

BEYOND BORDERS MODERN CONFLICTS & GLOBAL IMPLICATIONS

Dr. Yazhini Kuppusamy



Title: **Beyond Borders Modern Conflicts & Global Implications**

Author's Name: **Dr. Yazhini Kuppusamy**

Published by: **Shanlax Publications,
Vasantha Nagar, Madurai – 625003,
Tamil Nadu, India**

Publisher's Address: **61, 66 T.P.K. Main Road,
Vasantha Nagar, Madurai – 625003,
Tamil Nadu, India**

Printer's Details: **Shanlax Press, 66 T.P.K. Main Road,
Vasantha Nagar, Madurai – 625003,
Tamil Nadu, India**

Edition Details (I,II,III): **I**

ISBN: **978-93-6163-287-7**

Month & Year: **October, 2025**

Copyright @ **Dr. Yazhini Kuppusamy**

Pages: **230**

Price: **₹/-**

CONTENTS

S. No	Title	Page No.
1	Genocide and Crimes Against Humanity: Legal Challenges in Prosecution Harini S	1
2	The Role of United Nations in Conflict Resolution Lavanya Murali	15
3	The Role of the United Nations in Advancing Global Peace and Security Mr. G. Naresh & Dr. B. Pooja Sudharma	30
4	The Global Impact of Contemporary Conflicts S. Joshika	39
5	Economic Sanction and Their Impact on Welfare Navis Rajan. W & Saravana Prasanth. R	49
6	Environmental Stressors and Human Conflict: A Warming World's Challenges Ramanya Gayathri M	66
7	ISRAEL - Hamas Conflict Rudhrapriya K	77
8	Economic Sanctions and Their Impact on Warfare G Raja Kumari	97
9	Climate Change As A Catalyst for Future War an International Perspective Mohana Priya M	106
10	The War for the Mind: Censorship, Narrative Control, and Media Manipulation In 21 st Century Conflict Sasi Kumar S.V	119
11	War Crimes and The International Criminal Court: Legal Mechanisms, Global Challenges, and Emerging Trends Shona. K. P	131

WAR CRIMES AND THE INTERNATIONAL CRIMINAL COURT: LEGAL MECHANISMS, GLOBAL CHALLENGES, AND EMERGING TRENDS

Shona. K. P

Assistant Professor
VISTAS, Chennai

Abstract

The International Criminal Court's (ICC) function of prosecuting war crimes in the Rome Statute is subject to critical analysis in this paper, locating its activities within the contemporary world of armed conflict. The legal definition and characterization of war crimes in international humanitarian law (IHL) are investigated, jurisdictional boundaries are evaluated, and the Court's application of the complementarity principle is examined. From comparative case studies in Uganda, Sudan, and Ukraine, the study identifies both successes and systemic weaknesses in enforcement. Particular focus is placed on political opposition, selectivity perceptions, and hurdles provided by new areas like cyber warfare and environmental crimes. The paper concludes with proposals for increasing the ICC's legitimacy, operational capability, and responsiveness to new threats.

Keywords: *International Criminal Court, international humanitarian law, war*

Introduction

War crimes are among the most serious breaches of international humanitarian law (IHL), and they include intentional attacks against the civilian population, willful killing, torture and inhuman treatment of prisoners of war, and destruction of cultural property and other objects that are protected. Such acts, which are forbidden by the Geneva Conventions of 1949 and their Additional Protocols, are considered to be crimes of universal concern, which should be prosecuted regardless of where they are committed or by whatever nationality the perpetrators or victims are.

Despite decades of codification, oversight, and advocacy, the continued occurrence of war crimes in international and non-international armed conflict demonstrate the disconnect between normative agendas and enforcement practices. Modern conflicts, characterized by hybrid war, proliferation of non-state armed actors, urban warfare, and cyber-enabled violence, have produced novel legal and evidentiary issues. The intentional targeting of civilian infrastructure, weaponization of humanitarian assistance, and sexual violence as a form of warfare demonstrate the dynamic setting of atrocities.

The International Criminal Court (ICC), which was founded in 2002 in accordance with the Rome Statute, is the first permanent international court tasked with prosecuting individuals for war crimes, genocide, crimes against humanity, and the crime of aggression. It was welcomed as a revolutionary step towards ending impunity, consolidating the rule of law, and preventing future atrocities. But twenty years on, the ICC continues to suffer from

fundamental questions regarding its scope, legitimacy, and impact, especially in the context of the current geopolitical fault lines, selective state cooperation, and the growing sophistication of armed conflicts.

This article critically analyses the ICC's ability to provide justice in the fast-evolving world order. It questions the Court's role in enforcing IHL, assesses its operational and political limitations, and explores new challenges such as online evidence, foreign militancy, and climate-conflict interconnections that influence the future of war crimes accountability.

Legal Framework

The prosecution of war crimes has its basis in both customary international law and treaty law, creating a dual basis that strives to provide accountability irrespective of jurisdictional or political divisions. The International Criminal Court (ICC) created under the Rome Statute in 2002 is the first permanent international criminal court to have express jurisdiction to try such crimes. It is a matter of understanding both the codified provisions of the Rome Statute and the general principles of customary international law.

Defining War Crimes under the Rome Statute

Article 8 of the Rome Statute offers an authoritative definition of war crimes and lists specific prohibited acts that apply to international and non-international armed conflicts. Such acts cover direct contraventions of International Humanitarian Law (IHL) and acts that devalue the protections enjoyed by civilians and combatants hors de combat.

Core prohibitions are:

- Deliberate attacks on civilians or civilian objects, contravening the principle of distinction between combatant and non-combatant.
- Employment of forbidden weapons, including those of a nature to cause superfluous injury or unnecessary suffering.
- Torture, inhuman treatment, and outrages upon personal dignity, especially against prisoners of war or persons held in captivity.
- Attacks on humanitarian personnel and missions, including those carried out under United Nations mandates, when these attacks are deliberate and not justified by military necessity.
- The conscription, enlistment, or use of persons under the age of fifteen in active hostilities.

The formulation of the Statute is based on precedents from the Nuremberg and Tokyo Tribunals, the Geneva Conventions of 1949, and their 1977 Additional Protocols, but goes further to codify both symmetrical and asymmetrical conflicts. Significantly, Article 8(2)(e) is made to apply directly to non-international armed conflicts, a fact to be taken into account due to the fact that most modern wars are intra-state in nature.

The Rome Statute also has a threshold clause acts to be committed as part of a plan or policy or on an extensive scale to draw a line between individual criminal liability and

sporadic or accidental offenses. This threshold fixes the prosecutorial attention on the most serious and systematic violations.

Customary International Law

Although it only binds its States Parties, customary international law guarantees that the ban and prosecution of war crimes transcend membership in treaties. They arise from general and uniform state practice accepted as law (*opinio juris*) and are binding on all states, whether or not they have signed the Rome Statute.

Normal customary rules have been partially codified through the International Committee of the Red Cross (ICRC) Study on Customary IHL, which recognizes rules that are universally applicable, like the exclusion of attacks against civilians, a prohibition on indiscriminate weapons, and an obligation to treat prisoners humanely. These rules are applicable in both international and non-international conflicts.

One of the crucial aspects of customary law is that it endorses the doctrine of universal jurisdiction, allowing national courts to try war crimes regardless of where or by whom they were committed. This doctrine has been invoked in significant cases including the Eichmann trial (Israel, 1961) and the Hissène Habré case (Senegal, 2016).

The relationship between customary international law and the Rome Statute is one of mutual support. While the ICC offers a centralized, treaty-based prosecutorial forum, customary norms ensure that war crimes are always prosecutable, even where there is no ICC jurisdiction. Together, they form a multi-tiered legal structure intended to close the gaps of impunity and enforce the foundational humanitarian precepts animating the laws of conflict.

Jurisdiction and Complementarity

The jurisdiction of the International Criminal Court (ICC) is articulated clearly under the Rome Statute, reconciling the Court's mandate for universal responsibility with states' sovereignty. Jurisdiction states when and where the ICC can act, and the complementarity principle ensures the Court acts as a court of last resort, not a first resort, for criminal prosecution.

Jurisdictional Scope

The ICC's jurisdiction is subject-matter specific as well as geographically restricted. The Court can try four central offenses based on Articles 5–8 of the Rome Statute, namely genocide, crimes against humanity, war crimes, and the crime of aggression. In the case of war crimes, jurisdiction depends on specific territorial or personal requirements:

- 1. Territorial Jurisdiction :** The ICC can prosecute crimes that have been committed within the territory of a State Party to the Rome Statute. This covers cases where the alleged offender is a foreign national, provided the act has taken place within a State Party's territory.
- 2. Personal Jurisdiction :** The Court exercises jurisdiction over offenses committed by nationals of a State Party, regardless of where the crime was committed outside the State Party's territory.

3. **UN Security Council Referrals** : The United Nations Security Council (UNSC), under Chapter VII of the UN Charter, can refer cases to the ICC Prosecutor. This allows the Court to prosecute crimes in non-State Parties, as witnessed in Sudan (Darfur) and Libya.

4. **Ad hoc Declarations** : Non-State Parties can accept ICC jurisdiction over certain situations by Article 12(3) declarations, like Ukraine's acceptance before accession.

This multi-layered jurisdictional structure allows the Court to act on crimes outside its direct treaty membership, even if enforcement relies mostly on state cooperation.

Complementarity

The ICC is premised on the complementarity principle, which has been enshrined in Article 17 of the Rome Statute. It emphasizes the role of national courts in prosecuting and investigating international crimes. The ICC steps in only when states are "unwilling or unable genuinely to carry out the investigation or prosecution."

A determination of unwillingness can occur when proceedings are instituted for the purpose of protecting the accused from prosecution, where there is unreasonable delay, or where the trial is not fair or independent. Inability applies to circumstances where the national judicial system has disintegrated because of war, lacks resources, or otherwise cannot perform its functions.

Complementarity Serves a Variety of Functions

- It helps to preserve state sovereignty by giving primacy to prosecution in the domestic state.
- It encourages legal reform and building capacity within national systems in accordance with international standards.
- It assists in the management of the ICC's scarce resources by prioritizing cases where justice systems within the country have collapsed.

In practice, complementarity has encouraged states to initiate domestic proceedings in response to ICC scrutiny, a phenomenon sometimes referred to as "positive complementarity." For example, the ICC's preliminary examinations have prompted national investigations in Colombia and the Democratic Republic of Congo, demonstrating its catalytic effect on domestic justice systems.

Temporal Limits

The jurisdiction of the ICC is non-retroactive, and it only covers offenses committed on or after 1 July 2002, when the Rome Statute came into effect (Article 11). This temporal restriction provides legal certainty and guards against ex post facto prosecution.

For acceding States after 1 July 2002, jurisdiction only covers crimes committed after the treaty has entered into force for the state, unless the state makes an Article 12(3) declaration to accept jurisdiction for crimes committed previously. The retrospectivity of the Court has been provided in some cases by such declarations, but still it is tied by the overall non-retroactive nature of the Statute.

The temporal limit is most important in cases with long-standing conflict. For instance, offenses perpetrated prior to the entry into force of the Statute, even as part of the same conflict are outside the reach of the ICC. This limitation calls for dependence upon other instruments, for example, ad hoc tribunals, hybrid courts, or national prosecutions, to prosecute earlier atrocities.

Case Studies

Case studies provide important insight into the ICC's practical exercise of its jurisdiction, the boundaries of its powers of enforcement, and the developing legal doctrines it applies. The examples that follow, Uganda, Darfur (Sudan), and Ukraine, represent varied legal, political, and operational challenges.

Uganda - Lord's Resistance Army

The ICC's initial arrest warrants in 2005 targeted the commanders of the Lord's Resistance Army (LRA), a rebel group charged with mass atrocities across northern Uganda and neighboring countries. Dominic Ongwen's case is remarkable for its legal and ethical nuance. Abducted as a child and compelled to serve as an LRA soldier, Ongwen became a commander himself and took part in attacks that included murder, enslavement, rape, and child conscription.

In 2021, the ICC found Ongwen guilty of 61 war crimes and crimes against humanity, a jurisprudential first: the Court self-consciously addressed the dual status of the accused as both victim and perpetrator. The ruling broadened legal discussions on mitigating factors, agency, and culpability in cases of forced recruitment, with implications for future jurisprudence on coerced combatants.

Sudan, Darfur

In 2005, the United Nations Security Council referred Darfur to the ICC under Resolution 1593, its first referral. The investigation by the ICC led to charges being brought against a number of Sudanese leaders, including President Omar al-Bashir, for crimes against humanity, genocide, and war crimes committed in the context of the systematic persecution of ethnic groups.

Whereas the Darfur cases confirmed the Court's ability to operate within non-State Parties by referrals from the Security Council, they also highlighted profound enforcement difficulties. Various states, including ICC members, ignored arrest warrants for al-Bashir during his international trips due to conflicting diplomatic commitments. This revealed the Court's organizational reliance on state collaboration for arrest and surrender, asking whether there is an optimal balance between political imperatives and legal mandates.

Ukraine

The ICC's intervention in Ukraine is a demonstration of its increasing response to ongoing conflict cases. While Ukraine is not a State Party to the Rome Statute, it has made Article 12(3) declarations recognizing ICC jurisdiction over crimes in Ukraine since 2014, subsequently amended to include the 2022 escalation.

Prosecutions concern purported war crimes, such as systematic targeting of civilians, attacks on civilian infrastructure, and forced transfer of children to the Russian Federation. The issuing of arrest warrants for top Russian officials in 2023 marked the Court's assertion of willingness to do something amidst continued fighting a symbolic and pragmatic step with regard to deterrence and preservation of evidence.

The Ukraine case also features developments in cooperation, including joint investigative units with Eurojust and national prosecutors, and open-source intelligence to record abuses in near-real time. But enforcement is still subject to geopolitics, especially since neither Russia nor Ukraine is a State Party to the Rome Statute.

Challenges

Notwithstanding its mandate as a pioneering institution, the ICC is beset by enduring structural, political, and normative challenges that limit its ability to offer effective justice.

Political Resistance

One of the Court's greatest challenges is the lack of universal membership. Powerful states such as the United States, China, and Russia continue to be outside the Rome Statute regime, constraining the Court's jurisdictional scope and cooperation potential. Even within the State Parties, political factors cause non-cooperation in areas such as the arrest and surrender of high-profile suspects. This defiance erodes deterrence and sends out the message that compliance is open to negotiation.

Perceptions of Bias

The ICC has faced a charge of disproportionate attention to African cases, especially during its formative years. Although most African cases were the result of self-referrals or Security Council referrals, the trend has contributed to selective justice accusations, undermining some of its legitimacy in the region. The Court has moved to broaden its investigative scope to non-African situations Afghanistan, Myanmar/Bangladesh, Palestine, and Ukraine but reputation repair is a gradual process.

Enforcement Deficits

Without an enforcement body of its own, the ICC must depend wholly on states parties to detain suspects. Political loyalties, security concerns, and alternative diplomatic interests frequently hinder or postpone arrests, as in Darfur's long stand-off with arrest warrants.

Emerging Threats

The legal architecture of the ICC is subject to gaps in interpretation in responding to new types of warfare. The application of war crimes legislation to cyber warfare—e.g., the targeting of hospitals through cyber sabotage—is still under-theorized. Likewise, environmental degradation as a war crime under the Rome Statute is only for some purposeful acts, leaving the more extensive conflict-related ecological damage largely unanswered.

Global Power Dynamics

The ICC's operational autonomy is molded, and frequently limited, by the geopolitical nature of the global system.

Impact on Referrals

The United Nations Security Council (UNSC) has the key role of extending ICC jurisdiction to non-State Parties through Chapter VII referrals. Nevertheless, the five permanent members' (P5) veto powers have the potential to veto referrals or determine their terms based on political affinities, as opposed to the gravity of purported offenses. For instance, cases with potential violations committed by influential states or their allies have often been kept out of ICC examination.

Budgetary Pressures

The ICC's budget is largely covered by State Parties in proportion to national income. More affluent states have disproportionate power in budget negotiations, influencing resource allocation to investigations, outreach, and protection of witnesses. Budget shortfalls have resulted in sluggish investigations and restricted ability to pursue more than one complex case at a time.

Political Support and Retaliation

Great powers have also occasionally used direct pressure to affect ICC activity, such as threats of sanctions against Court officials, as reflected in U.S. reactions to the investigation in Afghanistan. These actions not only limit particular investigations but also send a more general message that the jurisdiction of the Court is politically open to negotiation.

Strategic Navigation

To stay relevant within this unbalanced power dynamic, the ICC frequently exercises strategic sequencing, prioritizing cases or matters where cooperation is most probable. Pragmatic, this practice threatens to reinforce impressions that political viability is above legal principle, further testing the Court's legitimacy.

Recommendations and Conclusions

To deal with ongoing structural and operational challenges, the ICC needs to implement a mix of legal, institutional, and diplomatic reforms. The Court ought to collaborate with the Assembly of States Parties (ASP) and the United Nations in developing a strong compliance regime. This may involve diplomatic incentives in the form of development assistance or technical cooperation to cooperating states, and selective sanctions or public denunciation for those that hinder arrest operations or investigations.

A wider geographic spread of cases would reduce allegations of regional bias. Active initial investigations in underrepresented regions like Latin America, South Asia, and Europe can reinforce the Court's universality claim. This will involve not just legal evaluation but also strategic engagement with local civil society and victim groups.

The ICC must make investments in specialized units for cyber warfare, environmental offenses, and weapons of artificial intelligence. This involves the development of forensic tools for digital evidence authentication, satellite imagery analysis, and environmental assessment. The complementarity principle provides an untapped path to the extension of accountability. The Court ought to establish formal cooperation with national prosecutors and judiciaries through provision of training, legal models, and evidence-sharing procedures. This would enable domestic systems to serve as primary forums for international criminal law enforcement, lessening the caseload of the Court while extending reach.

As there are no specific Rome Statute provisions on most contemporary threats, the Court ought to issue authoritative policy documents and judicial rulings. These would elucidate how current war crimes definitions extend to cyber attacks against civilian infrastructure and to massive environmental devastation in armed conflict.

The International Criminal Court occupies a singular position in the architecture of global justice: a permanent judicial institution mandated to prosecute individuals for war crimes, crimes against humanity, genocide, and aggression. Over the past two decades, it has built a body of jurisprudence that has advanced the protection of civilians, accountability for mass atrocities, and the development of international criminal law.

But the Court's record is also one of political limitation, selective enforcement, and changing conflict patterns that leave its existing legal architecture in the dust. The records of non-compliance, appearances of impartiality, and territorial limits highlight the structural weakness of a court whose success depends on state cooperation. Meanwhile, emerging domains of cyber warfare and conflict-related environmental devastation raise new legal issues that need to be acted upon in anticipation.

To stay in step, the ICC needs to deepen its legal presence, spread its geographic wings, and anchor cooperative structures that improve the distance between principle and practice. By incorporating capacity development for national prosecutions, reinforcing technical investigation skills, and redefining its stance on new types of warfare, the Court can enhance both legitimacy and effectiveness.

In the end, the ICC's success in achieving its inaugural vision to bring an end to impunity for the most serious crimes against humanity is predicated on its ability to adapt in tandem with the complexities of contemporary conflict. A more responsive, representative, and internationally engaged Court is not just needed for justice but also for the integrity of the international legal framework.

References

1. Amnesty International. (30 August 2024). Ukraine: Ratifying the Rome Statute a welcome step but limitations must be addressed.
2. Assembly of States Parties. (23 July 2025). Special session on crime of aggression amendments. International Nuremberg Principles Academy.
3. Coalition for the International Criminal Court. (31 January 2025). Ukraine becomes the 125th ICC State Party.

4. Human Rights Watch. (18 November 2024). Briefing note: Twenty-third session of the International Criminal Court.
5. Human Rights Watch. (June 2, 2025). Comments to the ICC Office of the Prosecutor on policy on cyber-enabled crimes.
6. International Bar Association. (February 1, 2025). Ukraine overcomes challenges to become 125th country to ratify Rome Statute.
7. New Yorker. (January 10, 2025). Could other countries prosecute soldiers in Gaza?.
8. Parliamentarians for Global Action. (April 15, 2025). Key ICC developments – H1 2025.
9. Reuters. (2024, May 20). ICC prosecutor requests arrest warrants for Hamas and Israeli leaders.
10. Spain Ministry of Foreign Affairs. (2025, April 2). Spain is in favor of recognition of the use of certain weapons and the intentional use of hunger as war crimes. *The Diplomat in Spain*.
11. United Nations. (2025). Special tribunal for aggression in Ukraine. Associated Press.
12. University of Chicago Law School. (2025). Revolutions in justice: Advancing the Rome Statute system for future wars. *Chicago Journal of International Law*.
13. Wikipedia. (2025). Amendments to the Rome Statute. In Wikipedia.
14. Wikipedia. (2025). States parties to the Rome Statute. In Wikipedia.