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The Contribution of the International Criminal Court to Ending Impunity and Upholding the Rule of Law

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ABSTRACT

This abstract delves into the imperative role played by the International Criminal Court (ICC) in preserving justice amidst the challenges posed by national conceit. As nations grapple with the complexities of sovereignty and domestic priorities, the ICC stands as a beacon of accountability, promoting the rule of law on the global stage. This paper explores the historical evolution of the ICC, its mandate, and its mechanisms for prosecuting individuals responsible for the most egregious international crimes. Emphasizing the tension between national interests and the pursuit of justice, the abstract analyzes cases where national conceit has obstructed the pursuit of accountability and underscores the ICC's significance in overcoming such hurdles. Additionally, it investigates the potential avenues for strengthening the ICC's authority and effectiveness in the face of increasing nationalist sentiments. Ultimately, the paper advocates for a collaborative international approach, recognizing the indispensable role of the ICC in upholding justice and fostering a world where impunity for heinous crimes is not tolerated, even in the face of national conceit.

Keywords: Upholding justice, International Criminal Court (ICC), National conceit, Sovereignty, Global accountability, international crimes, Impunity.

Introduction

In the intricate tapestry of global affairs, nations often find themselves at crossroads where the pursuit of national interests converges with the imperative of international justice. It is during these critical junctures, marked by the conceit of nations, that the significance of institutions committed to upholding justice becomes most pronounced. The International Criminal Court (ICC), established in 2002 through the Rome Statute, emerges as a lighthouse in the storm, guiding the world through the tumultuous seas of impunity and ensuring that

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the darkest corners of human conduct are exposed to the light of accountability. In a world where nations often find themselves entangled in conflicts, both internal and external, the importance of international institutions committed to upholding justice cannot be overstated. The International Criminal Court (ICC) stands as a beacon of hope, providing a mechanism for accountability and justice when nations succumb to the temptation of conceit. This article explores the vital role played by the ICC in times of national conceit and the significance of its mandate to ensure that no one is above the law.

The very essence of the ICC lies in its mission to address the most egregious crimes that transcend borders—genocide, crimes against humanity, war crimes, and the crime of aggression. As a permanent international tribunal, the ICC serves as a sentinel against the excesses of power and a bulwark against the tendencies of national conceit that may lead to the erosion of justice within the borders of sovereign states.

The genesis of the International Criminal Court was a response to a historical realization that the international community needed a robust mechanism to confront those who commit atrocities, particularly when national legal systems prove inadequate or unwilling to dispense justice. In this regard, the ICC stands not as an encroachment on national sovereignty, but as a necessary supplement, intervening only when the pillars of justice within a nation begin to crumble under the weight of political expediency.

National conceit, often fuelled by political considerations, has historically led to instances where leaders remain shielded from accountability within their own jurisdictions. The ICC, with its mandate to act as a court of last resort, challenges the prevailing culture of impunity by asserting that no one is immune to the reach of justice. By doing so, the court asserts a fundamental principle—that even the most powerful leaders must be held accountable for their actions, and the victims of heinous crimes deserve redress, regardless of political affiliations or national allegiances.

The following exploration delves into the multifaceted role that the ICC assumes in times of national conceit. From preventing impunity and safeguarding human rights to fostering international cooperation and serving as a deterrent against future transgressions, the ICC emerges as a linchpin in the machinery of global justice. As the world grapples with evolving geopolitical dynamics and the persistent challenge of balancing national interests with the imperative of international accountability, understanding the crucial role of the ICC becomes paramount in charting a course towards a more just and equitable world order.

The primary responsibility of the International Criminal Court (ICC) is to serve as a court of last resort, capable of trying individuals for crimes against humanity, war crimes, and genocide, if national courts are unable or unable to do so for whatever reason.¹

The genesis of the international criminal court

The establishment of the International Criminal Court (ICC) marks a watershed moment in the pursuit of global justice. Born out of the Rome Statute, which was adopted in 1998 and entered into force in 2002, the ICC represents a response to the need for a permanent international tribunal dedicated to addressing the most severe transgressions against humanity. This brief delves into the historical context and deliberations that led to the creation of the ICC, examining the motivations, challenges, and aspirations that culminated in the formation of this pivotal institution. From the Nuremberg Trials to the ad hoc tribunals for Rwanda and the former Yugoslavia, the journey to establish the ICC is one that reflects the evolving understanding of the international community regarding the necessity of a standing court to hold individuals accountable for genocide, crimes against humanity, war

¹ <https://www.cfr.org/backgrounder/role-international-criminal-court> accessed on 15-01-2024.

crimes, and the crime of aggression. With the ratification of the Rome Statute, ICC aiming to address the lack of a permanent international tribunal to prosecute individuals for the most egregious crimes—genocide, crimes against humanity, war crimes, and the crime of aggression. The court operates as a court of last resort, intervening only when national legal systems prove unwilling or unable to genuinely prosecute these offenses.

Preventing impunity

Impunity, the shield behind which perpetrators of heinous crimes often find refuge, undermines the very fabric of justice and accountability. This brief explores the imperative of preventing impunity, emphasizing the need for robust mechanisms such as the International Criminal Court (ICC). In the context of national conceit, where powerful leaders may evade accountability within their own legal systems, the ICC serves as a bulwark against this culture of immunity.

Impunity thrives in environments where the powerful remain beyond the reach of justice, shielding themselves from the consequences of their actions. The ICC, established in 2002 through the Rome Statute, disrupts this status quo by providing a global forum for prosecuting individuals responsible for genocide, crimes against humanity, war crimes, and the crime of aggression. By doing so, it dismantles the protective shield of impunity that often surrounds leaders accused of grave offenses.

This section delves into the mechanisms employed by the ICC to prevent impunity. From its role as a court of last resort to its intervention when national legal systems prove inadequate or unwilling to prosecute, the ICC operates on the principle that justice should be blind to political affiliations or national borders. Through case studies and examples, we illuminate how the ICC acts as a deterrent against the unchecked exercise of power and ensures that no individual, regardless of their position, is immune from accountability. In examining the concept of preventing impunity, we underscore the importance of global efforts to foster a world where justice is not only pursued but is seen to be pursued, even in the face of national conceit.

In times of national conceit, the International Criminal Court (ICC) assumes a pivotal role in preventing impunity, acting as a staunch deterrent against the shielding of perpetrators from justice within their own jurisdictions.² This section explores how the ICC, as a court of last resort, stands as a critical mechanism to ensure accountability for the most egregious crimes, challenging the prevailing culture of immunity that often accompanies the abuse of power by national leaders. By examining specific cases and the impact of the ICC's interventions, we illuminate the court's indispensable role in curbing impunity and promoting a global commitment to justice.

One of the primary reasons for the creation of the ICC was to put an end to the culture of impunity that often prevailed when powerful leaders committed grave crimes within their territories. National conceit, driven by political considerations, could lead to the shielding of perpetrators from accountability within their own legal systems. The ICC, however, acts as a check against such tendencies, ensuring that those responsible for the most serious crimes face justice, irrespective of their position or nationality.

Safeguarding human rights

National conceit can manifest in the form of oppressive regimes violating the basic rights of their citizens. The ICC plays a pivotal role in safeguarding human rights by holding

² S Joseph, *Corporations and Transnational Humans Rights Litigation*, Oxford: Hart Publishing, 2020; D Leader, 'Business and human rights - time to hold companies to account', *International Criminal Law Review* humanitarian law:

accountable those responsible for acts such as mass atrocities, systematic torture, and widespread persecution. This not only provides justice for the victims but also sends a powerful message that the international community values the protection of fundamental human rights.³

In the intricate landscape of international relations, the protection and promotion of human rights stand as a moral imperative and a cornerstone for fostering a just and equitable world. Amidst the challenges posed by national conceit, where oppressive regimes may violate the fundamental rights of their citizens, the International Criminal Court (ICC) emerges as a critical instrument in safeguarding human rights.

Addressing systematic violations

The ICC plays a pivotal role in addressing systematic human rights violations. By focusing on crimes such as genocide, crimes against humanity, and war crimes, the court targets offenses that often result in mass atrocities and widespread human rights abuses. In situations where national legal systems falter or are compromised due to political considerations, the ICC steps in as a beacon of hope for the victims, offering the promise of justice and accountability.

Providing justice for victims

Central to the ICC's mission is the provision of justice for victims of heinous crimes. In instances of national conceit, where oppressive regimes may suppress dissent and perpetrate violence against their own citizens, the court becomes a platform for those who have suffered to seek redress. The ICC's commitment to impartiality ensures that the pursuit of justice is not swayed by political interests, allowing victims to find solace in the international community's commitment to human rights.

Setting precedents for accountability

By holding individuals accountable for grave offenses, the ICC contributes to the establishment of legal precedents that emphasize the inviolability of human rights. The court's decisions and judgments serve as a deterrent, discouraging potential perpetrators from engaging in gross human rights violations. This preventive aspect of the ICC's role contributes to a global environment where the protection of human rights is upheld as a universal value.

Challenging impunity for human rights abuses

In situations where national conceit might lead to the shielding of perpetrators within sovereign borders, the ICC challenges impunity. Its intervention underscores the principle that no individual, regardless of their position or nationality, should escape accountability for crimes against humanity. This proactive stance against impunity reinforces the idea that human rights are not subject to geopolitical considerations but are inviolable principles that must be upheld globally.

Promoting a culture of human rights

Beyond its immediate legal functions, the ICC contributes to fostering a culture of human rights. By actively pursuing cases that involve the most egregious violations, the court sends a powerful message that the international community places paramount importance on the protection of human dignity. This, in turn, influences nations to reassess their commitment to human rights and encourages the development of robust domestic mechanisms to prevent abuses.

³ International court: Libya can try uadhans son, Ine guardian, 11 November 2011, at <http://www.guardian.co.uk/world/feedarticle/9960502>; and 'icc orders Libya to hand over Gadhafi's former spy chief

Fostering international cooperation

The ICC operates on the principle of complementarity, meaning it only steps in when national legal systems fail. This encourages nations to strengthen their own judicial institutions and promotes international cooperation in addressing crimes of global concern. By fostering collaboration between nations, the ICC contributes to the development of a more just and harmonious world order.

In an interconnected world where the actions of one nation can reverberate globally, fostering international cooperation is not just a diplomatic nicety but an essential component of addressing complex challenges, especially in times of national conceit. The International Criminal Court (ICC) exemplifies a paradigm of collaboration, serving as a catalyst for nations to work together in the pursuit of justice and the prevention of impunity.

Complementarity principle

At the heart of the ICC's approach to international cooperation is the complementarity principle. This principle stipulates that the ICC only intervenes when national legal systems are unable or unwilling to genuinely prosecute individuals for the most egregious crimes. By placing faith in the capacity of nations to administer justice, the ICC encourages and complements domestic legal processes, fostering cooperation rather than superseding national sovereignty.

Strengthening domestic legal systems

The ICC's emphasis on complementarity acts as a powerful incentive for nations to strengthen their domestic legal systems. Recognizing that effective national judiciaries are the first line of defence against impunity, the court's intervention serves as a reminder to states that investing in robust legal institutions is not only a domestic imperative but also a contribution to the global pursuit of justice.

Mutual legal assistance

The ICC actively engages in mutual legal assistance, collaborating with national authorities to gather evidence, locate suspects, and facilitate the smooth conduct of trials. This cooperative approach not only expedites the judicial process but also builds bridges between the ICC and national legal entities, fostering a spirit of shared responsibility in the pursuit of justice.

Global information sharing

In confronting international crimes, information is a critical currency. The ICC facilitates global information sharing, creating a network where nations contribute intelligence, evidence, and expertise. This collaborative sharing of information enhances the court's ability to investigate and prosecute cases effectively, transcending national borders in the pursuit of truth and justice.

Preventing safe havens

The ICC's global jurisdiction sends a clear message that there are no safe havens for individuals accused of the most serious crimes. This dissuades nations from becoming refuge points for those seeking to evade justice, creating a shared understanding that accountability transcends national boundaries. In doing so, the ICC fosters a cooperative environment where nations actively contribute to preventing impunity.⁴

⁴ Priya Pillai, "The African Union, the International Criminal Court, and the International Court of Justice: At the Fault Lines of International Accountability", *American Society of International Law* 22, no. 10 (2018).

Diplomatic and political cooperation

The ICC operates in a geopolitical landscape where diplomatic and political considerations often come to the fore. Fostering international cooperation requires adept diplomacy and collaboration among nations. The ICC engages in diplomatic efforts to garner support, encourage cooperation, and build consensus, recognizing that the success of its mission is intricately linked to the goodwill and collaboration of the international community.

Capacity building

Recognizing the diversity in legal systems and capacities across nations, the ICC engages in capacity-building initiatives. This involves providing training, technical assistance, and support to enhance the ability of nations to investigate and prosecute international crimes. By investing in the capabilities of member states, the ICC contributes to a collective global effort to combat impunity.

Deterrence and prevention

The mere existence of the ICC serves as a deterrent against potential perpetrators of international crimes. The knowledge that there is a global institution committed to pursuing justice can dissuade leaders from engaging in acts of aggression or gross human rights violations. In this way, the ICC plays a crucial role in preventing the escalation of conflicts and the commission of heinous crimes.⁵

In the realm of international justice, the concepts of deterrence and prevention take center stage, serving as crucial pillars in the mission to curtail impunity and uphold human rights. The International Criminal Court (ICC) plays a pivotal role in this dynamic by not only prosecuting individuals responsible for grave crimes but also by acting as a deterrent against future transgressions.⁶ This section delves into the mechanisms through which the ICC contributes to deterrence and prevention in times of national conceit.

Symbolic deterrence

The existence of the ICC alone carries significant symbolic weight. The knowledge that there is a standing international tribunal committed to prosecuting individuals for genocide, crimes against humanity, war crimes, and the crime of aggression acts as a deterrent. Leaders contemplating egregious actions are reminded that their deeds could lead to global condemnation and legal consequences, creating a deterrent effect that transcends borders.

Individual accountability

The ICC's emphasis on individual criminal responsibility is a cornerstone of its deterrence strategy. By holding specific individuals accountable for their actions, the court sends a powerful message that no one, regardless of their position or title, is immune to justice. This individualized approach reinforces the principle that those who order or commit serious crimes will be personally responsible and face the consequences.

Preventing escalation of conflicts

The ICC's involvement in situations of national conceit serves as a deterrent against the escalation of conflicts. The prospect of facing international justice can influence leaders to reconsider their actions, particularly in situations where gross human rights violations or acts of aggression could lead to further destabilization. By acting as a deterrent, the ICC contributes to the prevention of the exacerbation of existing conflicts.

⁵ Kristof, Nicholas. "Schoolyard Bully Diplomacy." The New York Times. The New York Times, October 16, 2005. <https://www.nytimes.com/2005/10/16/opinion/schoolyard-bully-diplomacy.html>

⁶ See Guido Acquaviva's response to this piece, "International Criminal Courts and Tribunals as Actors of General Deterrence? Perceptions and Misperceptions", in this issue of the Review.

Creating accountability norms

Through its jurisprudence and legal precedents, the ICC contributes to the development of accountability norms. By establishing what constitutes criminal conduct on the international stage, the court sets clear standards that individuals and nations are expected to uphold. This normative framework acts as a preventive measure, shaping behavior and discouraging actions that could lead to international crimes.

Fostering a culture of justice

The ICC's commitment to justice fosters a global culture where accountability is valued and sought after. This cultural shift contributes to the prevention of atrocities by creating an environment where leaders understand that their actions will be scrutinized. The ICC's work reinforces the idea that justice is not an option but an essential component of responsible governance, thus influencing decision-makers to act within the bounds of international law.

International cooperation in prevention

The ICC's role in fostering international cooperation extends to collaborative efforts in preventing crimes. By actively engaging with nations, sharing intelligence, and cooperating in investigations, the court contributes to a collective effort to prevent the occurrence of egregious offenses. The collaborative approach emphasizes that preventing international crimes is a shared responsibility.

Discouraging safe havens

The ICC's global jurisdiction and commitment to pursuing justice wherever crimes occur send a clear message that there are no safe havens for those accused of the most serious offenses. This discourages nations from becoming refuges for individuals seeking to evade accountability, contributing to the prevention of impunity.

Conclusion

In times of national conceit, when leaders may be tempted to act with impunity, the International Criminal Court stands as a bulwark against injustice. Its mandate to prosecute those responsible for the gravest crimes ensures that no individual, regardless of their position or nationality, is above the law. As the world continues to grapple with complex geopolitical challenges, the ICC remains a crucial instrument in fostering accountability, upholding human rights, and promoting international cooperation for a more just and peaceful world.

In the intricate dance between national interests and the pursuit of global justice, the International Criminal Court (ICC) emerges as a beacon of hope and a steadfast guardian against the shadows of impunity. As nations grapple with the temptations of national conceit, the ICC stands as an indispensable institution, weaving a narrative of accountability, deterrence, and the safeguarding of human rights that transcends geopolitical boundaries.

The genesis of the ICC, rooted in the Rome Statute of 1998, represents a collective recognition that egregious crimes demand a response beyond the confines of sovereign borders. It is a response to historical lessons learned from Nuremberg, the ad hoc tribunals for Rwanda and the former Yugoslavia, and the realization that a permanent international tribunal is paramount to confront the darkest corners of human conduct. The ICC's establishment symbolizes a commitment to a shared global vision—one where justice is not a luxury for the privileged but an inalienable right for every individual.

The world is gradually evolving toward "dual sovereignty," also known as truncated sovereignty. This type of sovereignty, far from being absolute, merely grants the territorial state limited jurisdictional rights in a few, highly specialized areas that have little bearing on global society. States have turned become transmitters of global standards into the national mainstream, making choices increasingly limited in the post-Cold War world of

interconnectedness and interdependence. Since there is a greater chance of peace and justice within a larger international organization than relying on a single Superpower to deliver justice through war, it may be preferable for small and weak nations to pool their sovereignties in international organizations rather than directing their sovereign energies towards a few, or rather, one powerful player in international politics. Therefore, reason rather than realism should direct the actions of weak and tiny states when determining the future course of action on strengthening international organizations.

Sovereignty is the backbone of the state, if it exists at all. Neo-realists contend that a nation's standing both domestically and internationally is determined by its military might and economic backbone. Constructivists, on the other hand, contend that since no person or state can maintain a rigid backbone for an extended period of time, the spine's flexibility is what allows the state to carry out and uphold a sound balance between its commitments both domestically and internationally. The question of how far a state should bend to prevent its back from breaking, however, is moot. Participating in international organizations such as the International Criminal Court may not undermine sovereignty to the same degree as being compelled to enter the global institutions established by a global hegemony.

Preventing impunity, a formidable challenge in times of national conceit, is at the core of the ICC's mission. By acting as a court of last resort and intervening when national legal systems falter, the ICC breaks the chains that often bind leaders to a culture of immunity. It stands as a reminder that no one is above the law, irrespective of their position or nationality. In preventing impunity, the ICC serves as a voice for the voiceless, providing justice for victims who have endured the gravest of human rights violations.

Safeguarding human rights, another cornerstone of the ICC's mandate, amplifies its significance in times of national conceit. The court becomes a sanctuary for those trapped under oppressive regimes, offering a pathway to justice when domestic institutions fail. Its commitment to impartiality ensures that the pursuit of justice is blind to political considerations, establishing a precedent that underscores the inviolability of human dignity.

Fostering international cooperation is a nuanced strategy employed by the ICC to navigate the complexities of global politics. Through the principles of complementarity, mutual legal assistance, and capacity-building, the ICC becomes a catalyst for nations to work collaboratively in the pursuit of justice. By preventing safe havens for perpetrators and promoting a culture of human rights, the ICC fosters an environment where international cooperation becomes not just a diplomatic nicety but a shared responsibility.

Deterrence and prevention, integral components of the ICC's role, paint a vision of a world where the shadows of mass atrocities and gross human rights violations recede. The court's symbolic deterrence, emphasis on individual accountability, and creation of accountability norms contribute to a global culture where the prospect of facing justice dissuades leaders from actions that could lead to international crimes.

In the International Criminal Court's role in upholding justice during times of national conceit is not confined to courtrooms and legal statutes. It is a testament to the resilience of human rights, the power of global cooperation, and the unwavering belief that justice is an inherent right, not a negotiable commodity. The ICC, with its mission to prosecute the most egregious crimes, stands as a testament to humanity's collective commitment to a world where justice prevails, even in the face of the gravest challenges posed by national conceit. As the ICC continues its journey, it leaves an indelible mark on the pages of history, reminding nations that the pursuit of justice is an enduring flame that can illuminate even the darkest corners of our shared humanity.
