

**INTERNATIONAL JOURNAL OF LAW  
MANAGEMENT & HUMANITIES**  
**[ISSN 2581-5369]**

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**Volume 8 | Issue 2**

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**2025**

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# Genocide Prevention & the ICC: Success or Failure?

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## ABSTRACT

*The effectiveness of the International Criminal Court in putting an end to mass murder and in prosecuting perpetrators responsible for crimes comprising war crimes, crimes against humanity, and genocide is what the paper explores. This research shall be evaluating the potential ability of the court through its core procedures of responsibility, deterrence, and precedents to address and prevent the most egregious breaches of human rights. In important case studies related to Thomas Lubanga, Omar al-Bashir, and Jean-Pierre Bemba, the ICC has shown both influence and discouragement of leaders who commit serious abuses. As much as the report recognizes the financial, jurisdictional, and state cooperation constraints of the Court that led to charges against its bias and constricted its influence worldwide. Despite all these challenges, the ICC has encouraged and given birth to a rising culture of accountability, affecting international humanitarian law and giving way to more deliberate crime. In this regard, this thesis thwarts the conception of the function of the ICC as the successful international arbiter of justice and its positive influence on stopping crimes in the future.*

**Keywords:** International Criminal Court, War Crimes, Genocide, Crimes against humanity.

## I. INTRODUCTION

The persistent incidents of mass atrocities occurring across various regions globally highlight the profound extent of human depravity. Within the international community, the prevention and response to such mass atrocities are regarded as a matter of significant priority. There is an increasing awareness that crimes against humanity, and potential cases of genocide, constitute a serious threat not only to the internal stability of states but also have profound and lasting impacts on international stability and security. <sup>3</sup>Overall, the international community's experience with regard to mass atrocities and violence against civilians is largely negative. The historical context of atrocities and the role of the international community are foundational to

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<sup>3</sup> James F. Alexander, The International Criminal Court and the Prevention of Atrocities: Predicting the Court's Impact, 54 VILL. L. REV. 1 (2009).

setting up the International Criminal Court. <sup>4</sup>With this enforcement of the Rome Statute advocacy, the international community reiterates its commitment towards the protection of individuals from horrible acts of committing such acts, thereby discouraging them and intervening in numerous regions of the world. Nevertheless, by undertaking legal action against individuals believed to be responsible for genocide, war crimes, and crimes against humanity with the goal of fostering peace and upholding human rights, it is frequently asserted by public figures and organizations that the ICC is simultaneously tackling the underlying factors that encourage criminal conduct. This paper focuses on whether the ICC is acting now to prevent mass atrocities, and if such a task falls within the specific competencies assigned to it by the Rome Statute and the relevant international law. To this end, this paper seeks to provide all these considerations through the prism of the dialectical relationship between the ICC and mass atrocities.

## **II. THE ICC'S MECHANISMS FOR PREVENTION: DETERRENCE, ACCOUNTABILITY, AND INTERNATIONAL LAW**

The International Criminal Court is a landmark achievement in the domain of international criminal law and has granted to the world a system whereby international community can agree on bringing accountability on the gravest crimes of the world. Due to this defined mandate, the ICC continues working with a strong semblance to being an effective barrier against impunity and a great deterring effect from future transgressions and a prime piece in the ongoing development and enforcement process within international humanitarian law.<sup>5</sup> This paper reviews the central function of the ICC in its contributions towards accountability, deterrence, and the conceptual elucidation of legal standards in bringing about a fairer global order.

By enforcing accountability against perpetrators of heinous acts, the fundamental function of the ICC thus tends to revolve around a more general quest shared by international law. It is through these acts of atrocity-genocide, crimes against humanity, and war crimes-that the foundational principles of human dignity and the international legal framework are fundamentally undermined. Pursuit of accountability goes beyond simple retributive justice, because it goes with strengthening the rule of law, the delivery of justice to victims, and the assurance that these atrocities will not recur.

Accountability performs several crucial functions. Not only does it recognize and sanction the wrongs perpetuated against victims and communities generally, but also confers legal

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<sup>4</sup> Hyeran Jo & Beth A. Simmons, Can the International Criminal Court Deter Atrocity?

<sup>5</sup> Julia Geneuss & Triestino Mariniello, international criminal law review 19 (2019) 905-909

recognition to horrific crimes and legitimates the institutionalization of those wrongdoings through judicial verdicts issued by the ICC - thereby affirming injuries inflicted on victims and reconstituting a measure of justice denied by national court systems when the conflict is over<sup>6</sup>. This aspect of accountability is pivotal in the healing and reconstruction of society, now that past evilness has been dealt with appropriately. International law needs the principle of accountability that will make the rule of law successful. For example, the ICC mandate is to prosecute the individuals culpable for the gravest offenses under the international law, thus deterring the proliferation of a culture of impunity. In the absence of accountability, perpetrators of grave crimes would continue in violating human rights, being assured that they would never be held accountable for their actions. This protects such individuals from escaping justice because of their power and political standing. The basic principle that no one is above the law forms the core of how the ICC operates.<sup>7</sup>

Ultimately, accountability accomplishes an important function, namely preventing atrocities from being committed in the future. If there is something to be lost by would-be perpetrators, the chances of their participation in similar misbehavior are decidedly reduced. The efforts of the ICC in the prosecution of warlords and political leaders like in DRC and Uganda indicate that the achievement of justice will enable further deterrence from committing more crimes. In these cases, the interventions of the ICC have helped to bring justice and also allow the entrenchment of peace and stability by removing key figures who have sustained violence.

Promotion of accountability depends mainly on the judicial apparatus of the International Criminal Court. The court was established through the Rome Statute and exercises its jurisdiction over international gravest crimes that are recognized by such Statute, which include: genocide, crimes against humanity, war crimes, and the crime of aggression. Through carrying out thorough investigations into such crimes, issuance of indictments, and conducting trials a holistic legal framework is created against such heinous acts.

One most essential characteristic of the approach of the ICC is its victim-centric methodology<sup>8</sup>. Contrary to many domestic court systems, which usually focus on the prosecution of the accused, the ICC actively involves victims in its judicial processes. Victims are allowed to participate, voice their views, and claim reparations. This involvement underlines that the Court

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<sup>6</sup> Dikran M. Zenginkuzucu, Enforcement of the Cooperation Obligation with the ICC for the Accountability under International Criminal Law, *Journal of International Criminal Law* [Vol. 2] 2021

<sup>7</sup> Redefining the Crime of Genocide: A Pathway to International Peace, Security and Accountability, 4 *IRLJ* 16 (2022)

<sup>8</sup> Philippe Kirsch, The Role of the International Criminal Court in Enforcing International Criminal Law, 22 *AM. U. INT'L L. REV.* 539 (2007)

remains committed to providing justice not only within a retributive framework but also in a restorative context. Through reparation, the ICC aims to redress the harm that these serious offenses brought to cause the healing process for victims and affected communities. Moreover, the judicial frame of the ICC pays much attention to the elements of fair trial and due process. By conducting such trials in conformity with international norms, the rights of the victims and defendants are protected. The commitment towards procedural equitability has reinforced the legitimacy as well as the acceptability of the rulings given by the Court all over the world. The ICC has given an historic example and proved that international trials could be conducted without betraying the cause either of justice or of human rights.

One of the main goals of the ICC is deterrence. Under this theory, people will be less likely to engage in crime with the fear of numerous severe repercussions for their actions. In the case of international crimes, deterrence plays an especially significant role because such atrocities may cause havoc and destruction at vast dimensions such as genocide or war crimes. The ICC aims to deter potential offenders by its processes of investigation, indictment, and the subsequent trials<sup>9</sup>. It makes the world community strongly committed toward punishment for serious violations of international law; thus, it establishes a climate of legal responsibility. Leaders and military commanders, who would otherwise operate with impunity, are now aware that their activities will be scrutinized by an independent international court. Many of these high-profile cases even prove the existence of the deterrent effect of the ICC.

For example, the inquiry of the ICC into the post-election violence in Kenya in 2007-2008 is understood to be one of the reasons for the relatively peaceful conduct of the elections in 2013. The threat of prosecution in the ICC acted as a constraint upon the politicians who could otherwise have resorted to violence in pursuit of their objectives. In a similar context, there is Thomas Lubanga's and Bosco Ntaganda's judicial process in the Democratic Republic of the Congo<sup>10</sup>, which conveyed an unmistakable message to other warlords and military leaders that they would not be spared their accountability for enlisting child soldiers and committing barbaric acts.

However, the notion of deterrence is far from clear and in itself raises many considerable challenges for the ICC in achieving its full deterrent effect. One major challenge is how it relies on cooperation by states in executing arrest warrants and providing support for investigative processes. When States refuse to cooperate, such as with Sudan, where President Omar Al-

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<sup>9</sup> Philippe Kirsch, *The Role of the International Criminal Court in Enforcing International Criminal Law*, 22 AM. U. INT'L L. REV. 539 (2007)

<sup>10</sup> Hyeran Jo & Beth A. Simmons, *Can the International Criminal Court Deter Atrocity?*

Bashir remained at-large for years following ICC arrest warrants, the Court's operational ability is considerably impeded. Despite this, the ICC's ongoing efforts to bring them to justice contributes to a long-term change in world standards against impunity.

The ICC plays a very important role in developing international humanitarian law: the roles are achieved through setting legal precedents, the clarification of legal norms, and also supporting codification in international crimes. The decisions by the Court are of paramount importance because they influence the interpretation and implementation of IHL and, therefore, the continued pertinence and effectivity in contemporary conflicts.

A significant mechanism by which the International Criminal Court enhances International Humanitarian Law is through the creation of legal precedents. The judgments of the Court provide authoritative interpretations of fundamental legal provisions relevant to crimes like genocide, war crimes, and crimes against humanity. These precedents shed light on the grey areas of IHL, enabling national judicial systems as well as other international courts to arrive at a proper inference. For example, the International Criminal Court's legal rulings concerning the use of child soldiers, the employment of sexual violence as a method of warfare, and the destruction of cultural heritage have provided critical clarity pertaining to the prosecution of such offenses within international legal systems.

Furthermore, it has streamlined the process for codifying IHL through the Rome Statute, where all crimes falling under its jurisdiction are defined in comprehensive detail. The detailed provisions of the Statute on genocide, crimes against humanity, and war crimes have come to represent a fundamental component of international criminal law, guiding prosecution efforts across the world. By executing the Rome Statute, the ICC seeks to ensure that the legal norms are applied uniformly, thus strengthening the commitment of the international community to preventing and punishing the most serious abuses of human rights. The jurisprudence of the ICC has exercised an insurmountable influence that heightened awareness and respect for international law. By punishing individuals with some of the darkest crimes, the Court demonstrates that international legal standards are justiciable, even when political leaders and military commanders might enjoy immunity from their own national legal infrastructure. This brings greater legitimacy and credibility to international law, strengthening the notion that certain crimes—such as genocide, crimes against humanity, and war crimes—are beyond the reach of state sovereignty.

Moreover, what the ICC has done is help develop a global ethos of accountability. In the decade or so since its inception, the Court has become a symbol of the international community's

commitment to ridding humanity of impunity for serious crimes. Notable adjudicated cases include former Sudanese President Omar Al-Bashir as well as the prosecution of various leaders of the Democratic Republic of the Congo, which underscored the commitment of the international community to maintain its tradition of justice, even facing opposition in the political arena.

### **III. EVIDENCE OF SUCCESS: CASE STUDIES AND THE ICC'S IMPACT**

By intervening in the Sudan and the DRC, the ICC had demonstrated its commitment to prosecuting serious abuses human rights and humanitarian law, and have contributed to accountability and brought about possible impact on the dynamics of the conflict at least.

#### **(A) The case against Omar al-Bashir, Sudan**

When the ICC indicted Sudanese President Omar al-Bashir for genocide, war crimes, and crimes against humanity in 2009,<sup>11</sup> it was the first time the court had gone after a sitting head of state. Systematic violence against ethnic groups through Al-Bashir's government forces and allied militias in Darfur obtained global condemnation. Because Sudan is not a party to the Rome Statute the ICC couldn't have pursued the case, however, on the basis of a referral from the UN Security Council, it was able to pursue the case as part of its responsibility for the Darfur atrocities. Though al-Bashir did not ultimately fall to the ICC, the indictment effectively cut him off diplomatically, unhinging the legitimacy propping him up politically and leading to his ousting in 2019. It was thus both a demonstration of the role of the ICC in putting human rights abuses on the international agenda and a symbolic step towards accountability at the highest levels of politics. This was significant as targeting a sitting head of state sent a message that no leader is above the law when he perpetrates atrocities, helping to elevate awareness and international condemnation of state-perpetrated abuse.

#### **(B) Congo's Democratic Republic: Thomas Lubanga's Case**

Thomas Lubanga, a warlord in the Democratic Republic of the Congo,<sup>12</sup> was convicted by the ICC. It was a landmark case in the prosecution of child soldier recruiting as a war crime. Lubanga's conviction in 2012 set a precedent for international criminal law and demonstrated the ICC's dedication to safeguarding children in war areas. It focused on the responsibility of the ICC in fighting those crimes that have a serious effect on the vulnerable communities and drew attention towards the exploitation of children during conflicts. Some armed organizations

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<sup>11</sup> James E Archibong & Chidi Julius Lloyd, *Journal of Organizational Culture Communications and Conflict* Volume 25, Issue 2, 2021

<sup>12</sup> Hyeran Jo & Beth A. Simmons, *Can the International Criminal Court Deter Atrocity?*

in the DRC reportedly ceased or reduced recruiting child soldiers. To this extent, the convictions could have had a chilling effect. In holding leaders liable and communicating that a system of child recruiting was intolerable, this judgment shows how the ICC could foster changes in behavior when the situation calls for one.

### **(C) Central African Republic (CAR) Accountability Case: Jean-Pierre Bemba**

A conviction of the warlord, Jean-Pierre Bemba<sup>13</sup>, of atrocities carried out by his men in the Central African Republic under command responsibility formed the precedent of prosecutions. Leaders are responsible for the acts of subordinates in their command according to the ICC where a case in point was demonstrated in the conviction of Congolese political and military leader Bemba as guilty of the acts of his forces. This was a case where the ICC proved it could prosecute the person in authority even though not themselves an accused, but indicated a role of the commanders themselves in preventing the commission of war crimes. The trial of Bemba only serves to restate the rule that military commanders can be held liable for failing to control their forces and thereby serves to deliver a warning to other military leaders in terms of what their rights and responsibilities under the law are. It was such a landmark case and it played a role in strengthening international community accountability systems, demonstrating that those in charge of atrocities might be held at every level responsible for the failure to stop them.

## **IV. STRENGTHENING INTERNATIONAL HUMANITARIAN LAW AND NORMS**

It was the ICC that, in establishing and enforcing international humanitarian law, established a new global standard of accountability and fostered respect for human rights. The ICC steadily established legal precedents with historic cases that boost requirements for accountability standards and clearly outline what people's responsibilities are in the context of conflict. The case of Jean-Pierre Bemba can be cited as one essential precedent under the principle of command responsibility. He was convicted as a Congolese politician whose failure to stop and punish crimes committed by his army led him to criminal liability, as opposed to having committed atrocities himself. This case highlighted the legal obligation that leaders should be in control of their subordinates and failure to do this attracts criminal penalties.

The ICC confirmed an important piece of international humanitarian law particularly related to leadership responsibility in declaring that even those individuals not directly involved in committing crimes are also legally liable. This was also illustrated in the case of the ICC when it ensured that the rights of children were safeguarded in conflict regions when it convicted

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<sup>13</sup> Brown, Hannah Krentler, *How Mitigating Conflict and Building Lasting Peace Prevents Genocide and Mass Atrocity: A Ugandan Case Study for Central Africa Today*, 2014



Congolese warlord Thomas Lubanga of recruiting and conscripting child soldiers. By pointing out how wrong it is to use children in armed conflict, the Lubanga trial contributed to standards that were developed against the child recruiting and urged other countries and organizations to reconsider the action against them. This contribution of the ICC has contributed so much to the development of a global standard, all in harmony with humanitarian goals, by declaring particular acts illegal by international law through these trials.

The complementarity concept of the Rome Statute, which is a fundamental part of the ICC, has further strengthened these standards. Complementarity encourages nations to adopt ICC rules at home by giving national jurisdictions the main authority to prosecute international crimes. This concept has led to amendments in the laws of many countries. The governments of these countries have included provisions of the Rome Statute in their own laws in order to allow the national courts to try serious violations of human rights. Kenya and Uganda, for example, have adopted the principles of the ICC in their legal systems. This enables national courts to independently deal with serious crimes such as war crimes and genocide. Besides enhancing adherence to its own mission, the ICC is establishing a global network of accountability that strengthens the rule of law globally by nudging member nations to uphold international standards. Even in situations when the ICC is not stepping in directly, this strategy ensures that countries share the burden of justice and local prosecutions of international crimes become possible. In the end, though its impact may be defined and measured by specific case matters, it also strives toward a more holistic structure that supports its aims, that is, avoiding and bringing about an international legal order that respects the dignity of every human being.

#### **(A) Deterrence of the ICC to Potential Criminals**

By influencing state and non-state actors in conflict regions to adhere to international norms, the deterrence effect of the ICC can be traced through the prosecutorial and social process. Therefore, it is the investigation of such prominent cases that could look into and prosecute major perpetrators as the ICC's best means of deterrence to prosecute. For example, in the Democratic Republic of the Congo, Thomas Lubanga's trial for recruiting children to be child soldiers saw some armed groups review, in some cases scale back their use of child soldiers for fear that something similar might happen. This illustration shows how the vigorous prosecution operations of the ICC might pressure leaders to abide by international norms and avoid acts that would place them in criminal responsibility. The ICC is able to communicate effectively that perpetrators of war crimes and atrocities are no longer assured of impunity because it claims that even strong leaders and commanders may be prosecuted. It is significantly important for prosecutorial deterrence in areas of less-than-strong rule of law where ICC intervention

becomes of utmost importance for accountability purposes. People and entities may change their behavior to avoid being punished before the ICC through the obvious fear of the threat of prosecution, thus moderating behavior.

With all perpetrators involved, the ICC places shame on them while having an important social deterrence effect besides formally deterring prosecutions. For those charged by the ICC, the social component of deterrence uses a worldwide public opinion, media attention as well as diplomatic isolation to pronounce extralegal repercussions. One prime example in this regard is that of the former president of Sudan, Omar al-Bashir, who is charged with crimes against humanity, war crimes, and genocide at the ICC with respect to the Darfur situation. As the prospect of detention by ICC member nations was still in existence, the indictment not only reduced the chances of al-Bashir going abroad but also badly damaged his reputation, hence his overthrow in 2019. Al-Bashir's social and political isolation well shows that leaders facilitating major crimes are delegitimized by the ICC. This prejudice has a more tremendous deterrent effect, primarily towards the leaders who have interest in diplomatic ties and global credibility. The chances that ICC's participation involves more comprehensive condemnation and rebuff would prevent individuals from inflicting human rights violations. Most leaders have a practical incentive to comply with global standards better in order to avoid the political costs associated with ICC indictments themselves, which can be quite as frightening as the rule of law. These penalties are a loss of popular and diplomatic capital and no longer easy access to multilateral arenas. In consequence, the ICC exerts deterrence pressures at both the professional and the social levels; it helps reinforce a world need for accountability and reverence for the law of armed conflict.

#### **(B) Challenges and Limitations: Critiques of the ICC's Effectiveness**

While the ICC has been taken to task over a myriad of issues relating to its inability to successfully prosecute international crimes, some of its jurisdictional reach is the biggest disadvantage. In respect of this, the ICC can prosecute the crimes committed either by its citizens or on the territories of those nations that have accepted the law; thus, it can prosecute those referred to it by the UN Security Council.<sup>14</sup> The limitation excludes, among other the strongest countries in the world, such as the US, China, and Russia, from ratifying the Rome Statute and therefore automatically are out of the jurisdiction of the court. States fall outside of the automatic jurisdiction of the court because they haven't ratified the Rome Statute. Without

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<sup>14</sup> Alex Whiting, In International Criminal Prosecutions, Justice Delayed Can Be Justice Delivered, 50 HARV. INT'L L.J. 323 (2009).

their cooperation or an improbable UNSC referral, options for the ICC are often limited-even when grave crimes are committed in these governments or even when their citizens participate in them. This jurisdictional restriction impairs the ICC's ability to operate globally, thus undermining its prospects of delivering justice by leaving many vital cases of human rights abuse unpunished<sup>15</sup>. Geopolitical interests and permanent members' veto power further limit the UNSC referral process, one of the few windows for extending the ICC's jurisdiction. Strong nations that have a vested interest in a particular dispute can vote to veto cases from being sent to the ICC.

For example, the UNSC has never released instances of reported crimes in Syria and Ukraine as such is outside the political interests of geopolitics where nonmember state actions, especially by Russia, are of relevance. The ICC is often viewed to be at the behest of the political games playing inside the UNSC rather than being a truly independent judicial body, such selective dispensation of justice on political issues impedes the ability of the institution to be a global, impartial body .

The ICC is still ineffective because of a lack of financial resources. It has no fixed budget but operates on contributions from member states, not at par with the national systems of justice. This funding mechanism gives the ICC financial instability and dependence on the political goodwill of its state parties. This funding scheme brings about financial instability and also leaves the court at the mercy of political will regarding its state parties. A deficit in funds seriously challenges the ICC's ability to conduct comprehensive investigations and put appropriate security measures in place for its employees and witnesses, especially in hostile conditions. It requires high-value resources, such as safe transportation, protected witnesses, advanced forensic technologies, and logistical support to ensure valid evidence, for the investigation of war areas. It cannot afford to bear these expenses easily without proper money, which prevents the ICC from widening and deepening its investigations and, due to the lack of proof, may allow criminals to run away from punishment.

A criticism that has been witnessed is that the ICC selectively picks on countries, particularly targeting African countries unfairly. Most of the investigations done at the ICC since its inception have been against African countries, including Uganda, Sudan, the Democratic Republic of the Congo (DRC), Kenya, and the Central African Republic. Although the ICC is seen to target weaker governments and thus sidestep trials that might implicate powerful

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<sup>15</sup> Alexandar R. J. Murray, Does International Criminal Law Still Require a Crime of Crimes: A Comparative Review of Genocide and Crimes against Humanity, 3 GOETTINGEN J. INT'L L. 589 (2011).

countries or their allies even though some of these cases were self-referred by African states or ordered by the UNSC. This view has been voiced by prominent African leaders, including former South African President Jacob Zuma, who claimed that the ICC's apparent animosity toward African nations leads to bad press generally around Africa as a continent of international crimes. The AU and the ICC have even clashed on this issue, with some members of the AU advocating for an African criminal court as an alternative. These behaviors reflect a grave loss of trust that undermines the credibility of the ICC in the eyes of many African nations and lessens their enthusiasm to work with the court.<sup>16</sup>

The ICC proponents argue that the institution is not strictly biased towards the African cases because referrals are made by African nations in large volumes, and it follows that the scope and the level of attention granted to crimes in those areas. Once in a while, the governments of Uganda and Democratic Republic of Congo invoked the ICC to involve itself in settling some local disputes and human rights abuses they could not prosecute domestically. The increased focus of the court in Africa was further supported by UNSC referrals, such as the Sudanese case of the Darfur issue. The critics say that while the similar crimes in other parts of the world have not attracted the same attention by the media, and hence the court, the ICC should be more neutral by considering a wider variety of cases to be heard so that it covers all other situations, excluding those in Africa. For instance, by expanding its regional focus, the ICC may strengthen its position as a genuinely global fair institution, thereby reducing an appearance of selectiveness.

Among the many tricky questions the ICC faces, perhaps there is nothing as tough as this one: the "peace versus justice" dilemma, focusing on the tension between the pursuit of criminal responsibility and the pursuit of peace and reconciliation in post-war situations. Prosecutions by the ICC have often frustrated efforts towards peace, as politicians and warriors are restrained from negotiating since they are afraid of the prospect of legal sanctions.<sup>17</sup> This is what happened in Uganda, where peace talks collapsed in the face of ICC indictments issued against leaders of the Lord's Resistance Army (LRA). Under threats by ICC arrest warrants, commanders of LRA, especially Joseph Kony, were less likely to disarm and negotiate with the government. It is a case that can explain how prosecutor efforts could be necessary for long-term justice but inadvertently prolong hostilities or deny fighters from demobilization.

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<sup>16</sup> Emilie M. Hafner-Burton and Kiyoteru Tsutsui, *Journal of Peace Research*, Jul., 2007, Vol. 44, No. 4, Special Issue on Protecting Human Rights (Jul., 2007)

<sup>17</sup> Alex Whiting, In *International Criminal Prosecutions, Justice Delayed Can Be Justice Delivered*, 50 HARV. INT'L L.J. 323 (2009).

It is the most sharp dilemma in societies where short-term stability and reconciliation may be more important than retributive justice. While certainly principles of the rule of law and respect for victims' suffering are completely dependent on holding accountable crimes, the call to hold accountable leaders at a moment when there are weak peace talks under way may imperil those talks and be harmful to efforts to obtain a sustainable peace. Certain scholars and human rights advocates contended that the ICC must be more context-aware and that transitional justice processes should complement its prosecutorial role. Transitional justice practices, among other methods, may include some of the following: truth commissions, conditional amnesties, and restorative justice, to mention a few, which might serve as an avenue in striking a balance between the need for society healing and peace and accountability<sup>18</sup>. For instance, it seems that such truth commissions work well in Mozambique and South Africa: they still did not experience the threat of legal prosecution and therefore contributed to peacemaking. In some respect, such methods can be an example or a replacement for a sometimes exhaustive criminal prosecutions because they concentrate on confession of former crimes, as well as the reparation of community ties and the recovering of lost confidence.

## **V. CONCLUSION**

The ICC is the world's key but imperfect agency to fight for justice in the worldwide fight; it addresses serious crimes like those against humanity, war crimes, and genocide. It has challenged impunity mass atrocity offenders frequently enjoy by bringing high-profile cases involving Thomas Lubanga, Omar al-Bashir, and Jean-Pierre Bemba. The major limitations that greatly limit the Court are jurisdictional limitations, reliance on member states for funding, and the nature of collaboration being haphazard. Its authority only transcends over people who have ratified the Rome Statute or cases that the UNSC has referred; this reduces the numbers to some of the powerful states. In addition, as the continued problems illustrate, the authority's dependence on official assistance in arresting and enforcing requires the Court to frequently compromise effectiveness. in the seizure of al-Bashir.

This dependency and the Court's emphasis on African cases-both from self-referrals and UNSC referrals-have been branded as selective justice, which has tarnished the ICC's reputation and relations with some African nations. The "peace versus justice" dilemma makes its role even harder since, in post-conflict regions where reconciliation is valued over retributive justice, ICC prosecutions can be in conflict with negotiations for peace.

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<sup>18</sup>Sam Garkawe, Victims and the International Criminal Court: Three Major Issues, 3 INT'L CRIM. L. REV. 345 (2003).

Over and above such challenges, the ICC is to make improvements in its reputation and international influence. Broadening its scope, getting steady appropriations, and deepening its cooperation with regional legal institutions may help it work better and more justly. Over such types of challenges, the ICC can further improve its ability to prevent future crimes and the responsible global system with further justice and human rights for all.

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