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The Role Of International Criminal Law In Addressing War Crimes And Crimes Against Humanity.

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Abstract:

This research paper examines the importance of international criminal law in the fight against war crimes and crimes against humanity. Given the contemporary problem of systemic human rights breaches, the paper seeks to analyze the effectiveness, challenges, and evolution of international legal tools used to prosecute the most atrocious violations. It opens with the explanation of what war crimes and crimes against humanity are in terms of international law to proceed to a deeper discussion. The historical approach is used to present the roots and development of international criminal law since the end of World War II to the formation and mechanisms of operation of the International Criminal Court . It presents an analytical view of the most critical international treaties and agreements used for the prosecution of the crimes and examines the respective outcomes. The paper involves several distinct cases to examine their outcomes and evolve certain common and separate conclusions. Research encompasses the major problems experienced by international criminal law, such as jurisdictional, political, and attacking state principles. Today's advancement and technological development feature the challenges and benefits to investigating and prosecuting war crimes. In conclusion, the paper provides a few recommendations on how to strengthen international human rights focuses on the international alliances and the growing federal subsidiary systems. The research contributes to the nature and importance of the role of international criminal law in human rights enforcement and justice against the severest crimes.

Keywords: International Criminal Law, War Crimes, Crimes Against Humanity, International Criminal Court (ICC), Nuremberg and Tokyo Trials, Geneva Conventions, Ad Hoc Tribunals.

1. Introduction

Among the spectrum of international relations and global justice, international criminal law and its impact on curtailing war crimes and crimes against humanity remain a primary focus of this research paper. The aim of the paper is to understand and dismantle the mechanisms and approaches to how international criminal law interacts with these crimes. War crimes and crimes against humanity destroy the morale of nations and challenge the very foundations of global peace and justice (Akhavan, 2018). A response was needed, and the international community has slowly but surely developed a legal framework capable of addressing, adjudicating, and sometimes preventing these crimes. Indeed, the concept of war crimes and crimes against humanity has historically been rooted in the centuries-old customary and legal laws of wars. However, after World Wars I and II, the concept evolved into a new perspective – from transgressions against national laws to increased offences requiring a comprehensive response. This increase in cohesion and the legal framework were highlighted by the Nuremberg and Tokyo Trials as a response to the criminal behavior of Axis powers (Bassiouni, 2008). These practices led to further development of the International Criminal Court as a global enabler of international criminal law . However, criminal law targeting war crimes and crimes against humanity faces multiple intricate challenges that make it complex. Factors such as national sovereignty, jurisdiction, political influences, and national legal system capacities must be taken into account. Moreover, the very nature of warfare and the modern approaches to the crimes are rapidly developing, which makes structuring legal frameworks and strategies difficult.

To this end, this paper will navigate through the above aspects by first providing a historical trajectory on the development of international criminal law regarding war crimes and crimes against humanity. Next, the paper will consider the legal frameworks and institutions, particularly the ICC and other tribunals in enforcing the international laws. In such an approach, this paper hopes to gain insights on the successes, challenges, and future of international criminal law in the quest for global justice and accountability.

2. Historical Context

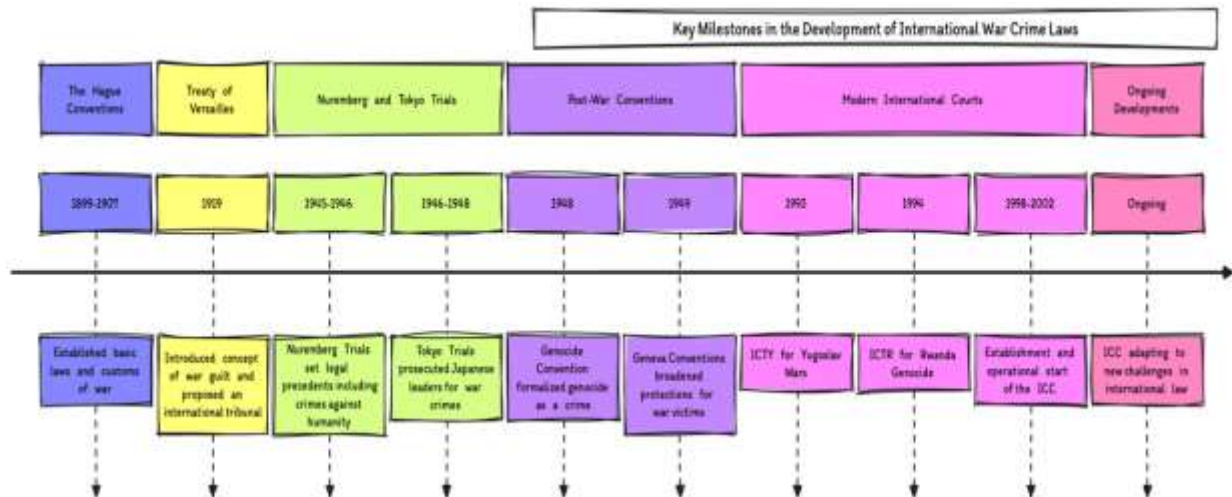


Figure 01: own extract

The history of international criminal law, and more specifically, war crimes and crimes against humanity, is deeply dramatic and convoluted. This section of the essay will explore the history of the legal system, including its formation, development, and significant and influential events and occurrences.

1. Early Foundations and Precursors

The idea that conducts during war can be regulated is one of the oldest concepts in history – most if not all ancient civilizations had developed their own “rules of war.” But the first definition and consolidation of the laws on war would emerge only in the late 19th – early 20th centuries in the form of international law. The Hague Conventions of 1899 and 1907 were a series of international treaties, the first formal ones, to set the rules for wartime conduct. They laid down the cornerstone principles of what would later constitute criminal law (Bensouda, 2020).

2. The Impact of World Wars

The World Wars were the catalysts of significant developments in the area. The unmatched scale of atrocities of World War I resulted in the establishment of the League of Nations and the promulgation of the concept of ‘crimes against humanity’ for the first time. Nevertheless, it was after World War II when a genuine breakthrough was made. The Nuremberg and Tokyo Trials – conducted to try Nazi and Japanese official respectively – were revolutionary in several respects. They demonstrated that not only states but individuals as well could be charged with war crimes. In addition, the trials introduced ‘crimes against peace’ and ‘genocide’ as concepts.

3. Post-World War II Developments

Post-World War II, the international community increasingly recognized the need for a permanent international tribunal to address such crimes. The formulation of the Genocide Convention in 1948 and the Geneva Conventions in 1949 extended the legal texture for waging war crimes and crimes against humanity, but the Cold War was gradually becoming an embarrassing surrounding for the establishment of a permanent court.

4. The Emergence of Ad Hoc Tribunals

In the late 20th century, interest in the international criminal law reappeared. This interest was caused mostly after the tragic events in the Balkans and Rwanda (Cryer, Friman, Robinson, & Wilmschurst, 2014). The examples to be mentioned are the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda. The operation of such ad hoc international tribunals has allowed modern international law to clearly define the essence of war crimes, crimes against humanity and the understanding of genocide.

5. The Establishment of the International Criminal Court (ICC)

Consequently, this effort eventually led to the establishment of the ICC in 2002, upon the adoption of the Rome Statute in 1998. The ICC was a remarkable achievement because it was the first permanent international criminal court legally empowered to try individuals reasonably suspected of genocide, crimes against humanity, war crimes, and the crime of aggression (Heller, 2011). This historical background is crucial in making sense of the current state and challenges that international criminal law face in prosecuting war crimes and crimes against humanity. Furthermore, it also identifies the varying progress, which indicated the growing commitment of the international community to respond to the worst crimes through a permanent international organ. Given the changing nature of warfare and the shifting global politics, international criminal law continues to adapt through developing several trends. These include the expansion of war crimes definition to cyber warfare and non-state actors such as terrorist groups and the merging of humanitarian and human rights laws to address the new complexity of warfare. Consequently, there is also an emergence of global politics affecting the jurisdiction of international laws enforcement, especially when member states refuse to cooperate with international tribunals. Courts are

also expanding to prosecute emerging crimes such as environmental destruction and cultural artefacts destruction while enhancing victims' participation, protection, and support. These trends outline the innate dynamism of international criminal law: thus, it continues to evolve in response to modern challenges and global changes while maintaining human rights and justice principles.

3. legal Framework and Institutions

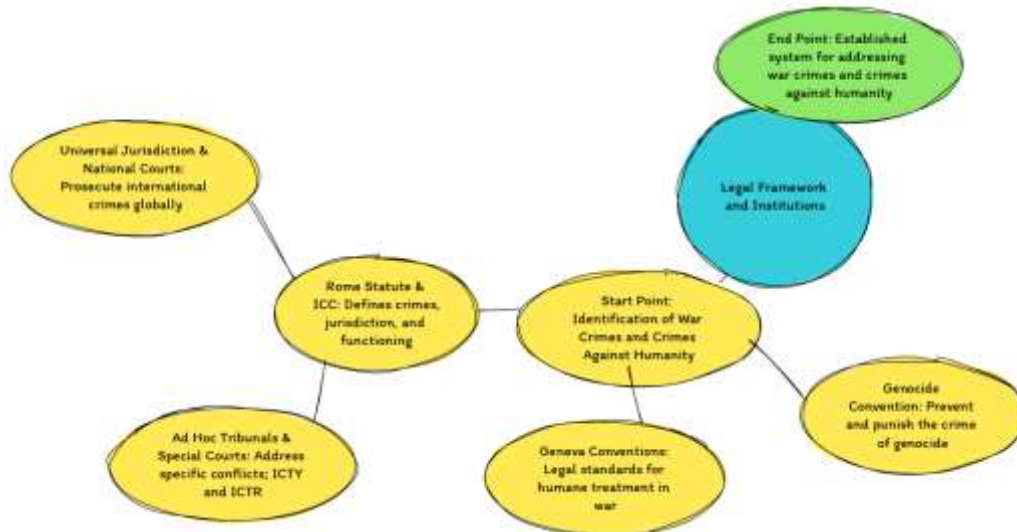


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Before discussing the way how international criminal law deals with war crimes and crimes against humanity, it is important to focus on the legal framework and organizations that support such an approach. This chapter of the paper considers the major frameworks and international organizations that form the basis of actions directed at prosecution and prevention of such crimes.

1. Foundational Treaties and Conventions

First and foremost, the four Geneva Conventions adopted in 1949 must be acknowledged as a key pillar of international humanitarian law (Human Rights Watch, 2019). These treaties collectively outline the most significant humanitarian standards applicable to the treatment of persons involved in war. They observe a specific focus on the principles of safeguarding non-combatants, including civilians, and medical personnel. Moreover, it goes into detail about various legal responsibilities related to the rights-oriented approach for prisoners of war, such as a ban on physical harm, a right to a fair trial, and others. In turn, the Genocide Convention from 1948 is equally fundamental to the edifice of international criminal law. This law is highly demanding of states in terms of acting as guarantors of the non-occurrence of atrocities explicitly qualifying as genocide, a term given to genocide coined after the end of the Holocaust. It creates an international precedent for legal investigatory instruments intending to stop situations when a high number of people is killed. Moreover, the Rome Statute from 1998, which established the International Criminal Court, set the new qualitative pillars for international jurisprudence. It offered a detailed summary of the most egregious crimes related to personhood. The document outlined the Rome Statute's competencies and the concept of complementarity – a notion that ICC can work only if a nation-state fails to adjudicate a case referring to identified categories.

2. International Criminal Court (ICC)

The ICC, situated in The Hague in the Netherlands, is the first permanent international court with jurisdiction to convene culprits of the listed crimes (International Criminal Court, 2020). It utilizes the principle of complementarity, where it only demonstrates relative jurisdictional rights when the involved member states are unable or reluctant to convict various personalities accused of the crimes.

3. Ad Hoc Tribunals and Special Courts

In addition to the ICC, the United Nations has established several ad hoc tribunals from the UN in specific conflicts that have addressed issues similar to those addressed by the ICC. For example, the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda. In addition, special courts such as the Special Court for Sierra Leone and the Extraordinary Chambers in the Courts of Cambodia have addressed these and other human rights violations in specific national contexts.

4. Universal Jurisdiction and National Courts

Universal jurisdiction refers to the capacity of national courts to try suspects for the most serious international crimes regardless of the place where the crimes were conducted, as well as the nationality of the victims or perpetrators. Many situations have occurred where the ICC or other international tribunals were lacking jurisdiction.

5. Other Relevant Bodies and Mechanisms

Aside from the enabling countries to bring disputes before it, the ICJ impacts international law regarding crimes against the peace of mankind and crimes during warfare. Encouragingly, there are several supportive UN bodies that facilitate monitoring, reporting, and formulating recommendations with regard to crimes against the peace of mankind and crimes in the course of war. Consequently, the legal and institutional framework above represents the international community’s united effort to develop a respectful, reliable system of justice to redress the most outrageous offenses in the globe. Even though the developed laws and institutions have made great steps in holding offenders to account, they face various challenges including limits of jurisdiction, the influence of politics, and enforcement constraints. As a result, it is crucial to recognize these multifaceted challenges to evaluate global justice and the potential of international law in achieving justice globally and advocating for human rights.

4. comparative analysis

When evaluating the effectiveness of different international tribunals, ICTY, ICTR, and the ICC differ in methodologies, achievements, and challenge points. The ICTY and ICTR, established based on conflicts, were essential in developing the jurisprudence around genocide and crimes against humanity. ICTY played a massive role in codifying the approaches to ethnic cleansing and wartime rape. The ICTR made influential decisions regarding the media following the genocide. Nevertheless, both activities have been criticized for inefficiency, high costs of operation, and limited scope of justice. In fact, some authors argue that the work of these tribunals was not true justice, as it did not necessarily lead to overall social reconciliation. In contrast, being a permanent body under the Rome Statute, the ICC has the ambition of being the ongoing justice-giving body. Despite this claim, the ICC has been heavily criticized for the lack of cooperation from states, politicization and a claim that its work disproportionately targets African nations (Kerr & Mobekk, 2007). These allegations also put the neutrality and efficiency of the ICC into question. As an alternative to these international bodies, national courts that apply the universal jurisdiction principle are capable of judging criminal activates that did not happen within national borders. The case of Chilean dictator, whom Spain judged, is reflective of the success this approach can have. Lastly, hybrid bodies, such as the Special Court, are something between international and national space. They honour the victims and are familiar with the context in question while maintaining an international focus.

5. Quantitative Data and Statistics:

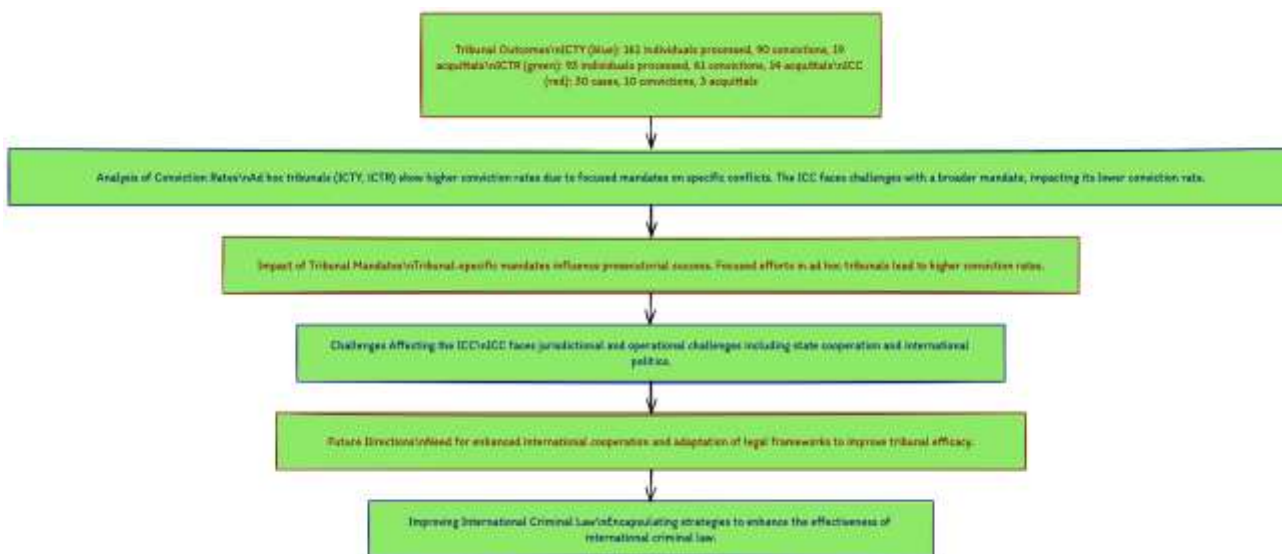


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Therefore, an evidence-based trend analysis on statistical outcomes from major international tribunals such as the International Criminal Tribunal for the former Yugoslavia, the International Criminal Tribunal for Rwanda, and the International Criminal Court is necessary to adequately assess the success rates and limitations of international criminal law. The ICTY, having concluded its mandate, prosecuted 161 persons leading to 19 acquittals and 90 convictions, a figure which emphasizes on the strong prosecutorial outcome of the tribunal, and its legal significance in the development of jurisprudence, particularly on the issue of ethnic cleansing and conflict-related sexual crimes. The ICTR’s prosecutions while active led to 14 acquittals and 61 convictions out of the total 93 individuals that made up the completed proceedings, thereby achieving significant progress in the area of the role of the media in incitement to genocide and promoting the development of jurisprudence on this area. For the ICC which is still active, 30 cases have been tried, resulting in 3 acquittals and 10 cases; this comparison paints the picture of the complications associated with ongoing tribunals and those targeting specific conflicts. The trend indicates the higher conviction rates of ad hoc mechanisms compared to ICC due to the ability to concentrate efforts and resources. The above-discussed trend highlights the potential of international cooperation in ensuring the success of the law enforcement. Long-term relevance requires an adjustment of legal tactics to defeat the global challenges.

6. Case Studies

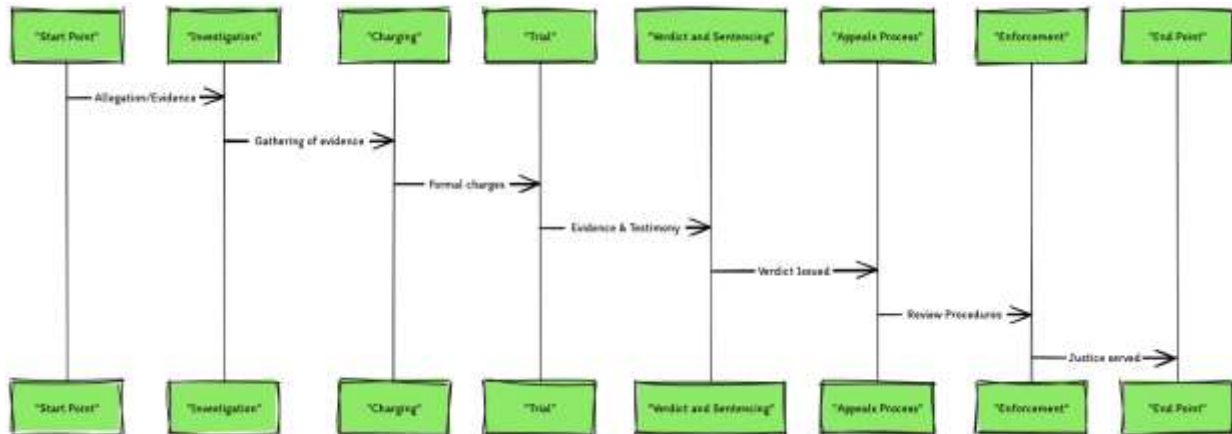


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To have a better, more concrete understanding of the involvement of international criminal law in the quest to address war crimes and crimes against humanity, it is important to discuss and explore various cases. In this context, a series of major cases and criminal trials will present and analyse several high-profile cases involving international criminal justice, including its application, impediments, and outcomes.

1. The Nuremberg Trials (1945-1946)

After World War II, the Allied powers created the International Military Tribunal in Nuremberg, Germany. It aimed to try Nazi leaders accused of crimes against peace, war crimes and crimes against humanity. Served as precedents for the definitions of international crimes presented in the Charter, the importance of personal criminal responsibility for war crimes, and the fact that a law under which one commands cannot serve as a defence in committing a war crime (Kissinger, 2011).

2. The Tokyo Trials (1946-1948)

Similarly, to Nuremberg, the International Military Tribunal for the Far East had the bank under the jurisdiction of Japanese leaders for identical or similar crimes. The Tokyo Trials further reinforced the principles established at Nuremberg and expanded the jurisprudence related to military and civilian leadership responsibility

3. International Criminal Tribunal for the former Yugoslavia (ICTY)

Established in 1993, was created to process the acts committed during the Yugoslav Wars. -Trials Held: Slobodan Milošević, Radovan Karadžić, and Ratko Mladić charged with genocide, crimes against humanity and grave breaches of the laws or the customs of war ICTY was crucial for the development of international humanitarian law, particularly in the cases of ethnic cleansing, rape being used as a tool of war (McDermott, 2019).

4. International Criminal Tribunal for Rwanda (ICTR)

Established in 1994 to try the perpetrators of the Rwandan genocide and other serious violations of international law. Jean-Paul Akayesu, first case in which rape was defined as a method for committing genocide. ICTR has also been at the forefront of defining and penalizing the crime of genocide, and the precedents it has established continue to shape international criminal law.

5. The International Criminal Court (ICC) Cases

Cases in the Democratic Republic of Congo (e.g., Thomas Lubanga), Uganda (e.g., Dominic Ongwen), and the Central African Republic. These cases illustrate the complexities of international criminal proceedings, issues of state cooperation, and the ICC's role in contemporary conflict situations.

6. National Courts Utilizing Universal Jurisdiction

Cases of applying universal jurisdiction in Spain, Belgium, Germany: Pinochet's detention and the trial of Rwandan genocide organisers in Belgium (May & Hoskins, 2016). The reviewed case studies show the process of development of formation, the effectiveness and the challenges of international criminal justice. They also help to identify the progress in the field of legal precedent, the peculiarities of international justice and the constant problem of achieving accountability and justice for the victims of war crimes and crimes against humanity. Thus, they can serve as a valuable argument when proving the actual effect of international legal measures in the context of the global fight against impunity.

7.Challenges and Limitations

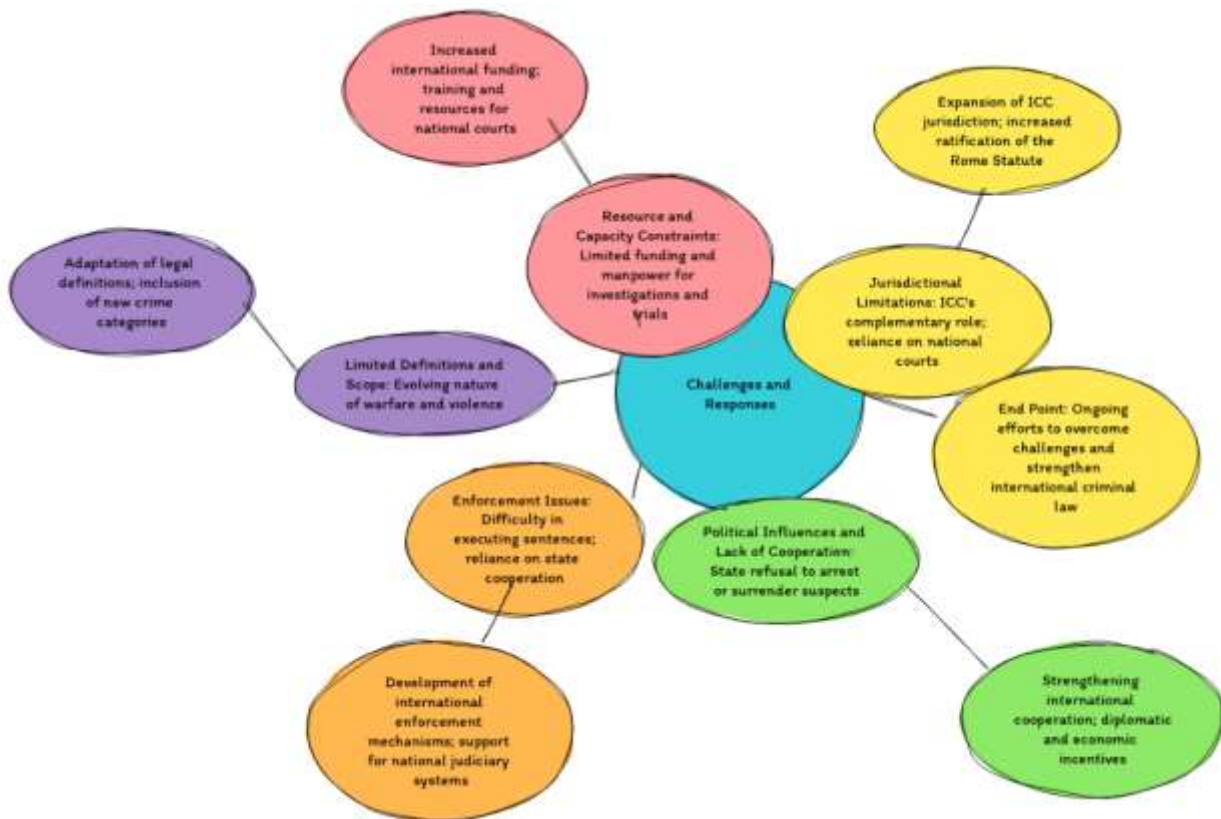


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However, despite significant progress, international criminal law has a number of limitations and challenges. This part of the research paper discusses these factors, providing a grounded assessment of the actual efficiency and restrictions of the existing international legal processes in the context of war crimes and crimes against humanity.

1. Jurisdictional Limitations

As discussed earlier, the ICC’s jurisdiction is based on the principle of complementarity, implying that a case can only be prosecuted by the court if the national courts are unable or unwilling to do so. Although most definitions consider it an aspect of respecting national sovereignty, its application can be limitations in the prosecution phase. In addition, the ICC can only intervene in the member states’ cases, except when a situation is referred by the UN Security Council. Thus, the mechanism may lack jurisdiction in specific regions.

2. Political Influences and Lack of Cooperation

Political considerations can have a major impact on international criminal law proceedings. The dependent nature of arrests, evidence collection, and sentence enforcement on state cooperation creates a major headache, especially for powerful state actors or politically charged cases. In particular, the referral or suspension powers of the UN Security Council based on the political interests of its permanent members can affect ICC outcomes, causing selective justice.

3. Enforcement Issues

Finally, the successful enforcement of international criminal law necessitates the reliance on states to arrest and extradite suspects. Although the ICC has issued several arrest warrants, states have failed to comply in some cases. State cooperation is also a prerequisite for the implementation of sentences and the well-being of victims and witnesses, another factor that can become quite unreliable.

4. Limited Definitions and Scope

The definitions of war crimes, crimes against humanity, and genocide are legally bound perceptions that can be less flexible to apply in some situations. The difference on the background of new emerging types of conflict or violence can create situations where these definitions may not be applicable. The emphasis on an individual’s criminal guilt also diverts attention from structural and state-level responsibility.

5. Resource and Capacity Constraints

There are considerable restrictions on resources impeding the functioning of international tribunals and courts. This includes their ability to properly investigate and prosecute given the involved time and complexity, as well community role. At the

same time, a lack of capacities of national judicial systems may impede the successful implementation of international criminal law domestically.

6. Challenges in Achieving Justice and Reconciliation

Thus, despite the growing interest in pursuing justice at the international level, and although it is generally a positive development that international law is increasingly relied upon to hold war criminals accountable, many significant challenges and limitations accompany applying international criminal law. These imply that it is crucial to continue the work to strengthen international legal frameworks and mechanisms for cooperation, maintain international and state-level political will to respond to gross human rights violations, and adjust international criminal law to the changing realities of conflicts worldwide. These limitations, in turn, are critical for understanding interstates of the extent to which international criminal law can and does hold individuals accountable for crimes of war and against humanity.

8. Contemporary Issues and Developments

The contemporary international criminal law field, in particular the areas of prosecuting war crimes and crimes against humanity, is in a state of constant change. Recent challenges and undertakings have had a profound impact on the work and reach of international legal measures. The present chapter of the paper discusses these recent trends in the reach and implementation of global justice.

1. Emerging Forms of Conflict and Violence

Modern conflicts include many non-state actors, cyber warfare, and other unconventional tactics, complicating the application of international criminal law first designed to prosecute states and their wars. Increased rate of terrorism and extremist violence triggered discussions on the possible legal solutions considering the current situation, including jurisdiction and international legal systems (Schabas, 2017).

2. The Impact of Technology and social media

Advances in technology have revolutionized evidence gathering, with social media, satellite imagery, and digital forensics providing new tools for documenting and prosecuting crimes. However, these technologies also raise concerns regarding privacy, data protection, and the verification of digital evidence.

3. The Role of the International Criminal Court (ICC)

Moreover, the ICC has come under fire for the bias, or appearance thereof, against certain regions, such as Africa, which poses serious challenges for maintaining the international credibility of the organization. The attempts to broaden the ICC capabilities, involving the preliminary examination of the situation in Afghanistan and Palestine, deserve mention .

4. Universal Jurisdiction and National Prosecutions

A suggestion to consider is that there is the growing practice of the national court systems engaging with the universal jurisdiction in cases of the international crimes, which increasingly manifests the national trend as an emphasis of the international justice approach. Hence, it is imperative to assess the rational correspondences of the international and domestic priorities in regards to the crimes against humanity and international war crimes.

5. State Non-Cooperation and Impunity

Refusal to arrest or surrender suspects, and political interference in investigations, is another persistent challenge that undermines the effectiveness of international criminal law. State non-cooperation is instrumental in creating a culture of impunity, especially among high-level officials and powerful states.

6. Victim and Community-Centric Approaches

Ensuring victim-centeredness in international criminal proceedings is reflected in the increased focus on the needs and rights of victims and affected communities. Repair and restorative justice are integrated into the retributive framework of international criminal law.

7. Challenges in Balancing Justice and Political Stability

The above findings notwithstanding, the relationship between international criminal prosecutions and political stability, especially in post-conflict societies, is complex. The insistence on justice, the call for accountability, and the possibility of prosecuting cases often collide with peace processes and the need for reconciliation (Teitel, 2003). It follows that the international community needs to formulate international criminal law that could respond to more than just wars and other forms of physical conflict – but rather more profound global tendencies, like human rights violations across the spectrum of happenings brought by climate change and the pandemics (Sikkink, 2011). Because, it can be realized from these cases and trends that international criminal law is a living ecosystem that would always require additional development and analysis. However, this also means that a just, efficient, and comprehensive international justice system should be cognizant of modern conflicts and human rights violations. Therefore, it is important to recognize these recent advancements to understand how international criminal law is likely to evolve and grow in the future efforts to combat war and crime.

9. The Future of International Criminal Law

With a view to the future, the landscape of international criminal law with respect to war crimes and crimes against humanity can advance along further paths of evolution and development. In this regard, the present section sets out the potential trajectories, emerging challenges and opportunities for improvement.

1. Expanding the Jurisdiction and Reach

Finally, calls have been made to expand the jurisdiction of the ICC and international mechanisms to newer categories of crime, such as environmental crimes and cyber warfare (Stanton, 2013) . It will also be vital to ensure a wider ratification and adherence to the Rome Statute and other international treaties to expand the global reach and influence of international criminal law.

2. Strengthening State Cooperation and Enforcement

In conclusion, the effectiveness of international criminal law depends to a large extent on the cooperation of states. Future outcomes could involve more integrated frameworks between states and incentives for arresting and surrendering suspects of the aforementioned crimes, as well as enforcing judicial action. However, ensuring a cause of political bias and a balance between the application of ICL across different regions and conflicts will be a critical factor in the future of ICL.

3. Integrating Restorative Justice Models

Restorative justice is increasingly recognized in international criminal law. Future developments may see a greater integration of victim-centered approaches, focusing on reparations, reconciliation, and community building, and retribution:

4. Adapting to Technological Advancements

Keeping pace with technological advancements will be crucial. It involves updating legal frameworks to cover the crimes committed in cyberspace, as well as using technology to collect evidence, protect witnesses and prosecute them.

5. Enhancing Collaboration with National Courts

Enhancing the capacity of national courts to prosecute international crimes under the principle of complementarity; this will involve the training, sharing of resources and legal support that will be channeled to strengthen the domestic trials and the international system of justice Bibi Works cited.

6. Addressing Impunity for Powerful Actors

One of the major concerns is addressing the lack of punishment for state and non-state actors with power. In this case, one of the major changes or developments for the future is the reform aimed at ensuring that these actors are punished, regardless of the political or financial power.

7. Responsive to Emerging Global Challenges

International criminal law shall continue to evolve and respond to new global challenges such as mass atrocities committed in the context of climate change, pandemics, and mass migrations

8. Promoting Universal Jurisdiction

Universal jurisdiction may become more widespread, and national courts get more chances to prosecute international crimes and support the work of international tribunals.

9. Public Engagement and Awareness

It is essential to improve the public's awareness and backing for international criminal justice processes. Such initiatives should involve education, the media, and transparency in court processes. This will contribute to the creation of a global culture of resistance against impunity. The future of international criminal law is "multifaceted"; while preserving the national sovereignty principle and keeping up with global conflicts and technological trends, it involves a compromise between punitive and restorative justice approaches . As the world continues experiencing new types of conflict and human rights abuse, the role of international criminal law remains vital.

10. Conclusion

In conclusion, the study of international criminal law, focusing on its response to war crimes and crime against humanity, is a tale of great achievements, persistent challenges, and future ambition. From the legal structure and institutionalization, as seen in the establishment of the International criminal court to the precedent-setting processes of shaping how to approach the worst abuses, international criminal has made some miles in the journey to achieve justice . The journey of international criminal from the ad hoc post-World War II to an organized body as in the ICC creation and formalization signals great agreement between nations on the global platform that all perpetrators must be brought into account irrespective of their status or the nature of wars. But it is still clear that this is just a part of the journey. Limited jurisdiction, power-derived authority, state refusal attitude, the limit in resources, and blurred linearity of legal and political justice outlines the dilemma of international criminal justice. Added complications of changing battle zones, conflict areas, technological advancement, and the victim-based approach to rights emphasize how a variable this play is. However, the way forward is determined by how the responses to these challenges are presented. Expanding jurisdiction, enforcing state-party relationship, incorporating the restorative dimensions, capacity to adopt technology, and, more critically, equity and taming the powerful are critical. In

summation, despite the numerous glooms that the criminal justice regime may be, the will to uphold it remains very central to the pursuit of human rights and global order. Hence the passion of nations to reform and enhance this state will make or break humans' desire to curb criminal acts. Justice, how hard it is to attain, will remain central to the vision of a better world.

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