



# THE ROLE OF THE INTERNATIONAL CRIMINAL COURT: A LITERATURE REVIEW ON ITS EFFECTIVENESS AND LIMITATIONS

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## **Keywords**

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## **Abstract**

*The International Criminal Court (ICC) plays a critical role in promoting global justice by addressing crimes against humanity, war crimes, and genocide. This literature review examines the effectiveness and limitations of the ICC in fulfilling its mandate. The study synthesizes findings from existing research to evaluate the court's ability to prosecute offenders, deter future crimes, and support victims. Key factors influencing its effectiveness include jurisdictional constraints, the reliance on state cooperation, and the political dynamics within the United Nations Security Council. The review highlights significant achievements, such as landmark prosecutions and the establishment of legal precedents, while also identifying persistent challenges, including enforcement of arrest warrants and perceptions of bias. Furthermore, the study explores proposed reforms to strengthen the ICC's capacity to achieve its objectives. This review contributes to the discourse on international justice by providing a comprehensive analysis of the ICC's impact and areas for improvement, offering insights for policymakers, scholars, and practitioners in the field of international law.*

## **1. INTRODUCTION**

International justice is a key pillar in maintaining world peace and stability, especially in the face of serious crimes such as crimes against humanity, war crimes, and genocide (Louis, 2024). These crimes not only violate international law but also threaten fundamental human values. Without justice, perpetrators of crimes can act with impunity, which not only creates a sense of injustice for victims but also has the potential to exacerbate future conflicts and violence. Therefore, international justice serves as a mechanism that ensures that the perpetrators of crimes are not left without consequences (Travers et al., 2021).

Institutions such as the International Criminal Court (ICC) were established to answer the global challenge of tackling these serious crimes. The ICC plays an important role in providing accountability to individuals responsible for gross violations of international law (Hoeboer et al., 2024). In addition, these courts serve as a deterrent, sending a firm message that such criminal acts will not be tolerated by the international community (Palarczyk, 2023). The existence of international justice also provides psychological and moral support for the victims, showing that the world does not ignore their suffering. However, while important, international justice faces a variety of challenges, including political, technical, and legal constraints. For example, some countries are reluctant to cooperate with or even reject the jurisdiction of the ICC, which can hamper law enforcement efforts against international criminals. These obstacles show that international justice depends not only on legal mechanisms, but also on global commitment and cooperation. Nonetheless, the importance of

international justice is undeniable, as it offers hope for a more just and peaceful world (Usman, 2023).

The International Criminal Court (ICC) is a global institution established to enforce international law in dealing with serious crimes, such as genocide, war crimes, and crimes against humanity. As the first permanent court designed specifically to handle these cases, the ICC aims to ensure that perpetrators of serious crimes are not left unpunished. With jurisdiction that includes the signatory countries of the Rome Statute, the ICC serves as a global symbol in the fight for justice and preventing impunity at the international level (Mony Jalajadevi, 2024).

One of the important roles of the ICC is to ensure the accountability of individuals in crimes that violate international law. Unlike previous international courts that were often provisional, the ICC has a permanent mandate that allows it to process cases indefinitely (Maskály et al., 2021). This gives the ICC an edge in handling complex and time-consuming cases. In addition, the ICC serves as a judicial mechanism that complements the national legal system, especially when certain countries are unable or unwilling to prosecute perpetrators of serious crimes in their territory (Khan et al., 2021).

However, the role of the ICC is not free from challenges. The court's reliance on the cooperation of member states is often an obstacle in carrying out its mandate, especially in arresting perpetrators who have been issued detention warrants (Geneuss & Mariniello, 2019). In addition, the ICC has faced criticism regarding alleged bias against developing countries, which undermines its global legitimacy. Despite this, the ICC remains an important institution in global efforts to uphold international law, provide justice for victims, and prevent the recurrence of serious crimes in the future (Holder & Englezos, 2024).

The International Criminal Court (ICC) has great relevance in preventing impunity for perpetrators of serious international crimes, such as genocide, war crimes, and crimes against humanity (Anwary, 2023). In an increasingly globally connected world, serious crimes not only impact immediate victims but also create instability that can extend to different countries. The ICC provides a mechanism to ensure that criminals cannot take refuge behind state boundaries or political power, making it an important symbol in efforts to uphold international justice (Clark, 2011).

In addition to preventing impunity, the ICC also plays a role in strengthening the rule of law at the international level. By setting binding legal standards for member states, the ICC helps create global norms on accountability (Minkova, 2024). States that are part of the Rome Statute are encouraged to harmonize their national laws with the principles of the ICC, which in turn strengthens the rule of law at the domestic and international levels. This creates synergy between national and international law in an effort to combat serious crimes.

However, the relevance of the ICC lies not only in the legal aspect, but also in the moral message it sends to the world. The existence of the ICC demonstrates the international community's commitment to rejecting violence and systematic violations of the law. By prosecuting perpetrators of international crimes, the ICC not only provides justice for victims but also strengthens global belief in the importance of law and justice. In a global context full of political and security challenges, the ICC remains a key pillar in creating a more just and peaceful world order (Darodjat, 2024).

Although many studies have been conducted to evaluate the role of the International Criminal Court (ICC) in enforcing international law, there are still limitations in understanding the effectiveness of these institutions in dealing with practical and political challenges on the ground. Most of the existing literature focuses on normative analysis of the mandate and functions of the ICC without providing an in-depth evaluation of its success in specific cases or its direct impact on the prevention of serious crimes. In addition, there is a gap in studies that

integrate multi-disciplinary perspectives, such as law, politics, and sociology, in evaluating the ICC's strengths and weaknesses holistically (Rufanova et al., 2024). This research offers a new perspective by combining critical literature review and case analysis to evaluate the effectiveness of the ICC as well as its limitations in a global context (Darodjat, 2024). This approach not only maps the role of the ICC in dealing with international crime but also provides insight into how political challenges, cooperation between countries, and institutional legitimacy affect its performance. In addition, the study highlights the relevance of the ICC in the era of globalization and complex geopolitical dynamics, and offers practical recommendations to improve the effectiveness of this institution in the future. Thus, this research contributes to enriching academic discourse and practice related to the rule of international law.

## **2. RESEARCH METHODS**

This study uses a systematic literature review method to evaluate the role, effectiveness, and limitations of the International Criminal Court (ICC) in enforcing international law. The data used in this study came from various secondary sources, including scientific journals, books, reports of international organizations, as well as relevant legal documents. This approach allows researchers to identify and analyze existing findings in a broader context. Inclusion criteria are applied to ensure that only relevant, high-quality literature is used, such as peer-reviewed articles, white papers, and reputable academic literature published within a given time frame.

The study also used a thematic approach to analyze the data, where various key themes related to the role and effectiveness of the ICC were identified and grouped. The analysis was carried out critically to evaluate the ICC's success in handling specific cases, uncover the challenges faced, and identify gaps in previous research. With this approach, the research not only produces a synthesis of existing findings, but also provides recommendations that can be used to improve the ICC's performance and legitimacy

## **3. RESULT AND DISCUSSION**

### **The ICC's Effectiveness in Upholding International Law**

The International Criminal Court (ICC) plays an important role in international law enforcement, especially in handling cases of serious crimes such as crimes against humanity, war crimes, and genocide. As a permanent institution, the ICC is designed to fill a gap in the national legal system that is often unable or reluctant to prosecute perpetrators of serious crimes (Rufanova et al., 2024). With its global jurisdiction, the ICC seeks to provide justice for victims, prevent similar violations in the future, and promote the rule of law at the international level. Since its founding in 2002, the ICC has demonstrated its effectiveness by resolving a number of major cases, such as the convictions of Thomas Lubanga and Bosco Ntaganda related to the armed conflict in the Democratic Republic of Congo. This judicial process not only provides justice for victims but also sends a strong message that perpetrators of serious crimes will not go unpunished. This success shows that the ICC has the capacity to act as the last protector in the international legal system (Mony Jalajadevi, 2024).

The ICC also contributes to the prevention of international crime through what is known as the deterrence effect. By prosecuting perpetrators of crimes and providing firm

punishments, the ICC creates a legal precedent that strengthens international norms on accountability. The presence of the ICC as an independent and non-political institution sends a signal to political and military leaders that crimes against humanity will not be left unattended. Although the ICC has an important role, its effectiveness is often hampered by a lack of cooperation from member states (Palarczyk, 2023). Many international crime suspects remain free because countries do not carry out detention warrants issued by the ICC. In addition, major countries such as the United States, China, and Russia that did not ratify the Rome Statute, made the ICC's jurisdiction limited, thus weakening its global scope (Hoeboer et al., 2024).

The ICC has also faced criticism regarding geographical bias, with most of the cases handled coming from countries in Africa. This gives rise to the perception that the ICC is more likely to prosecute perpetrators from developing countries, while serious crimes in developed countries are often overlooked (Darodjat, 2024). This issue, along with the challenge of politicizing the ICC's decisions, could undermine the legitimacy and trust of this institution in the eyes of the international community. Despite the various challenges, the ICC remains a key pillar in the international legal system. The ICC's effectiveness in upholding international law depends on sustained efforts to strengthen international cooperation, address political challenges, and enhance legitimacy through fair and transparent legal processes. With the right reforms and global support, the ICC can continue to serve as a bastion of justice and accountability in the face of future heinous crimes.

### **The importance of understanding the role of the ICC in a global context**

The International Criminal Court (ICC) plays an important role in maintaining global peace and security by addressing serious violations of international law, including war crimes, genocide, and crimes against humanity. As the only permanent institution in the world that has jurisdiction to prosecute perpetrators of international crimes (Anwary, 2023), the ICC serves as an important mechanism to prevent impunity and ensure that violators of international law are held accountable for their actions. Understanding the role of the ICC helps the international community to appreciate its contribution to global law enforcement and the importance of support and cooperation between countries (Maskály et al., 2021).

One of the main reasons why understanding the ICC is so important is because of its role in ensuring accountability. The ICC's existence encourages countries around the world to enforce their domestic laws in prosecuting serious offenses, and forces leaders and individuals to think twice before committing serious crimes. By supporting the principle of non-impunity, the ICC helps create a global standard where crimes that threaten human peace and security are not allowed to go unpunished (Palarczyk, 2023). The ICC also plays a role in preventing injustices that can occur due to political bias or the reluctance of major countries to pursue violations of the law within their countries. In many cases, states involved in armed conflict or mass atrocities may use their power to avoid accountability. With the ICC, justice can be enforced more objectively and does not depend on the political power of the countries involved. This is crucial to ensure that all perpetrators of crimes, regardless of their political or geographical status, can be brought to justice fairly.

The ICC requires close cooperation between member states and the international community to implement its mandate effectively. The application of this principle of international cooperation is important in ensuring that the ICC can follow up on investigations and execute decisions efficiently (Geneuss & Mariniello, 2019). Countries need to commit to handing over suspects, gathering evidence, and implementing court decisions. Without this support, the effectiveness of the ICC could be hampered, and public trust in the institution could be eroded. Understanding the role of the ICC is also important to identify the challenges faced in the application of international law. Some of these include limited resources, an inability to access volatile territories, and a lack of support from countries that have not ratified the Rome Statute. On the other hand, political challenges such as criticism of geographical bias and injustice in the handling of cases can affect the credibility of the ICC. By understanding these challenges, the international community can work together to find better solutions (Holder & Englezos, 2024).

Despite the various challenges faced, the ICC plays a role in shaping international legal norms that protect human rights and world peace. By adjudicating serious offenses and providing punishment, the ICC helps set a higher standard for the conduct of states and individuals. This ultimately strengthens the rule of law at the global level and provides a foundation for future crime prevention efforts. Understanding the ICC's role in this context is important to support and strengthen global cooperation in creating a fairer and safer world for all (Mony Jalajadevi, 2024).

### **The Role of The ICC in Creating International Legal Norms**

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## Conclusion

The results of the study conclude that the International Criminal Court (ICC) plays a very important role in shaping and enforcing international legal norms, especially in dealing with serious crimes such as war crimes, genocide, and crimes against humanity. Through the various decisions produced, the ICC not only educates the global community on the importance of legal accountability, but also strengthens legal precedents that serve as a reference for countries to build their judicial systems. Despite the challenges it faces in terms of the application of the law in countries that are not bound by the Rome Statute and limited resources, the ICC's role in setting international standards remains irreplaceable.

The study also shows that although the ICC has succeeded in creating important norms in international law, stronger support from the international community is still needed to ensure the consistent application of these principles. Strengthening cooperation between member states and international organizations and increasing the capacity of the ICC are essential to face global challenges in law enforcement. Thus, the ICC can continue to play a central role in building a fairer and more effective legal system at the international level.

## REFERENCE

- Anwary, I. (2023). Evaluating Legal Frameworks for Cybercrime in Indonesian Public Administration: An Interdisciplinary Approach. *International Journal of Cyber Criminology*, 17(1), 12–22. <https://doi.org/10.5281/zenodo.4766601>
- Clark, J. N. (2011). Peace, justice and the international criminal court: Limitations and possibilities. *Journal of International Criminal Justice*, 9(3), 521–545. <https://doi.org/10.1093/jicj/mqr007>
- Darodjat, A. (2024). *Death Penalty For Drug Traffickers : A Legal and Human Rights Perspective*. 3(3), 472–480.
- Geneuss, J., & Mariniello, T. (2019). Introduction. Twenty Years of the Rome Statute: Functions, Goals, Effectiveness - Challenges of the International Criminal Court. *International Criminal Law Review*, 19(6), 905–909. <https://doi.org/10.1163/15718123-01906006>
- Hoeboer, C. M., Kitselaar, W. M., Henrich, J. F., Miedzobrodzka, E. J., Wohlstetter, B., Giebels, E., Meynen, G., Kruisbergen, E. W., Kempes, M., Olf, M., & de Kogel, C. H. (2024). The Impact of COVID-19 on Crime: a Systematic Review. *American Journal of Criminal Justice*, 49(2), 274–303. <https://doi.org/10.1007/s12103-023-09746-4>
- Holder, R. L., & Englezos, E. (2024). Victim participation in criminal justice: A quantitative systematic and critical literature review. *International Review of Victimology*, 30(1), 25–

49. <https://doi.org/10.1177/02697580231151207>
- Khan, A., Bhatti, S. H., & Shah, A. (2021). An overview on individual criminal liability for crime of aggression. *Liberal Arts and Social Sciences International Journal (LASSIJ)*, 5(1), 432–442. <https://doi.org/10.47264/idea.lassij/5.1.28>
- Maskály, J., Ivković, S. K., & Neyroud, P. (2021). Policing the COVID-19 Pandemic: Exploratory Study of the Types of Organizational Changes and Police Activities Across the Globe. *International Criminal Justice Review*, 31(3), 266–285. <https://doi.org/10.1177/10575677211012807>
- Minkova, L. G. (2024). A Battle of Ideas: Modes of Liability and Mass Atrocities. *Law and Social Inquiry*, 49(1), 509–536. <https://doi.org/10.1017/lsi.2022.87>
- Mony Jalajadevi, I. (2024). *Algorithmic content moderation and International Criminal Law: Liability assessment of social media platform operators using AI systems-based content moderation under International Criminal Law.*
- Palarczyk, D. (2023). Ecocide Before the International Criminal Court: Simplicity is Better Than an Elaborate Embellishment. In *Criminal Law Forum* (Vol. 34, Issue 2). Springer Netherlands. <https://doi.org/10.1007/s10609-023-09453-z>
- Rufanova, V., Babanin, S., Bohuslavskiy, V., Savenko, V., & Melnychenko, I. (2024). Strengthening International Law against Sexual Violence in Armed Conflicts: Insights from the Russian-Ukrainian War. *Pakistan Journal of Criminology*, 16(1), 111–125. <https://doi.org/10.62271/pjc.16.1.111.125>
- St. Louis, S. (2024). The Pretrial Detention Penalty: A Systematic Review and Meta-Analysis of Pretrial Detention and Case Outcomes. *Justice Quarterly*, 41(3), 347–370. <https://doi.org/10.1080/07418825.2023.2193624>
- Travers, Á., McDonagh, T., Cunningham, T., Armour, C., & Hansen, M. (2021). The effectiveness of interventions to prevent recidivism in perpetrators of intimate partner violence: A systematic review and meta-analysis. *Clinical Psychology Review*, 84. <https://doi.org/10.1016/j.cpr.2021.101974>
- Usman, R. (2023). Exploration of nexus between legal liability and corporate fraud: where do business laws and criminology converge? *International Journal of Criminal Justice Sciences*, 18(1), 232–243. <https://doi.org/10.5281/zenodo.4756251>
- White, E. (2024). Closing cases with open-source: Facilitating the use of user-generated open-source evidence in international criminal investigations through the creation of a standing investigative mechanism. *Leiden Journal of International Law*, 37(1), 228–250. <https://doi.org/10.1017/S0922156523000444>