest our president? Is it justice when an outsider intervenes in my country’s affairs? Whatever happened to democracy?

   How would Bec Hamilton or Luis Moreno-Ocampo respond to this argument? Under what conditions, if any, is it appropriate for the international community to intervene in a country’s affairs to protect a vulnerable minority?

3. In their official statement, African leaders and peace activists wrote, “There can be no real peace without justice and security.” What do you think “real peace” means? Why do many people, including the Nobel Peace Prize winners who signed this statement, believe that creating peaceful societies requires justice and security? Is it possible to have “real peace” in a community where wrongdoers go unpunished? Why or why not?

4. Chris Waluk asserts that the people of Darfur will find peace not through justice but through “freedom of the press.” To what extent do you agree or disagree with Waluk’s argument? In what ways might greater freedom of speech and access to media help end violence against the people of Darfur?

5. Benjamin Ferencz, Chief Prosecutor at the Nuremberg Trials following World War II, was responsible for bringing top Nazi officials to justice. In a 1998 speech, Ferencz commented on the importance of international justice as a tool for the prevention of crimes against humanity:

   The certainty of punishment can be a powerful deterrent. To condemn crime yet provide no institution able to convict the guilty is to mock the victims and encourage dangerous unrest. International law must prevail over international crime. One thing is sure—without clear international laws, courts and effective enforcement there can be no deterrence, no justice and no world peace.

   According to Ferencz, what are the implications if President al-Bashir (and other Sudanese leaders) do not face any punishment for the crimes they have committed against innocent women, children, and men? Besides the possibility of being punished in a court of law, what other ways can be used to deter
people from committing crimes?

6. What does this situation in Sudan suggest about the purpose of the ICC? Who benefits from having an international criminal court that has the power to issue arrest warrants for leaders accused of harming their own citizens? What are the drawbacks or costs associated with the ICC? Who bears the brunt of these costs?
Detailed descriptions of all teaching strategies referred to in this lesson idea can be found in the teaching strategies section of our website: www.facinghistory.org. For related Facing History resources, refer to www.facinghistory.org/reckoning.

1. **“How does the ICC work?” flow chart**: By showing ICC lawyers collecting evidence and building a case, this module helps demystify the workings of the ICC. To help students visualize the many steps involved in getting a case heard by the ICC, you could have students, possibly working in small groups, create a [flow chart] where they map out this process. Some steps that should be represented on these charts include the following: case gets referred to the court, prosecutor accepts case, prosecutorial team gathers evidence, etc. After students have completed their flow charts, they can discuss the challenges the ICC faces at various points. For example, in the case of Darfur, ICC investigators were not allowed into the country to gather evidence.

2. **Reading documents**: We have selected two documents to supplement the information in this module: *When Would Be a Better Time to Arrest Harun?* includes ICC Prosecutor Luis Moreno-Ocampo’s speech before the United Nations Security Council in 2005, and *To arrest or not to arrest* presents three different responses to the ICC’s arrest warrant for Sudanese President al-Bashir. Reading these documents provides students with different perspectives and facts than those included in the module. One way to help students identify important and interesting information in these documents is to use a strategy called 3-2-1. 3-2-1 responses can be used to guide small or large group discussions.

3. **Discussing dilemmas**: The establishment of the ICC has introduced many dilemmas—between two or more equally valued options—for the international community. After watching this module, you can ask students to identify a dilemma raised in the film. (Note: Before asking this question, you might want to spend some time having students construct a working definition for “dilemma”.) One significant dilemma raised in this module pits immunity for perpetrators of crimes against humanity against the humanitarian needs of the victims of these abuses. The document *To Arrest or Not to Arrest* addresses the different sides of this dilemma through three separate readings: a citizen-activist blog entry, a journal entry from a human rights lawyer working in Darfur, and a statement by African leaders. One way to familiarize the class with all three perspectives is to use the [jigsaw] teaching strategy. After meeting in “expert” groups, students can answer the questions, “What are the responses to the ICC’s arrest warrant for President Bashir? What are the risks or costs of Moreno-Ocampo’s decision to pursue the arrest of President Bashir? What are the potential benefits of this decision?” After students in mixed groups share key ideas from their reading, students can synthesize the information they have learned to answer the question, “Weighing these risks and potential benefits, what do you think about the ICC’s role in Darfur?” They can also discuss what else they would want to know, what perspectives they have not heard, and where they might find this information. This process can help students recognize the importance of gathering information from multiple sources when forming opinions.

4. **Journal writing**: Facing History teachers have found that writing is an effective way to help students reflect on what they are learning. Any of the viewing guide questions can be used as
prompts for a journal writing activity. You might allow students to respond to the question that most interests them. For ideas on how to structure journal writing, refer to the teaching strategy, "Journals in a Facing History Classroom" found on our website: www.facinghistory.org.

5. **Big paper: Building a silent conversation.** One way to structure a conversation about the ideas in this module is to select questions from the viewing guide or from the Connections questions for the document *When Would Be a Better Time to Arrest Harun?* and the document *To Arrest or Not to Arrest* and use these questions as the focus of a big paper activity. With this teaching strategy, pairs begin by responding to these questions in writing, and then the whole class has the opportunity to read the conversation and contribute their own comments and questions.
**RELATED LINKS**

*Human Rights Watch, March 2009 ([www.hrw.org](http://www.hrw.org))*
This report provides counter-arguments to criticism about the ICC’s role in Sudan.

*International Federation of Human Rights ([http://www.fidh.org](http://www.fidh.org))*
This Q&A report from the Coalition for the ICC and the International Federation for Human Rights takes a critical approach to the Court’s intervention in Sudan and provides all-inclusive answers to issues regarding President al-Bashir, the genocide, and the process of carrying out an arrest from the search warrant.

*The International Criminal Court ([www.icc-cpi.int](http://www.icc-cpi.int))*
The International Criminal Court provides a well-organized page of common questions about the court with links to brief answers. This is an excellent resource to help students better understand how the court works.

Students can listen to or read this article about the ICC’s arrest warrant for Sudan’s president, Omar al-Bashir. [March 2009]

This slideshow “Fears of More Misery in Darfur” reveals how Sudan’s expulsion of humanitarian aid groups puts the lives of millions of displaced people at risk.

*Social Science Research Council, 2009 ([www.ssrc.org](http://www.ssrc.org))*
This blog provides links to commentary by scholars and other experts who are critical of the ICC’s role in Sudan.

*IJCentral ([www.ijcentral.org](http://www.ijcentral.org))*
IJCentral is designed to be a resource for concerned citizens around the world who want an effective International Criminal Court. It posts updated news related to the ICC and international justice. People from around the world contribute to their blog. The site also posts an interview with ICC Prosecutor Luis Moreno-Ocampo where he speaks about the influence of the Nuremberg Trials on international law.


3. Ocampo interview (house interview), The Reckoning, DVD, directed by Paul McGuigan (Skylight Pictures, 2009).


5. Abdalmamood Mohamad interview, Darfur Now, DVD, directed by Ted Braun (Crescendo Productions, 2007).


LESSON IDEAS
Detailed descriptions of all teaching strategies referred to in this lesson idea can be found in the teaching strategies section of our website: www.facinghistory.org. For related Facing History resources, refer to www.facinghistory.org/reckoning.

OVERVIEW
Facing History and Ourselves has partnered with Skylight Pictures, the producers of the film *The Reckoning: The Battle for the International Criminal Court*. This film traces the development of the first permanent international criminal court and explores some of the successes and challenges this new court has faced since its establishment in 2002. To make this feature-length documentary more accessible for classroom use, the filmmakers have collaborated with a team at Facing History to create three short video modules—each one focusing on an important aspect of global justice. We have developed lesson ideas to go with each of these modules, as well as a lesson idea aimed at preparing students to watch these materials. The purpose of this lesson idea is to provide ideas for what students might do after viewing the film. Many of these suggestions could be used to assess students’ understanding of the material explored in the film.

SUGGESTED ACTIVITIES
(Note: Detailed descriptions of all teaching strategies referred to in this lesson idea can be found in the teaching strategies section of our website: www.facinghistory.org.)

- **Essay assignment**: Any of the viewing guide questions or connections questions following the documents could be used as a prompt for an essay or journal assignment. Students are often more engaged in their writing when they have the opportunity to select their topic. So you might allow students to choose the questions to which they respond. Students might also be inspired to write their own essay prompt.

- **Inform others about the ICC**: Many people are not familiar with the ICC. Students, working in pairs or small groups, can design a poster or pamphlet informing others (i.e., students, parents, community members, etc.) about the ICC. This project requires students to identify the most important information about the court. You might require them to use quotations from the film or the documents as well.

- **Letter writing**: Students could write a letter to someone profiled in the film, such as Jimmy Otim, Luis Moreno-Ocampo, Ben Ferencz, or John Bolton. In this letter, students could share areas of agreement and disagreement, as well as ask questions they hope this person would answer. Mailing the letter should not be a requirement for this assignment.

- **Exit card**: A quick way to get a sense of what students have taken away from a lesson or a text. Exit card prompts you might use (depending on your purpose) include: 1) what questions do you have at the end of this lesson? 2) what are three things you have learned about the ICC?; 3) what is the purpose of the ICC?; 4) what challenges does it face in accomplishing its goals?; and 5) what do you think can help societies achieve justice after horrible crimes have been committed?
• **Toolbox for justice:** Students can create a toolbox—a list of strategies, policies, institutions, and/or ideas—which can be used to help societies achieve justice after crimes have been committed. Toolboxes can be 3-dimensional or can be presented as a list. Additionally, some teachers limit the amount of tools students can include in their toolboxes. Facing History's online module [Transitional Justice: Reconstructing Self and Society](https://www.facinghistory.org/transitional-justice) is a useful resource for students to refer to as they do this project.

• **Getting your voice heard:** After learning about different perspectives on the ICC and studying the opportunities and risks associated with this new court, students may have developed ideas about the ICC that they would like to share with others. You can have the class brainstorm how people get their voices heard on issues they care about. For example, many people, including scholars, activists, and informed citizens, are using blogs as a way to share information and express opinions about the ICC. Students might read and post a comment on a blog that discusses international justice issues such as: [http://ijcentral.org/blog/](http://ijcentral.org/blog/), [http://iccnow.org/blog/](http://iccnow.org/blog/), [http://blogs.ssrc.org/](http://blogs.ssrc.org/).

• **Justice in your school:** After viewing these film modules, students might be inspired to learn more about justice in their schools. The first step might be having students do some research about the justice system in place at their school. Once students are informed about existing structures, they can analyze the effectiveness of the system. If they determine that there are major flaws in the system, or that there is no formal system in place, students might want to help establish or improve a system of justice. Like the conveners of the Rome Conference, students can organize a conference where students and teachers meet to draft a “constitution” for a school-based justice system.

• **Current events:** Every day the media covers stories about the ICC or situations related to international justice. You might ask students to follow the news for a week to find a story that is relevant to the material they just explored. At the end of the week, students can share the stories that they found. This activity helps students see the relevance of the material they are studying to events that are happening around the world right now. Note: [Facing Today](https://www.facinghistory.org/facing-today) is a space on Facing History’s website where we post current events related to our themes, including justice, genocide, and human rights.

• **Research project:** These films provide an excellent springboard for research projects about international law, alternative forms of justice, human rights, child soldiers, and many other issues and specific histories (Uganda, Sudan, Nuremberg, etc.). Students might begin by listing the questions that the film raises for them. Then they can select one of these questions as the focus of a research project. The related links sections can be a useful starting point for students as they begin their research projects. Students can share their research at a class or school symposium on international justice and/or human rights.
This glossary has been compiled as a companion to the film *The Reckoning: The Battle for the International Criminal Court*.

### Using this Glossary

Facing History and Ourselves believes that definitions are "works-in-progress." Our understanding of ideas is continually refined as we learn new information, often in collaboration with others. As we study the past and reflect on experiences in the present, we encourage students to construct their own meaning of important concepts. The "working definitions" provided in this glossary reflect how students might begin to define key terms they will encounter as they study international justice. For ways you can help students develop their vocabulary, refer to "Developing vocabulary in a Facing History classroom" (found in the teaching strategy section of our website: [www.facinghistory.org](http://www.facinghistory.org)).

#### Accountability
To accept responsibility for one's actions.

#### Acholi
An ethnic group that mostly resides in northern Uganda and southern Sudan. Due to the activities of the [Lord’s Resistance Army](http://www.facinghistory.org), large numbers of Acholi reside in camps as **internally displaced people**.

#### Amnesty
To overlook a past offense is to grant amnesty. Governments can grant amnesty to individuals or groups for crimes or wrongdoing, which typically means the perpetrators can return to the community without punishment.

#### Arraignment
The formal reading of criminal charges against a person, often in front of the accused.

#### Arrest warrant
An authorization to arrest a person accused of a crime and bring an individual to court.

#### Benjamin Ferencz
At 27, Ferencz became the Chief Prosecutor for the United States in the Einsatzgruppen Case. This case tried 22 Nazi criminals for murdering over one million people. All the defendants were convicted. Since then, Ferencz has spent his life using the law as a means to prevent genocide and other atrocities.

#### Child soldier
A child who has been forced to commit acts of violence for a particular military group. The children are generally recruited or kidnapped by armed force and threatened with violence if they do not comply.

#### Civil society
A segment of a society, community, or nation that is made up of organizations that are independent of the government and business interests, including religious organizations and nongovernmental organizations (NGOs).
**Complementarity**: “The principle articulated in Article 17 of the Rome Statute of the International Criminal Court that investigations and prosecutions should occur at a national level, rather than before the ICC, unless national authorities are genuinely unwilling or unable to do so.” (BBC World Service glossary)

**Crimes against humanity**: According to the Rome Statute, the term “crimes against humanity” refers to any acts committed as part of a widespread or systemic attack directed against any civilian population, with knowledge of the attack.

**Criminal liability**: A legal term that refers to one’s responsibility for wrongdoing, usually meaning that someone will be or could be prosecuted in court for committing a crime.

**Deterrent**: As a legal term, a “deterrent” refers to something that discourages a person, group, or nation from committing a crime. Supporters of the ICC claim that having an international criminal court acts as a deterrent because potential perpetrators know that they can be caught and punished for their offenses.

**Diplomacy**: The practice of handling affairs between nations, including conducting negotiations or mediating disputes.

**Due process**: Respect for the rights of a person under the law, due process is a practice that ensures that people get treated fairly by the judicial system. Such rights vary depending on the government but often include the right to a lawyer, the right to an impartial judge, and the right to appeal.

**Exceptionalism**: The theory or belief that something, especially a nation, does not conform to a pattern or norm and therefore has the right to behave in unilateral ways.

**Extradite**: Term used when a government surrenders one of its citizens to the legal authority of another government.

**Genocide**: According to the Rome Statute, genocide means any acts committed with the intent to destroy an ethnic, racial, national, or religious group.

**The Hague**: A city in the Netherlands that is the location of the International Criminal Court. Other international justice agencies, such as the International Court of Justice, are also located in The Hague.

**Human rights commission**: A body created with the purpose of examining and protecting the basic rights and freedoms to which all individuals are entitled. Human rights commissions are often established after a period of human rights violations to both document the abuses and to alleviate suffering for the victims.

**Humanitarian**: A person or organization that works to promote human welfare, including the provision of basic needs such as access to clean water, food, shelter, and basic medical care.

**Immunity**: Safety from being put on trial or being penalized for one's actions.

**Impunity**: When someone is not punished for a crime committed.
**Indictment**: A formal legal document charging a person with a criminal offense. Someone who is indicted has been charged with a crime.

**Internally displaced persons camp (IDP camp)**: Camps which house people who have been forced to flee their homes due to violence or natural disaster. Similar to refugee camps, except that internally displaced people remain in their country of residency, while refugees seek safe haven in a different country.

**International Criminal Court**: The International Criminal Court is a permanent, independent judicial body established in 2002. The court prosecutes individuals for crimes against humanity, war crimes, and genocide. It is headquartered in The Hague, The Netherlands.

**Junta**: A junta is a group, often military in nature, that seizes power after a revolution. In Argentina, a junta controlled the government from 1976 to 1983 and was responsible for state-sponsored violence against its own citizens.

**Jurisdiction**: The area or categories over which a state or an organization can govern or apply the law. As of 2009, the jurisdiction of the ICC is limited to crimes that have taken place since July 1, 2002. The only crimes that can be prosecuted by the ICC are crimes against humanity, war crimes, and genocide. The ICC can only investigate crimes committed by citizens of member states, crimes referred to it by a member state, or crimes referred to by the United Nations Security Council.

**Killing field**: An area where many people have died, usually by massacre or genocide during war or violent civil disturbance.

**NGO** (Non-Governmental Organization): Any nonprofit group that functions independently of government is referred to as an NGO.

**Nuremberg Trials/Nuremberg Tribunal**: An international court set up after World War II to try Nazi war criminals, named for the city in Germany where the trials took place. The proceedings were divided into two stages: The International Military Tribunal (IMT) prosecuted 24 high-ranking Nazi leaders. Following the IMT, the United States, with the approval of other nations, prosecuted other Nazi criminals at trials also held in Nuremberg.

**Paramilitary**: Civilians organized into a military force. In the case of Colombia, the Revolutionary Armed Forces of Colombia (FARC) is a paramilitary group that has been fighting the government's army for several decades, resulting in a drawn-out civil war that has cost Colombian lives and resources.

**Penal**: Pertaining to the punishment of crimes, often by a legal action.

**Perpetrator**: Someone who commits crimes and other acts of wrongdoing.

**Prosecute/Prosecutor/The Office of the Prosecutor**: To prosecute is to bring legal charges against a person. The Office of the Prosecutor includes investigators, who determine if there is sufficient evidence to change someone with a crime, and lawyers, who bring the case to trial. At the International Criminal Court, the prosecutor is the person who decides if the ICC can take a case. If so, the prosecu-
tor leads the legal investigation of this case. If sufficient evidence is found, the prosecutor asks the judges to issue a formal indictment.

**Ratify**: To formally approve a treaty or statute, usually by a government. In the United States, the Senate has the authority to ratify an international treaty by a majority vote. As of October 2009, 110 nations had ratified the Rome Statute, making them members of the International Criminal Court.

**Reconciliation**: The act of resolving conflict to restore peace and harmony to a relationship, community, or nation.

**Reparations**: Compensation (given or received) for harm, loss, or suffering.

**Restorative justice**: A theory of justice focused on repairing damage and restoring relationships. Those who practice restorative justice believe that perpetrators should work to repair the harm they have caused, often by paying reparations (e.g., giving money to the victims) or providing a service (e.g., rebuilding homes). Truth-telling and reconciliation are typically part of the restorative justice process.

**Retributive justice**: A theory of justice focused on punishment. Those who practice retributive justice believe that perpetrators should suffer to make up for the crimes they have committed.

**Rome Conference**: The 1998 conference at which representatives from 140 nations drafted the Rome Statute, the founding document of the International Criminal Court.

**Sovereignty**: Freedom from external control, usually referring to a nation or state being able to control its own affairs. National governments claim to have sovereignty—the authority to create and enforce laws—within their own borders without foreign interference.

**Statute**: In terms of international law, a written document that establishes a new agency, such as the Rome Statute which established the International Criminal Court. A statute defines the purpose and limitations of this new agency. (Statute can also refer to a law passed by the legislative branch of a government.)

**Summary execution**: Term used when a person is killed for a crime without first receiving a trial to prove guilt.

**Transitional justice**: Transitional justice refers to a process that helps communities (neighborhoods, regions, nations, etc.) move out of a period of conflict marked by human rights abuses and/or civil war. This process might include criminal prosecutions, truth commissions, and reparations.

**Tribunal**: In international law, a temporary court, established to inquire into a specific matter. International criminal war crimes tribunals that have been established include the Nuremberg Trials (the International Military Tribunal at Nuremberg), the International Criminal Tribunal for the Former Yugoslavia, and the International Criminal Tribunal for Rwanda.

**Truth commission**: A temporary body established to investigate and reveal a past history of human rights abuses.
**United Nations** (UN): An international organization established in 1945 that aims to maintain peace throughout the world.

**United Nations Security Council**: One of the main branches of the United Nations, the United Nations Security Council is responsible for the maintenance of international peace and security. There are 15 members of the Security Council, five permanent and ten rotating. The permanent members are the United States, Russia, France, the United Kingdom, and China. The United Nations Security Council can refer cases to the ICC for investigation.

**War crimes**: Violations of the rules of war as defined by the Geneva Convention. These could include torture, taking of hostages, committing any form of sexual violence, and excessive brutality.
**DESCRIPTIONS OF KEY GROUPS AND INDIVIDUALS PROFILED IN THE RECKONING**

**FARC** (Fuerzas Armadas Revolucionarias de Colombia, or the Revolutionary Armed Forces of Colombia): Established in 1964 as the military wing of the Colombian Communist Party, FARC is financed by extortion, kidnapping, and the cocaine trade. It claims to represent the rural poor in a struggle against Colombia’s wealthier classes. It is considered a terrorist group by the Colombian government, the United States, Canada, and the European Union.

**General Joseph Kony**: Kony is the head of the **Lord’s Resistance Army** (LRA), a guerilla group opposed to the Uganda government. In 2005, an arrest warrant from the [International Criminal Court](https://www.icc-cpi.int) was issued against him on 12 counts of crimes against humanity and 21 counts of war crimes.

**John Bolton**: United States ambassador to the United Nations under former President George W. Bush. He opposed support of the [International Criminal Court](https://www.icc-cpi.int) on the part of the United States.

**Lord’s Resistance Army (LRA)**: A rebel group opposing the Uganda government, led by Joseph Kony. The LRA is accused of perpetrating atrocities, including the abduction of child soldiers and displacing at least a million people in northern Uganda. The LRA states that it is fighting on behalf of the Acholi people, yet the Acholi are also the victims of its actions.

**Luis Moreno-Ocampo**: The chief prosecutor of the [International Criminal Court](https://www.icc-cpi.int).

**President Omar al-Bashir**: Sudan's president, who took power in a bloodless military coup in 1989. The [International Criminal Court](https://www.icc-cpi.int) has an outstanding arrest warrant for President al-Bashir that includes five counts of crimes against humanity and two counts of war crimes for his violence against Sudanese citizens living in the Darfur region of Sudan.

**Mato oput**: Meaning “to drink the bitter root,” mato oput is a traditional Acholi justice practice used to restore peace to the community after an accidental or intentional murder. After the perpetrator accepts responsibility for the crime and the victim's family has granted forgiveness, a special ceremony is performed. The perpetrator and the victim's family drink mato oput—a bitter drink—out of a shared bowl. This act symbolizes the reconciliation of the families as they bury the bitterness of the past.

**Thomas Lubanga Dyilo**: A former rebel leader and founder of the Union of Congolese Patriots in the Democratic Republic of the Congo. In 2006, Lubanga became the first person ever arrested under a warrant issued by the [International Criminal Court](https://www.icc-cpi.int) for human rights violations, including the conscription of child soldiers.
1899: Representatives of 26 nations met for the International Peace Conference where they drafted the Convention with Respect to the Laws and Customs of War on Land, one of the first formal statements of international laws related to war and war crimes.

1918: World War I ends. An international trial for perpetrators of the Armenian genocide was considered but was never carried out due to the perceived difficulty of the task.

1933: In Madrid, the League of Nations meets to draw up agreements that would define international crimes. Raphael Lemkin urges international leaders to make a law against the destruction of religious and ethnic groups, but his pleas are ignored.

1945: World War II ends. Nazi criminals are prosecuted at the Nuremberg Tribunal, the first international trial ever held to prosecute war crimes and crimes against humanity. The United Nations is established, demonstrating the desire for international coordination to secure peace and prosperity throughout the world.


1950: The Geneva Conventions, international treaties that limit the barbarity of war, by offering legal protection for wounded soldiers, prisoners of war and civilians, are updated and entered into force.

1950–1992 Although war crimes and crimes against humanity continue, in places such as Cambodia and Chile, the international community does not come together to prosecute these crimes, and many of the organizers of mass murder go unpunished.

1992: A civil war begins in Yugoslavia. The international community confronts evidence of mass murder of Bosnian Muslims, and other groups, as well as other human rights abuses.


1994: A genocide in Rwanda results in the death of nearly 800,000 people killed for being Tutsi, or for supporting Tutsis. In its aftermath, the United Nations Security Council establishes the International Criminal Tribunal for Rwanda.

1995: South Africa establishes the Truth and Reconciliation Commission (TRC) to investigate crimes committed during the apartheid era. The TRC set a precedent for using justice-seeking measures that were outside of traditional court systems.

1998: At the Rome Conference, a meeting to create a permanent international criminal court, 120 nations...
affirm the **Rome Statute** which serves as the foundational document for the International Criminal Court.

**2001**: The Rwandan government agrees to adapt Gacaca, a traditional form of village-based conflict resolution, to judge perpetrators of the genocide and promote reconciliation. The use of Gacaca as an alternative to national-level courts provides a model for other nations, such as Uganda, who seek to incorporate local justice customs into their overall approach to judgment and healing after civil war.

**2002**: The Rome Statute is ratified by 66 nations. This marks the formal establishment of the International Criminal Court.

**2003–2004**: With United Nations support, temporary tribunals are established to prosecute perpetrators of genocide in Cambodia and crimes against humanity in Sierra Leone.

**2005**: After a referral by the government of Uganda, the International Criminal Court issues its first arrest warrants for rebel LRA leaders in Uganda.

**2008**: The International Criminal Court begins its first trial with the prosecution of Thomas Lubanga for crimes committed in the Democratic Republic of Congo.

**2009**: The International Criminal Court issues the first arrest warrant for a sitting head of state, President Omar Hassan al-Bashir of Sudan.

**2010**: Member states of the International Criminal Court are scheduled to review the Rome Statute in Uganda.

For more information:

- "International Criminal Courts: The Legacy of Nuremberg," a summary of the history of international criminal law by Ben Ferencz, prosecutor at the Nuremberg Trials, can be found at [www.iccnow.org](http://www.iccnow.org).

- The multimedia timeline "The Brief History of the International Criminal Court" can be found at [www.pbs.org/pov/reckoning](http://www.pbs.org/pov/reckoning).

- For more information about International Criminal Tribunals and Special Courts refer to the Global Policy Forum ([www.globalpolicy.org](http://www.globalpolicy.org)).