The Role of the International Criminal Court in the Evolution of the Principles of International Criminal Law on the Crime of Genocide.

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Abstract

Genocide, as the most extreme form of destruction of human groups, has been one of the major threats to international law and its structures, peace, and security throughout history. The global community has been seeking a legal framework for the punishment of the offenders and the assurance of non-repetition of such crimes since the 1948 Genocide Convention. The establishment of the International Criminal Court (ICC) by the 1998 Rome Statute was a significant moment in the system of international criminal law, particularly in the areas of specifying genocide, setting the evidential standards and clarifying individual criminal responsibility.

This study examines the ICC's influence and reviews the landmark cases in Darfur and Myanmar. It also considers their legal and theoretical impact on the evolution of genocide law. Besides, the research discusses the issues of the ICC's legality and politics in the case of genocide trials. The problems discussed are proving the case, getting international cooperation, and the resistance of some governments to participate. By means of a comparative analysis, the paper proposes various measures through which the Court could be more effective in the prevention of genocide, thus international justice and human dignity would be furthered.

Keywords: Accountability, Genocide, Human Rights, International Criminal Court, International Criminal Law.

دور المحكمة الجنائية الدولية في تطور مبادئ القانون الجنائي الدولي بشأن جريمة الإبادة الجماعية

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المستخلص

جريمة الإبادة الجماعية تُعتبر واحدة من أخطر التهديدات التي تواجه النظام القانوني الدولي، إلى جانب تأثيرها السلبي على السلام والأمن العالميين. منذ أن تم اعتماد اتفاقية منع ومعاقبة جريمة الإبادة الجماعية عام 1948، بذل المجتمع الدولي جهودًا مكثفة لوضع إطار قانوني يضمن معاقبة مرتكبي هذه الجريمة ويسعى إلى عدم تكرارها. وفي هذا السياق، جاء تأسيس المحكمة الجنائية الدولية وفق نظام روما الأساسي لعام 1998 كخطوة حاسمة في تطوير القانون الجنائي الدولي، حيث ساهمت المحكمة في توضيح العناصر الأساسية لجريمة الإبادة الجماعية، وتحديد معايير الإثبات، وحدود المسؤولية الجنائية الفردية .تهدف هذه الدراسة إلى تناول إسهامات المحكمة الجنائية الدولية عبر تحليل القضايا الرئيسية، مثل ما حدث في دارفور وميانمار، وما نتج عن ذلك من تأثيرات قانونية وقضائية أسهمت في تطور فهم ودراسة قانون الإبادة الجماعية. كما تسلط الضوء على التحديات القانونية والسياسية التي تعيق عمل المحكمة في التصدي لهذه الجريمة. وتشمل هذه التحديات مسائل تتعلق بصعوبة جمع الأدلة، نقص التعاون الدولي، بالإضافة إلى غياب الإرادة السياسية لدى الدول .من خلال اعتماد منهجية تحليلية مقارنة، تهدف الدراسة إلى تقديم توصيات من شأنها تعزيز دور المحكمة الجنائية الدولية في الوقاية من جريمة الإبادة الجماعية، وتدعيم جهود تحقيق العدالة الدولية وصون كرامة الإنسان.

الكلمات المفتاحية: المساءلة؛ الإبادة الجماعية؛حقوق الإنسان؛المحكمة الجنائية الدولية؛القانون الجنائي الدولي.

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Introduction

Genocide represents the breach of global law and constitutes a crime, against the collective ethical conscience of humanity. The world community has since the 1948 Genocide Convention been eager to put in place clear ways of holding accountable and deterring. The setting up of the International Criminal Court under the 1998 Rome Statute can be characterized as a major move in this direction, as it offers a permanent and independent judicial organ to deal with those who commit genocide and other related crimes.

This work describes the prominent role played by the ICC in setting, interpreting, and applying the standards of international criminal law concerning genocide and how the Court's decisions, in turn, are instrumental in consolidating international law through delivering justice to victims of crimes..

1.1. Significance of the Study.

1. The ICC is the focal point of global-level prosecution for those who are responsible for genocide.
2. Highlighting how far the ICC has been a factor in the interpretation and development of international criminal law, especially in the elaboration of the definition of the elements and structure of genocide.
3. Emphasizing the relationship between the ICC's work and the initiative to facilitate international peace and security through the means of deterrence and accountability.
4. The main objective behind studying, writing, and publishing such research is to inform judicial activities about the law of genocide and thus create a positive feedback loop that will facilitate further research and innovations in Arab and international law.

1.2. Research Problem.

The problem statement is mainly reflected in different and non-uniformed judicial interpretation and practices of genocide occurring at the international level. The difference between those understanding of the subject matters that significantly different interpretations, has the effect of raising lots of questions, among which are the following:

1. To what extent was the International Criminal Court able to set the standards for shared legal norms for the recognition and the judicial order of genocide?
2. What sorts of difficulties in terms of evidence arise in the Court when genocidal intent and acts are to be proven?
3. In what ways do issues on one side and insufficient collaboration among nations, on the other side restrict the Court?
4. Is there a definite and uniform international understanding concerning the enforcement mechanisms and sanctions resulting from genocide?
5. Is there a definite and uniform international understanding concerning the enforcement mechanisms and sanctions resulting from genocide?

1.3. Purpose of the Study:

1. Carrying out an analysis of the International Criminal Court case law regarding genocide, and assessing its influence on the evolution of international criminal law.
2. Measure the effect ICC decisions may have had on the setting and implementation of the rules governing genocide through the law.
3. Highlight the presence of practical and political issues that impact the performance of the Court in cases related to genocide.
4. Besides helping to increase the global justice sphere, propose legal and procedural changes that will significantly

improve ICC's effectiveness in tackling human rights crimes, especially genocides.

1.4. Research Methodology.

The study will use a variety of methods like these:

1. Analytical Method: Analyzing global legal documents like the Rome Statute, the Genocide Convention, and pertinent UN resolutions.
2. Comparative Method: Identifying differences in the ICC judgments in comparison to those of the various international tribunals, mostly the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda.
3. Applied/Practical Method: Going over, dissecting, and understanding the selected ICC decisions and articles dealing with genocide.
4. Descriptive Method: Theoretical and legal explanation of genocide and its characteristics being a part of the bigger framework of international law are also presented.

1. The Conceptual and Legal Framework of the Crime of Genocide.

Genocide is the crime at the heart of international criminal law of the modern world. Besides the fact that it was the most violent crime, it had these drastic consequences everywhere for the protection of human groups and the stay of international peace and security. The crime of genocide has got through a long detour of history and law before it could be established as a single legal concept: from its first intellectual roots of the idea as spoken by Raphael Lemkin, the defining of it at the Genocide Convention of 1948, and last, the Statute of the ICC in 1998.

Here the main purpose was to gain knowledge of a deeper analytical model and conceptual framework of the laws that govern the crime of genocide through interpreting the definition, historical background, international rights- based approach Article, and the parts making up the whole in both treaty laws and legal interpretations.

This section is explaining by descriptive, historical, analytical, and comparative methods how the definition of genocide was evolved, how tribunal interpretations of it, and how international legal practice has been developed concerning its elements.

2.1. Definition and Historical Development of the Crime of Genocide.

Genocide as one of the most serious crimes under international law is a main source of danger to international peace, security, and human dignity. In fact, it is an ensemble of material acts including the direct killing of the members of a certain group, inflicting serious bodily or mental harm, causing death or the living of the group in conditions calculated to bring about its physical destruction, imposing measures intending to prevent births within the group, or forcibly transferring children of the group to another group, with a unique mental element-dolus specialis-that indicates the specific intent to destroy, in whole or in part, a protected group. This research examines the definition and the legal changes of genocide as the foundation of its current application in international criminal law and judicial practice before international tribunals (United Nations. Convention on the Prevention and Punishment of the Crime of Genocide (1948)., n.d.).

In the 1940s, Raphael Lemkin, who was an attorney, was the one who initially used the word genocide as a means of describing the planned mass killings during the second World War. As a result of Lemkin's groundbreaking work, the concept of genocide was changed from just a moral category to a crime recognized by international law which eventually led to the formation of the 1948 Convention. According to this international law underwent a transformation with the ICA judging in its Decision that safeguarding human groups became an international obligation rather, than a matter of state sovereignty (International Court of Justice (ICJ)). Application of the Convention on the Prevention and Punishment of the Crime of Genocide. (International Court of Justice (ICJ). Application of the Convention on the Prevention and Punishment of the Crime of Genocide . (*International Court of Justice (ICJ). Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro). Judgment of 26 February 2007*, n.d.).

2.1.1. Judicial Application and Evolution in International jurisprudence.

After the post-Cold War period, the two international criminal tribunals, the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda, were the main actors besides the interpretation and implementation of the convention .

The Prosecutor v. Akayesu decision at the ICTR in 1998 was a landmark case, which led to the broadening of the material scope of genocide to include sexual violence as a common and organized practice carried out with the intent to destroy a targeted group. The Court, in this case, drastically expanded the understanding of both the physical and the psychological aspects of genocidal acts(Eboe-Osuji, 2007)

Subsequently, the International Court of Justice in its decision in the Bosnia and Herzegovina v. Serbia and Montenegro case (2007) reiterated the definition of genocide. Besides that, the Court laid down the standard of proof for demonstration of specific intent, referring to that the intention to commit genocide is dependent on the situation and therefore it should be inferred from indirect evidence.(Kuo et al., 2022).

2.1.2. The Contemporary Phase and the Rome Statute of the International Criminal Court.

The abolition of genocide as a matter of state jurisdiction and the imposition of individual criminal responsibility at the international level was the major achievement of the International Criminal Court as the institution of permanent jurisdiction of the Rome Statute in 1998. Article 6 of the Statute constitutes international criminal law codification of genocide in a permanent and universal individual criminal responsibility framework taken over from the 1948 Convention. By that move, the ICC has institutionalized procedural stability and the principle of complementarity as well: the regulation according to which the Court will operate if national courts are unable or unwilling to prosecute.(Pruitt, 2021).

Along with that, the recent years have opened the route of revelation for the factual dimension through the usage of digital and satellite data, social media archives, and open-source intelligence as indirect evidence to prove genocidal patterns and intent.

2.1.3. Doctrinal and Practical Developments.

The genocide doctrine has transformed the text of the 1948 Genocide Convention and moved towards judicial interpretations which are the more concerned with evidence and the context of the case:

1. The methods of genocide which are harmed to be recognized now do not only go as far as physical extermination

but also indirect methods that include denying access to food, medical care, or the capacity to reproduce.

2. The special intent of the dolus is most times supported by circumstantial evidence such as systematically policies, propaganda, and organized discrimination.

3. That the technology plays a major role in investigations with international law is shown by the forensic digital, remote sensing, and AI-assisted verification.(Kuo et al., 2022).

2.2. The International Legal Basis for the Criminalization of Genocide (The 1948 Convention and the Rome Statute.

Genocide as a crime is addressed in the international legal system mostly through two major instruments: the 1948 Convention on the Prevention and Punishment of the Crime of Genocide and the 1998 Rome Statute of the International Criminal Court. These two documents, if taken together, depict the normative and procedural framework that is to be used in judicial proceedings in the case of the individuals who international law holds as liable to have committed genocide.

The 1948 Genocide Convention is the first ever international treaty that imposes a legal obligation on the parties to prohibit genocide. The Convention, which was put together as a direct consequence of the atrocities of the Second World War, is basically the expression of the worldwide agreement that genocide is a crime under international law, no matter if it is committed during war or peace (Pruitt, 2021). Article II of the Convention sets out the constitutive acts of genocide as those that are committed against the aim of destroying, totally or partially, a national, ethnical, racial, or religious group. This juridical definition brought in the necessary element of specific intent-dolus specialis-which separates genocide from other international crimes, e.g., crimes against humanity(Mettraux, 2019).

The Convention also required the States Parties to assume the double obligation of preventing and punishing-genocide. Nevertheless, there were very few procedural enforcement mechanisms; the Convention was essentially dependent on national courts or ad hoc international tribunals set up by the United Nations. Therefore, although the Convention established the normative framework, it hardly had any power to back up its claims, that would later be the international criminal tribunals and ultimately the ICC's role (Werle & Jeßberger, 2020).

The Rome Statute was concluded in 1998 and is the formal authority through which the framework laid down in 1948 is put into effect by conferring the ICC with the jurisdiction over genocide, crimes against humanity, and war crimes, and the crime of aggression. Article 6 of the Rome Statute almost literally copies the 1948 Convention in defining genocide, mentioning intentionality, protected groups, and acts that destroy. (Pruitt, 2021). The Statute further elaborated on the international criminal law on individual criminal responsibility and included command responsibility, complicity, and joint criminal enterprise (Van Goudoever, 2007).

The interpretations of the elements of genocide by the ICC case-law have significantly aided in clarifying the threshold test for determining intent, the evidentiary standard necessary for establishing a group's identity, and the extent of "acts" that can be considered as genocide. This progress is indicative of the deepening relationship between customary international law and treaty-based law, while at the same time enhancing the universal ban on genocide (Pruitt, 2021).

The legal regime established by the Genocide Convention of 1948 and the Rome Statute of 1998 is a landmark in the evolution of international criminal law. Together, they introduce the principle of individual accountability, bolster state obligations to prevent and punish, and maintain the normative prohibition of genocide as a jus cogens norm-a peremptory rule from which no derogation is permitted.

2.3. The Constituent Elements of the Crime of Genocide under International Law and Jurisprudence.

The elements of the mind and the physical world that have to be established for genocide to be considered an international crime have a complicated hierarchical arrangement. In order to demonstrate the basic elements of this crime, the present article first looks at the provisions set out in the 1948 Genocide Convention and the ICC Statute together with the source materials, respectively, judicial decisions of ad hoc tribunals and academic doctrine(Pruitt, 2021).

2.3.1. The Material Element (Actus Reus).

Both Article II of the 1948 Convention and Article 6 of the Rome Statute, for example, explicitly delineate the physical acts that constitute the actus reus of genocide, namely:

a) the killing of group members.

b) Causing serious physical or mental harm to members of the group.

c) It consists of the deliberate imposition of life conditions that are calculated to bring about the group's destruction physically, either entirely or partially.

d) Measures aimed at preventing births within the group.

e) Children forcibly removing children from one group and transferring them to another(Mettraux, 2019).

Those actions, to which the actus reus refers, have to be specifically those against members of either a national, ethnic, racial, or religious group and can only be a single action or a part of a discernible pattern of activities. According to the ICC

Elements of Crimes, in order for the criterion to be met, each of the prohibited actions must take place in a setting which, either on its own or together with other settings, is strongly indicative of a genocidal policy (Werle & Jeßberger, 2020).

2.3.2. The Mental Element (Dolus Specialis) .

The defining feature of the mental element - dolus specialis, or the will to totally or partially eliminate a protected group as such - is what sets apart genocide from other international crimes. It raises genocide beyond the level of negligence or knowledge because of that particular intentionality. The main purpose of the perpetrator to exterminate the group can be inferred from such evidence as a record of systematic attacks, discriminatory policies, or coordinated extermination campaigns(Pruitt, 2021).

According to ICC and the precedent tribunals, this purpose, in most instances, can be derived from the pattern, extent, and nature of the crimes committed rather than being explicitly stated. Fifth. Besides, the mental and physical elements must also be temporally co-incident, i.e., the intent to commit genocide must be there at the time of the criminal act. (Pruitt, 2021).

2.3.3. Protected Groups .

The features of the target group represent the third most significant element. Both Rome Statute and the 1948 Convention define genocide as only such crimes that are committed against racial, ethnic, national, or religious groups. Though they are often the targets of mass violence, politically or culturally, groups may not very well be the legal definition of genocide(Mettraux, 2019). This has sparked a lot of scholarly debate because some have argued that the law should be interpreted broadly so as to include gender-based destruction and politicide (Pruitt, 2021).

Group membership is a very complicated issue at the core of which most of the time lie objective elements (e.g. citizenship, language, and religion) and sometimes even subjective factors (e.g. self-identification of the perpetrators or their point of view). In order not to arbitrarily exclude the affected communities, the ICC has also recognized the necessity of a flexible approach in the contextual assessment(Werle & Jeßberger, 2020).

2.3.4. Interaction between the Elements.

The defining features of genocide are interdependent because both the dolus and the actus must relate to the members of a protected group. In addition, evidence of a definite pattern of conduct might indicate the presence of a certain goal. According to Pruitt, the biggest hurdle to evidence in international criminal law is still the establishment of genocidal intent (Pruitt, 2021). Consequently, the court's analytical approach demonstrates the interrelation between legal norms and judicial reasoning of courts dealing with different parts in different factual contexts. (Pruitt, 2021).

2. The International Criminal Court and Its Contribution to the Development of International Criminal Law.

One main thing that distinguished the introduction of the ICC from earlier efforts is that the ICC is the first permanent judicial body with a view to universalization and thus has a radical different structure as well as the very different kind of judicial reach from the ad hoc tribunals. The ICC therefore, by its very nature, not by an act of the Council or any other organ, has a great authority over the entire globe. Made with the purpose to punish the most serious crimes, especially the crimes that bring about the most powerful indignation of the society of mankind, that is to say genocide, the ICC has come to radically change the international criminal justice panorama. It is the first permanent judicial body with universal ambitions; the ICC was established to prosecute those gravest crimes that are intended to shock the international conscience-most specifically genocide. Unlike its predecessors-the various ad hoc tribunals-the ICC is set up under a complete, permanent legal regime, providing continuity and stability, and a consistent jurisprudence in the prosecution of crimes of mass atrocity.

The paper's objective is to examine the ICC's contribution to the development, interpretation, and extension of the principles of international criminal law on genocide. Using an analytical-comparative methodology, the present research in the second section focuses on how the ICC over these years has not only contributed to the enforcement of legal norms but also to their conceptual refinement. The Court's decisions so far have had a significant impact on the understanding of individual criminal responsibility, the interpretation of genocidal intent, and the evolution of modes of participation in collective crimes.

3.1. Establishment of the International Criminal Court and Its Jurisdiction over the Crime of Genocide.

The founding of the International Criminal Court marked one of the significant milestones in the evolution of international criminal law. As per the Rome Statute, 1998, the ICC was set up as the first permanent international judicial body that would have the jurisdiction to try individuals accused of genocide, crimes against humanity, and war crimes. It was an acknowledgment made by the world community that there was a need for a revolving mechanism that would be independent and universal in nature and could deal with the most serious violations of international law without any bias.(Pruitt, 2021).

3.1.1. Historical Emergence of the ICC.

The ICC's historical inception was the result of gradual incremental developments over time in the international criminal justice system. Various mechanisms in the past-such as the tribunals of Nuremberg and Tokyo along with the International Criminal Tribunals for the former Yugoslavia (ICTY) and Rwanda (ICTR)-had significant input but were limited as they had time constraints and situation-specific mandates. In comparison, the 1998 Rome Conference aimed to create a permanent court with jurisdiction worldwide. Thus, the Rome Statute, which is effective from 1 July 2002, formally recognized that international criminal prosecution would be a permanent institution and that genocide would be the court's main legal mandate (Mettraux, 2019).

3.1.2. Subject-Matter Jurisdiction over Genocide.

The ICC, under Article 5 of the Rome Statute, considers genocide as one of the "gravest crimes of concern to the international community as a whole. The wording of the definition in Article 6 is exactly the same as that of Article II of the 1948 Genocide Convention so as to facilitate the agreement between international law and the law laid down by the Statute of the Court.

This authority allows the ICC to take legal action against killing members of a protected group, causing major injuries, or making the living conditions of the group harmful, as long as it is done with the specific intention of completely or partially destroying the group (Werle & Jeßberger, 2020).

The ICC's jurisdiction over genocide is extended in time, i.e., it can cover both war and peacetime situations, and thus reconfirms the prohibition of genocide as a jus cogens norm of international law. This universality creates more mechanisms of accountability and thus makes it easier to have a legal framework for intervention in the case of the failure of domestic systems(Brannigan, 2013).

3.1.3. Personal Jurisdiction and Individual Criminal Responsibility.

One of the characteristics defining the ICC legal power area is the affirmation by the Court of the principle of criminal responsibility of a single person, regardless of his/her position in the hierarchy. The immunity of the heads of state, government officials, or persons acting in an official capacity is revoked in Article 27 of the Statute of Rome. This principle is an assurance to the effect that there is no one who is given immunity in case of a trial for genocide before the ICC. (Kuo et al., 2022).

The ICC has also identified several types of liability, including direct perpetration, co-perpetration, ordering, soliciting, aiding and abetting, and participation in a joint criminal enterprise. These are very significant in addressing the collective and systemic nature of genocide whereby mass violence most times results from the partnership of several actors. The ICC has been able to successfully implement these theories with the help of the jurisdiction that has been derived from the cases such as the Prosecutor v Akayesu and the Prosecutor v Krstić, among others (Schabas, 2009).

3.1.4. The Principle of Complementarity.

The ICC’s operational framework is based on the complementarity principle, which is detailed in Article 17 of the Rome Statute. According to this principle, the ICC is a court of last resort, therefore, it only comes in when local jurisdictions are not willing or able to seriously investigate or prosecute crimes. Complementarity in this case of genocide serves to remind states of their duty under Article I of the Genocide Convention to prevent and punish genocide and at the same time keep domestic systems as the main courts for justice .

Moreover, complementarity facilitates the alignment of domestic criminal law with internationally agreed-upon standards, which in turn, strengthens both national and international law enforcement agents and also increases the scope of international criminal law (Mettraux, 2019).

3.2. The contribution of the International Criminal Court to the interpretation and development of the concept of genocide.

It is through the preliminary stages and interpretive gestures that the ICC, although it has not adjudicated a final judgment in a case of genocide, has already substantially contributed to the contemporary understanding of the crime. In its engagement with the definition of genocide, the Court has cleared up interpretation, provided the conceptual basis for confirming the charges by analyzing the standards of evidence, and summarized the legal elements of the offence. The International Criminal Court, in its early jurisprudence on the confirmation of charges as well as by reference to the heritage of the ad hoc tribunals, has extended the concept of genocide beyond its literal terms in the 1948 Genocide Convention and the Rome Statute.1 This section uses an analytical–comparative method to evaluate the Court's interpretive contributions.

3.2.1. Interpretive Explanation of the Elements of Genocide.

In relation to the material element (actus reus) and the mental element (dolus specialis) of genocide, the ICC has pointed out the needed clarifications. The ICC, in its case law, has gone beyond the ICTR and ICTY jurisprudence and has therefore confirmed the idea that genocidal acts have to be construed as a wider conduct from which the inferential destruction of the group can be found. The Court has strongly insisted on referring to indirect evidence such as systematic attacks, discriminatory policies, and patterns of abuse when the intent to commit genocide is inferred, thus it is recognizing and applying the jurisprudential tests set by the landmark cases Akayesu and Krstić.

Besides, the ICC has combined and made operational this broadened concept of "serious bodily or mental harm" by explicitly acknowledging the different forms of psychological suffering, sexual violence, and cruel treatment as satisfying the requirement under Article 6 of the Rome Statute, thus it is in line with and goes beyond the trailblazing reasoning of the ICTR which was the first to recognize rape as a means of committing genocides(Van Goudoever, 2007).

3.2.2. Broadening the Concept of Protected Groups.

Furthermore, the ICC has elaborated the idea of protected groups under international law. Despite the fact that the Genocide Convention limits the definition to national, ethnical, racial, and religious groups, the case law of the ICC indicates that such identification should be supported by the contextual and social realities. Consequently, the Court has taken a flexible and functional approach, which means that consideration is given to the groups' perception by both perpetrators and victims, rather than strict legal categories (Mettraux, 2019).

This flexibility in interpretation is indispensable for handling the latest forms of group targeting, for instance, the gender identities and the minority communities which may not be adequately categorized in the traditional groups but still are being annihilated.

3.2.3. Development of Evidentiary Standards for Proving Specific Intent.

The ICC has been instrumental in revising the conceptual frameworks for the demonstration of special intent. Since dolus specialis is the most complex factor of genocide, the Court has progressively oriented its examination towards:

1. Aspects of organisation of the violent acts.
2. The magnitude and the characteristics of the assaults,
3. Calling the victims by insulting and degrading names.
4. Attacking administrative and political decisions that identify certain groups.

In this manner, the ICC has merged and clarified the jurisprudential criteria that were developed by the International Tribunals-ICTR and ICTY-and, therefore, has been furnishing a more and more systematic manual for prosecutors and judges on how to infer genocidal intent from indirect signs(Schabas, 2009).

3.2.4. Expanding the Definition of Acts of Genocide.

The ICC, in its legally substantiated content and documents submitted prior to trial, contended that non-traditional means could be used to perpetrate genocidal acts, such as:

1. Corruption, fraud, denial of human relief.
2. Forced displacement of people under the cataclysmic environmental situation.
3. Programs or schemes intentionally aimed at reducing or eliminating reproductive capacity.
4. Deliberate manufacture of life-threatening scenarios.

The Office of the Prosecutor has made the case that such conduct, if it were done with the aim of annihilating a group of people protected by law, could be considered as meeting the standard of genocide without necessarily involving the matter of indirect killing. This explanation is still awaiting a full trial confirmation, but it is already quite consistent with the gradually changing scholarly view that genocide shouldn't be equated only to mass killing but rather to a wider range of severely harmful practices (Schabas, 2009).

3.3. The ICC's Contribution to Consolidating Key Legal Principles.

The International Criminal Court (ICC) has been instrumental in consolidating and extending various core principles of international criminal law. Through its legal framework and decisions, the ICC has been a major source of the evolving concepts of individual criminal responsibility, specific intent, and modes of participation, thus deepening the international legal system regarding the most serious crimes. The present subchapter is based on the assessment of the Court's contributions to the law through the comparative and analytical methods.

Definitively one of the most significant contributions of the ICC is the affirmation that individuals and not states are directly responsible for genocide and other international crimes of a serious nature. Article 25 of the Statute has made this point clear by providing a detailed description of the actions that are liable for any person who commits, orders, incites, or otherwise contributes to the commission of genocide(Pruitt, 2021).

Moreover, the ICC has been instrumental in defining the concept of criminal intent, and more precisely, the specific intent or dolus specialis of genocide. The Court offered elaborated explanations for inferring genocidal intent from:

1. The extent and systematicity of the assaults.
2. The nature of the coordination in the attacks.
3. The use of hate-filled discriminatory ploys to certain groups.
4. Acing the destruction of the group through organization's plans and speech.

These points have gone beyond the previous decisions made in the matter of providing more detailed structures for proving intent, the most difficult of the prosecution's elements in a genocide case.

Furthermore, the ICC has also sought to specify that the temporal aspect of intent is: the time when the perpetrator carries out the act, it must have had the genocidal intent. This interpretation has not only made a firm doctrinal standard clearer but also has helped prosecutors to demonstrate liability with the help of circumstantial evidence (Pruitt, 2021).

The ICC has not only broadened the different ways a person may be involved in a crime of genocide but also has gone in-depth to clarify the explanation of each. The different forms of liability under Article 25(3) of the Rome Statute include:

1. Direct perpetration.
2. Co-Perpetration under a joint control theory.
3. Ordering, soliciting, or inducing.
4. Aiding and abetting.
5. Contributing to a group crime committed with a common purpose.

Interpretation of the Court regarding these modes of responsibility has been foundational for contemporary criminal law theory. Of special note is the ICC's clarifying of the notion of co-perpetration, which extends the idea of "joint criminal enterprise" from the ICTY and, at the same time, provides a more organized, control-focused direction.

Another point made by the ICC which is in line with the above-mentioned hypothesis is that its decisions highlight that the occurrence of genocide may be unlawfully achieved with the help of indirect or peripheral role players, though they are not the main performers, while the perpetrators' substantial efforts to the commission of the crime are clearly evident. This definition opens up more forms of unlawful conduct and deepens adherence to the law in hierarchical or organized systems of violence (Mettraux, 2019).

The doctrinal positions of the ICC have led to improvements in the precision, consistency, and universality of genocide prosecution. The ICC has consolidated rules derived from the prior tribunal decisions and made changes to them in a permanent legal framework which is a service to:

1. Deepening the evidentiary bases of genocide cases facilitating the work of the prosecutor in placing the blame.
2. Setting clearer normative points for participation and intent.
3. Together with that, it has been ensuring worldwide conformity with the Rome Statute by implementation of domestic laws.

By making these reforms, the ICC has deeply extended the reach of international criminal law and has, thereby, stabilized it as part of the global pact for prevention and punishment of genocide.

The Court's decisions have been instrumental in defining the outlines of this legal obligation. The ICC, on several occasions, established the idea that individuals might be held accountable even when they are part of hierarchical or political structures, thus, confirming the move from collective or state-centric responsibility to personal accountability. Although this principle is consistent with the precedents of the ICTY and the ICTR, it is more systematically developed in the ICC's statutory regime. Furthermore, Article 27 eliminates immunities linked with official capacity thereby, making it possible for heads of state or senior officials to be prosecuted. This idea, which is supported in cases such as Prosecutor v. Al-Bashir, is one of the ways through which the ICC is actively playing its part in liberating the world from the dominance of status and power (Kuo et al., 2022).

3. Applied Study of Genocide-Related Cases before the International Criminal Court.

The best way to demonstrate the practical application of the international criminal law principles is by studying the ICC's investigation and prosecution of the cases related to genocide. Even though the theoretical framework of genocide has been firmly established by the 1948 Genocide Convention and the Rome Statute, the implementation of these legal norms in the form of court decisions is still a daunting task. Genocide, by its very nature, is happening in highly complex situations where there is the violence on a massive scale, state involvement, mass displacement, and intentional hiding of evidence and, therefore, the ICC has a very hard time not only proving the facts of the case but also establishing legal responsibility.

Here we offer an applied analysis of cases related to genocide brought before the ICC, which is a deep dive into their local, procedural, and prosecutorial evidence-gathering aspects. It works through three main points: First, the Darfur (Sudan) cases, which have not only been at the core of the debate on-political and legal issues in the characterization of the atrocities as genocide but also have been a source of complications; Secondly, the situation of Rohingya minority in Myanmar which is a good example of the ICC's gradually extended jurisdiction and its involvement in crimes committed on a large scale against defenceless people; Lastly, the third point - evidentiary issues - which are common to all of them, including limitations in access to the location of the crimes, dependence on the digital recording of atrocities, and the difficulty of accounts given by witnesses.

4.1. The Darfur (Sudan) Cases and the Challenges of Legal Characterization.

The events in Darfur, Sudan is among the most intricate cases from a legal point of view and most of the politically sensitive cases that have come before the ICC. In 2005, the Security Council through Resolution 1593, referred the case of Darfur to the ICC. This was the first time the Court acted on a referral from the Security Council. The killing of masses, displacement of masses, deliberately attacking the civilian population, and accused of targeting the ethnic groups in the conflict in Darfur were the major factors which made it hard for the ICC to take up the case of crimes committed during this conflict (Amoroso, 2022).

The armed conflict started in 2003 in the Darfur region between the Sudanese government and the Janjaweed militias that it supported on one side and the rebel groups on the other side. Several international investigations-most notably the UN International Commission of Inquiry on Darfur-documented that there were widespread atrocities such as the indiscriminate attacks on villages, sexual violation, forced displacement, and destruction of property. Based on such findings the Security Council referred the case to the ICC Prosecutor who in turn opened investigations into the allegations of genocide, crimes against humanity, and war crimes (Conley et al., 2022).

4.1.1. Legal Challenges to Characterizing the Atrocities in Darfur as Genocide.

One of the main problems in the Darfur case was figuring out if the crimes met the definition of genocide as stated in Article 6 of the Rome Statute. The violent acts that were committed were not questioned, but the main point of the dispute was whether the specific intent, or dolus specialis, to exterminate the groups that were protected, especially the Fur, Masalit, and Zaghawa communities was there.

It was a decision of the very same Pre-Trial Chamber that refused initially to confirm the charges of genocide against President Omar al-Bashir for lack of sufficient proof of genocidal intent. On appeal, this decision was overruled by the Appeals Chamber, which changed the standard of evidence at the stage of the arrest warrant from that of probable cause to that of "reasonable grounds to believe" the presence of genocidal intent (Chiarion Casoni, 2022). By this move, one more landmark decision was made that allowed for less rigidness of the evidentiary requirement in cases of genocide before the ICC.

The case also gave rise to an interpretative debate on whether the targeted groups were protected ethnic or racial groups under the Genocide Convention. In the end, the ICC decided that the targeting of the Fur, Masalit, and Zaghawa communities was racially or ethnically motivated, thus being in line with the previous rulings which take a contextual approach in defining the protected groups (Conley et al., 2022).

The ICC put out arrest warrants for a number of Sudanese officials, among them:

1. Omar Hassan Ahmad al-Bashir (President of Sudan).
2. Ahmad Harun (Minister of State for the Interior).
3. Ali Kushayb: Janjaweed leader.

They were: genocide, extermination, murder, torture, rape, and forcible transfer of populations. The charges filed against al-Bashir are for the first time under international law that a serving head of state has been indicted for genocide, thus in line with the Rome Statute's provision of no immunity under Article 27, (Chiarion Casoni, 2022).

4.1.2. Evidentiary and Procedural Complexities.

The Darfur cases raised significant practical challenges in the prosecution of genocide:

1. Lack of State Cooperation: The Sudanese government actively resisted the issuance of an ICC warrant against its officials. It also refused to allow Sudanese officials arrested by the Court to be taken into its custody thereby thwarting the implementation of the ICC's mandate and highlighting the issue of the Court's reliance on the cooperation of the States. Besides, several member states of the ICC where al-Bashir was reported to have conducted his official visits did not take action against him. This shows that apart from the limitations that the Court has to face in executing its arrest warrants, there are also enforcement challenges when it comes to the issue of the system at large.
2. Challenges in Proving Intent: Even though the violent patterns in the region were captured in detail, it was very difficult to establish that the top officials had the specific intent of genocide which is a legal requirement, the indirect evidence most of all considered the use of leaked documents and logic of the officials' behavior rather than direct references in official documents (Oktaviana, 2022).
3. Contextual Interpretation of Protected: Groups The Court employed the contextual approach to determine "ethnic groups" in Darfur, which not only impacted the local case but also influenced the international law definition of protected groups, thus, incorporating the legal principles established by the ICTR and ICTY.

The influence of the Darfur cases on international criminal law has been very profound:

1. The clarification of the standard of proof for the pre-trial stage with respect to intent to commit genocide.

2. Enhancing the doctrine of the head of state's no immunity.
3. By extension, more groups are given the protection of the law through contextual interpretation.
4. The examples of the Court in politically charged scenarios.
5. The illustration of the difficulties brought about by persistent non-cooperation of the State and limitations of enforcement of particularly note is that the case against Ali Kushayb is the only case linked to Darfur to have so far been taken to trial by the ICC; it underlines some of the serious difficulties the Court faces in taking custody of suspects and completing prosecutions.

While the trials have lingered, the Darfur cases still serve as the basis for comprehending the Court's function in genocide prosecution and the related legal and practical obstacles that exist in such scenarios (Oktaviana, 2022).

4.2. The case of Myanmar and crimes against the Rohingya minority.

The plight of the Rohingya minority in Myanmar is among the major international criminal cases that have deeply engaged the International Criminal Court in recent years. In 2018, the ICC, although Myanmar is not a State Party to the Rome Statute, decided that it could investigate certain aspects of the crimes against the Rohingya due to the cross-border nature of the events - the exodus to Bangladesh - thus making these crimes partly committed in the territory of a State Party. The court's decision represents a milestone in the extension of its jurisdiction geographically and in general as one more important step in the fight of mass atrocity crimes and in the struggle of minorities that are seriously persecuted (Tisna Amidjaja et al., 2024).

The Rohingya are a Muslim minority that derives their origin from Rakhine State. They have experienced systematic persecution, been denied citizenship, and subjected to discriminatory state policies for many years. In August 2017, the military of Myanmar, also known as the Tatmadaw, launched a campaign of "clearing operations" that involved mass killings, rapes on a large scale, village burning, and forced displacement. The Rohingya exodus, that is the number of people who crossed the border into Bangladesh, was over 700,000 which is considered as one of the biggest refugee crises in recent years (Dewi & Najica, 2022) Based on the reports of different UN agencies, the Tatmadaw operation was done with the "intent to commit genocide." The sources of these claims are the recurring patterns of coordination of the violence, targeting of non-combatants, and the use of hostile and dehumanizing language directed at the Rohingya people (Moodrick-Even Khen, H., 2023).

4.2.1. ICC Jurisdiction: A Novel Expansion.

Even though Myanmar is not a party to the Rome Statute, the ICC has established jurisdiction by an innovative interpretation of Article 12 (2)(a) The Court decided that forced deportation as a crime against humanity is a crime that crosses the border, and since part of the criminal conduct took place in the territory of Bangladesh - a State Party - the ICC can Victoria jurisdiction (Tisna Amidjaja et al., 2024).

It is worth noting that the ICC formally turned the situation of the Rohingya into an investigation in November 2019, at which point judicial proceedings were thus opened upon authorization by the Pre-Trial Chamber.

The Court’s reach was thus considerably enlarged by this interpretation of its jurisdiction, emphasizing the concept that the principle of territoriality can still be valid when only a part of the crime happens in a State Party. It also allowed the Tribunal to consider the commission of other crimes, such as persecution and any other inhumane acts, which may have been perpetrated in connection with the deportation.

4.2.2. Legal Characterization of Crimes Committed Against the Rohingya.

The ICC Prosecutor has pointed out that the violations committed against the Rohingya might entail:

1. Deportation or forcible transfer.
2. Persecution based on ethnic and religious aspects.
3. Violence of a sexual and gender-based nature.
4. Other non-human acts, among which denial of food and shelter.
5. Apart from that, the possible genocide if the proof of dolus specialis is provided (Moodrick-Even Khen, H., 2023).

The UN fact-finding bodies have recorded:

1. The deliberate destruction of Rohingya villages.
2. The killings of men and boys that were specifically targeted.
3. Rape on a large scale.
4. Restrictions on births.
5. Rhetoric declaring the group as "foreigners" or "invaders".

Several human rights organizations and a number of UN experts have petitioned the ICC to explicitly incorporate the accusation of genocide stating that the documented evidence meet the legal threshold of genocidal intent.

Those reports are consistent with the categories of genocidal acts laid down in the Genocide Convention and Article 6 of the Rome Statute, notwithstanding that the ICC has so far refrained from formally charging genocide at the stage of the arrest warrant due to the difficulty in producing evidence.

4.2.3. Evidentiary and Practical Challenges in the Myanmar Case.

he situation in Myanmar gives rise to a set of different challenges:

1. Access to Crime Scenes: The authorities in Myanmar have denied access to the investigation team several times, and very limited physical evidence has been found. Consequently, the ICC and UN bodies have to resort to satellite imagery, digital documentation, and testimonies of refugees in Bangladesh.
2. Establishing Genocidal Intent: The biggest problem is still to prove dolus specialis. Even though the UN findings strongly suggest genocidal intent, the ICC will have to provide evidence to this effect beyond a reasonable doubt in order to make a specific identification of the military commanders' intent (Moodrick-Even Khen, H., 2023).
3. Non-cooperation of the State: The non-cooperation of Myanmar with the ICC is making arrest operations difficult and also hindering evidence gathering. The situation in Myanmar also shares a number of similarities with the case of Darfur in this respect.
4. Reliance on Refugee Testimony: As refugee testimonies are the main source of information, problems such as trauma, memory, and protection of witnesses, complicate the process of providing evidence.

The Myanmar case matters for the reasons below:

1. The case is considered as one of the first instances in which the ICC exercised its jurisdiction over a non-State Party based on cross-border crimes. It thus serves as an important precedent.
2. It participates in the changing understanding of genocide, persecution, and mass displacement concepts under international criminal law.

3. It pinpoints the increased reliance on digital evidence, satellite data, and remote investigations.
4. It demonstrates the ways in which the ICC may intervene in situations of mass atrocities when cooperation with the conventional political channel is hindered by political factors..

The ICC's intervention in the Rohingya crisis marks major progress in the implementation of international criminal law and the protection of minorities. Through its creative jurisdictional approach, changing evidence requirements, and readiness to tackle obstructing states, the Court is gradually showing how capable it is of dealing with genocidal and mass atrocity crimes in complicated global political scenarios. So the Myanmar case is one of the important steps in driving forward the global accountability mechanisms.

4.3. Practical Challenges in Proving Genocide: Evidence Collection, Digital Documentation, and Witness Testimonies.

At present, the task of proving genocide at the International Criminal Court encounters various obstacles concerning the production of evidence. The difficulties arise not only from the horrific nature of the genocidal acts but also from the political milieu in which such crimes were committed and the evolving methods of gathering and presenting evidence.

4.3.1. Limitations in Access to Crime Scenes and Physical Evidence.

Genocide, in general, happens in areas that are under the control of angry state or non-state groups who don't let the international investigators do their job easily. As a result of the examples of Myanmar and Darfur, ICC investigators frequently find themselves:

1. Denied access to crime locations.

2. Impeded access to destruction of the traces of physical evidence.
3. No forensic evidence exists as a result of rapid mass displacement.

Such scenarios decrease the possibilities of the Court for timely forensic examinations, locating mass graves, or reconstructing the sequence of events of violence. That limitation also largely increases the Court's dependence on indirect evidence, including satellite photos, and third-party documentation, which must still meet strict standards of admissibility.

Moreover, the most common scenarios of deliberate destruction of evidence such as burning villages or disposing of bodies cause that large gaps in the evidentiary record are left behind. The researchers say that this is the typical situation of crimes committed by the state where the officials try to hide the traces of their criminal liability. Andreas 2024 (Pisillo Mazzeschi & Carli, 2024).

4.3.2. The Difficulty of Establishing Genocidal Intent.

The major legal obstacle for genocide cases is to demonstrate the perpetrator's specially intended-dolus specialis-of the act of annihilating a protected group, entirely or partially. In fact, the mere killings or mass displacements cannot be regarded as a demonstration of the intention, although they may be an indication of crimes on a large scale.

New research has emphasized that in most cases intention can be inferred from the context of:

1. The systematic and coordinated attack patterns.
2. Discriminatory policies targeting certain groups.
3. Hate speech inciting collective violence.
4. Actions revealing the implementation of a coherent plan of destruction.

It is very rare that prosecutors of the ICC come across direct evidence such as binding orders, so they rely extensively on circumstantial evidence, a method that requires very careful judicial evaluation in order to respect the limits of the court's jurisdiction. Actually, Andreas demonstrates that there should be a delicate interaction between inferential reasoning and the high evidentiary standard for a genocide conviction in the ICC to be maintained (Pisillo Mazzeschi & Carli, 2024).

4.3.3. Digital Evidence: Expanding Possibilities and Emerging Challenges.

One of the major changes to the method of investigation of atrocities in the recent years has been the incorporation of digital evidence in the investigative process. A host of tools such as satellite imagery, video recordings, mobile-phone metadata, and open-source intelligence have become close companions to the documentation of genocidal violence.

Active digital evidence has been extremely effective in:

1. Confirming the destruction of Rohingya villages in Myanmar.
2. Mapping forced displacement patterns.
3. Verify timelines of attacks.
4. Corroborating survivor testimony.

Nevertheless, the use of digital evidence in investigations has also led to some problems. Investigators have difficulties in authenticating digital files, verifying the integrity of metadata, keeping a clear chain of custody, and showing that the evidence has not been tampered with. The digital evidence must go through a thorough processing to be reliable in court by 2023 as per the ICC rules (Ashouri et al., 2014). Ming and Patel have also suggested that by 2021 courts would more and more utilize hybrid forms of evidence where digital footprints are combined with witness and documentary materials to make prosecutorial arguments more convincing.

4.3.4. Challenges in obtaining reliable testimonies from witnesses.

Witnesses are the main source of evidence in genocide cases, however, their testimonies provoke various problems:

1. Trauma and Memory Survivors of genocides are frequently deeply traumatized which may have an impact on the clarity of their memories or their ability to share their experience in a consistent manner. Hence any differences in testimonies should be understood as being related to trauma rather than as questioning of the witness's credibility.
2. Fears of Reprisal Witnesses normally see the possibility of, and rightly so, being targeted for a counterattack either directly or against their relatives, in particular, in the case of authoritarian structures. In spite of the fact that the ICC has a strong program for the protection of witnesses, when it comes to relocation or anonymity, there are still some restrictions.
3. Language Barriers and Interpretation Linguistic barriers create difficulties both in recording testimonies and in providing courtroom interpretations in the cases of Myanmar, for example. The problem becomes even more serious when there are few qualified interpreters available for certain minority languages.
4. Testimonies from Refugee Camps A lot of testimonies are collected from refugee camps, and factors such as the living conditions, the stress, and the fact that the persons are displaced may have an impact on the accuracy and emotional stability of the statements (Pisillo Mazzeschi & Carli, 2024).

4. Challenges and Future Prospects for the ICC's Role in Combating Genocide.

The International Criminal Court is limited in its ability to tackle and avert genocide by its legal mandate and a number of political, procedural and structural factors. The parts of the law on genocide, the contributions to the law made by the ICC, and the Court's practice in the cases of the major genocides have been elaborated in the earlier sections of the research. Nevertheless, to grasp the ICC's function fully, one has to come to terms with the impediments it faces in its effectiveness, which are even farther away from the Court than the challenges within the Court itself. These challenges are also outside the scope of law, and they involve the interplay of international law, state cooperation, the distribution of geopolitical power, and the changing nature of evidence.

This part depicts the different impediments that eventually stunt the ICC from thoroughly prosecuting genocide cases and makes predictions about the future of the Court's role in the international criminal justice system. It also discusses, among other things, the political pressures engendered by the composition and voting dynamics of the United Nations Security Council; the problem of selective state cooperation that continues; and the sovereignty-based objections that shape state reactions to ICC interventions. Moreover, it explains the procedural and doctrinal difficulties of the Rome Statute system, such as the high level of proof required for the genocidal intent and issues relating to digital evidence and legal characterization.

Without limiting themselves to only identifying the constraints, this section takes a futuristic stance in that it outlines possible reforms and improvements. They range from the deepening of the complementarity principle, the promotion of domestic accountability mechanisms, the raising of technological and forensic capacities, to the closer, friendly relations between the ICC, national courts, regional bodies, and civil society agents. Through combining the analytical reflection with the practical side, this chapter tries to give a holistic account both of the difficulties with which the ICC is confronted nowadays and of the routes by which the future contribution of the ICC in the prevention and punishment of genocide may be vastly enhanced.

5.1. Political Challenges Related to Security Council Dynamics and State Cooperation.

The ICC's power to act effectively against genocide is limited by various aspects of global politics, among which are the way the UNSC is organized and functions as well as the extent of the cooperation given by States. Although the Rome Statute does provide a legal framework for the prosecution of the perpetrators of genocide, the ICC is not operating in a separate world; rather, its ability to carry out its mandate is influenced by the international political dynamics. These realities are posing huge problems, which have not been solved yet, of effectiveness and worldwide authority of this Court.

1. Security Council Referrals and Geopolitical Interests:

The Security Council can by its own decision (article 13 (b) of the Rome Statute) refer to the ICC a situation where the Security Council, acting under Chapter VII of the UN Charter, has found a threat to peace. But in fact, referral decisions are more a result of geopolitical bargaining than a consistent commitment to accountability.

By the use of veto power, the permanent members of the Security Council, especially the United States, Russia, and China deflect the Security Council's referral proposals that are not in conformity either with their interests or those of their allies. As a consequence it leads to:

a) Divergent reactions to genocides and large-scale atrocity situations.

b) Politicization of justice.

c) Selection of referrals resulting in the undermining of impartiality perception.

Moreover, the United States, which is not a party to the Rome Statute, has effectively employed its position on the Security Council to initiate cases at the ICC, thereby evidencing a politically intricate interdependence between power and global justice mechanisms.

Some academics posit that the UNSC's referral mechanism creates a void in the area of accountability which makes it impossible for the ICC to address existing genocides unless it has received political approval(Fyfe, 2022).

2. Almost everything that the ICC does requires the support of the state parties – gathering of the evidence, operations to make an arrest, carrying out of the arrest warrant. However, many states have either:

a) Refuse to cooperate.

b) Actively sabotaged investigations, or politically mediated on the basis of which they assist selectively.

The situation in Darfur is the best example of this fact: while there were issued several arrest warrants, including one against former Sudanese President Omar al-Bashir, a number of States have either refrained from making arrests or have allowed Bashir to go wherever he wanted without any hindrance. Hence, these kinds of failures reveal a gap in the Rome Statute system that is structural because the ICC does not have any independent capacity to carry out orders.

Furthermore, there are some States Parties that have opposed the idea of cooperation and have invoked reasons such as politics, security, or diplomacy to explain their position which has led to the weakening of the Court's authority.

3. Tensions Between State Sovereignty and International Criminal Accountability:

Still, as it appears, a good number of states are quite hesitant to give the green light to the full implementation of the Statute within their own community or to hand over top officials to the ICC, as they view such acts as infringements upon sovereignty. These issues are more prominent in certain regions where:

a) The ruling elites may see the threat of a possible trial.

b) Violent conflicts in the country may include government forces as actors.

c) The government may be resorting to nationalism in order to defy the critics from outside.

d) Such an involvement of the ICC can be viewed as foreign interference in those spheres, thereby causing distrust and little cooperation..

4. Withdrawal Threats and Political Backlash Against the ICC:

In the last couple of years, the political backlash against the ICC has really gotten worse and some states have even gone so far as to threaten with withdrawal from the Rome Statute as a way of expressing their discontent with what they consider to be bias or overreach. These withdrawals or threats, thus, are jeopardizing the lifelong legitimacy and universality of international criminal justice.

For instance, some African countries have notably emphasized the issue of fair representation and regional balancing within the

Court's framework, arguing that the imbalance is playing a significant role in the selective nature of justice.

Moreover, the Court's legitimacy assaults by radical forces eroding the confidence of the international community in the Court's independence and impartiality. Supported by scholars, the view of a well-orchestrated political campaign against the Court to block any ICC's investigations is given(Koenig et al., 2021).

5. The Problem of Selective Justice and Perceptions of Bias:

Opponents to the ICC often contend that the court focused disproportionately on African countries, a group of the Global South, where no evidence of the mass atrocity has been found, while most of the cases are in the North. The court has broadened its docket during the last several years - e.g., Ukraine and Myanmar - but the selective justice perception is still there, and it can seriously weaken the willingness of those states that are already skeptical of international intervention to cooperate with the court.

As a matter of fact, addressing genocide necessitates the support of strong multilateralism, yet political selectivity has been undermining the confidence of the international criminal justice system.

5.2. Legal Challenges Related to Evidentiary Mechanisms and the Legal Characterization of Acts.

The ICC encounters legal difficulties in its efforts to bring genocide cases before the court. This is basically due to the fact that the threshold requirements to be met under international criminal law are set very high. A significant one of these difficulties is proving the perpetrator's intent to commit genocide. In contrast to other atrocity crimes, the crime of genocide requires that the prosecution should prove that the intentional act of destroying in whole or in part a group of persons is the one committed. Very seldom is it even thought that such an event was recorded with explicit language, therefore prosecutors are forced to devote their energy to examining the patterns of conduct, policies of discrimination, and also the circumstantial elements. The inferential evidence which is used to prove genocide makes it hard for the prosecutor and most of the time, it causes the defense team to raise the evidentiary threshold to a level that makes it difficult to obtain a conviction of the accused (Doebbler, 2007).

On the other hand, digital evidence adds a rather complicated angle to this problem. The use of satellite imagery, mobile data, and open-source intelligence has already made the international investigations much easier and the pool of materials available much wider, but whether or not this digital material can be used in court depends on very strict verification requirements relating to authenticity, integrity, and also the correct maintenance of the chain of custody. These requirements are very difficult to meet in a war zone where usually the investigators cannot be physically present at the location from where the materials have been taken. Point out that even if there is sufficient digital evidence, it must still undergo technical evaluation in line with the evidentiary requirements of the Rome Statute, thus underpinning the idea that this evidence will be both indispensable and legally demanding in nature.(Flint, 2023).

The legal challenges related to the characterization of a crime, in particular, further compound the problems associated with the prosecution of the ICC. Determining whether an act constitutes genocide or crimes against humanity, among other serious crimes, involve the analysis of the intent, the context, and the nature of the acts committed. The courts need to establish whether the use of systematic violence can be considered as a persecution policy or is an indication of the intent to destroy a group of people. The uncertainty in interpretation could not only affect the legal characterization of these crimes but, in general, be the historical record of the events. Greenawalt (1999) argued that legal issues surrounding the interpretation of intent in mass atrocity cases often cause doctrinal uncertainty, which in turn, affects prosecutorial strategies and judicial outcomes. (Moore, 2000).

Besides that, procedural restrictions in the ICC structure are yet another factor that complicates things. The Court is obliged to follow a detailed, resource-demanding, and highly protective in terms of procedures due process-driven investigatory modus operandi which, although helpful in securing due process, slow down investigations of quickly emerging atrocities. Disintegration of domestic jurisdictions, hybrid courts, and international mechanisms leads to inconsistencies in both evidentiary standards and approaches to criminal responsibility. In such circumstances, even the rule of complementarity cannot fully coordinate domestic and international efforts because of the differences in legal capacities, political will, and methodological approaches.

5.3. Prospects for Strengthening the ICC are Role and Its Complementarity with National Courts and Other International Mechanisms.

Any move to make the ICC more effective in dealing with genocide has to entail a relook of its institutional setup and relations with local and international human rights bodies. The role it plays later on is very much dependent on how well the principle of complementarity is put into practice, the setting up of modern ways of investigation, and the deepening of the cooperation provisions between the national and international jurisdictions.

Such a reform plan must cover everything if we are to have a court that is willing and able to face new forms of genocidal violence as well as to get over the longstanding problems that shack the ICC’s performance.

The main way of making the ICC stronger seems to be through the principle of complementarity that envisages domestic courts as the main bodies to prosecute international crimes.

Complementarity, if it is practiced in a correct manner, does not limit the power of the ICC; on the contrary, it raises the overall potential of the international justice system. , complementarity should be seen as a support institution process during which the ICC not only helps national reforms, but also, promotes prosecutorial capacity, and creates a conducive milieu where states will be more able to take the lead in committing mass atrocities. ownership of accountability efforts at the national level and the ICC's viability as a court of last resort(Lingenfelter, 2021) are both enhanced by this sophisticated treatment.

How well the ICC will be able to perform in the future is also dependent on whether or not the organization will be capable of incorporating technological innovations into its investigative methods. Today digital evidence is the main tool to prove human rights violation, especially in the areas of armed conflict, where it is difficult to have first-hand access. Investigations conducted remotely and facilitated by satellite images, metadata analysis, and open-source intelligence give the Court the opportunity to obtain up-to-date and verifiable information even in cases where the states refuse to give access to the crime scenes. If they want to make sure that such evidence meets a very high legal standard for it to be admitted in front of the ICC, the issue of establishing widely accepted global standards for the authentication of digital documents and the preservation of metadata has to be at the top of the agenda. In this respect, spending money on the digital forensics unit and hiring technical experts will be very important in upgrading the ICC's capacity to properly and efficiently carry out the genocide.

Next, the ICC needs to work on consolidating its relationship with domestic jurisdictions so as to be able to harness the full potential of those jurisdictions. National courts are frequently at a loss because of the presence of certain legal, administrative, and financial obstacles when they have to push forward the prosecution of genocide cases (Nemitz, 2022).

Complementarity at work encounters difficulties due to those problems which are related to differences in the legal framework, procedural standards, and institutional capacities among various countries. Such differences can only be dealt with by an integrated approach to the harmonization of national laws and the Rome Statute, including training of judges and improving cooperation mechanisms, which will thus enable local authorities to more effectively share the information they have with international bodies. This form of reform would lead to the creation of an accountable system that is more in tune with each other where the ICC and national courts will be able to function as complementary pillars rather than being separate institutions.(Manley, 2019).

Enhancing the ICC's capacity will entail not only progressing more profoundly with regional and hybrid mechanisms but also with civil society. These parties, in turn, are often the most supportive partners in the preservation of the evidence, the documentation of the victims, and the engagement of the community. They have the expertise and provide the Court with the first signs of the ever-increasing atrocity situations. Through the pursuing of strategic partnerships and conducting effective, transparent communication, ICC's outreach can be extended and the public confidence can be supported at the same time when the political selectivity's perception can be countered.

5. Conclusion .

The International Criminal Court's evolving role in dealing the genocide crime is reflected in the multilayered study encompassing the law, the practice of the cases, and the challenges faced by the system. The ICC has been influential in specifying the legal concept of genocide, especially in relation to dolus specialis and the definition of the protected groups. Unfortunately, the Court's real power is still being obstructed due to several political, legal, and practical challenges of different layers, as evidenced by the cases of Darfur and Myanmar. Innovations around digital evidence and remote investigation are seen as hopeful ways to overcome difficulties in the near future, but the Court's effectiveness during this period depends on tackling its structural problems, there being more international cooperation and the highest legal and technical standards being observed. The ICC is at the heart of the international system designed to fight genocide, and genuine achievement relies on serious reform and a sustained will from the global community.

Recommendations:

1. Develop more flexible evidential standards for proving genocidal intent, in particular allowing greater reliance on circumstantial evidence and patterns of systematic violence.
2. Define protected groups in a contextual and inclusive manner, understanding social perception along with more rigid legal categories so that the current manifestations of persecution can be dealt with.
3. Work towards the goal of trial and pre-trial procedures being expedited so as to reduce the time interval, at the same time, if it is the case that justice is served the victim obtains justice and the accused's right to a fair trial is fully protected.

4. Reform the UN Security Council referral mechanism so as to reduce politicization and ensure consistent, neutral responses to genocide situations around the world.
5. Provide for stronger, more enforceable mechanisms of state cooperation, including mechanisms against non-compliance with ICC requests and arrest warrants.
6. Make the institutional structure of the ICC more independent so that the Court's judicial work is less vulnerable to external political pressures and lobbying.
7. Put a large amount of money into units that are specifically assigned to digital forensics and open-source intelligence so that they can verify and use digital evidence in an efficient manner.
8. Broaden, as well as reinforce, the comprehensive programs for witnesses and victims that will also include the long-term psychological and logistical support of the persons involved.
9. Support the principle of complementarity by enhanced capacity-building support for domestic law enforcement agencies to investigate and prosecute international crimes locally.
10. Make sure that the financing of the investigations and of the Court is independent, predictable, and sustainable so that the Court will be financially independent and able to continue its work in the long run.

References:

I. Amoroso, A. M. (2022). A Legal Analysis of the Juba Agreement for Peace in Sudan and Its Darfur Component. *African Conflict and Peacebuilding Review*, *12*(2), 23–48. https://doi.org/10.2979/africonfpeacrevi.12.2.03

II. Ashouri, A., Bowers, C., & Warden, C. (2014). An Overview of the Use of Digital Evidence in International Criminal Courts. *Digital Evidence and Electronic Signature Law Review*, *11*(0), 115–127. https://doi.org/10.14296/deeslr.v11i0.2130

III. Brannigan, A. (2013). *Beyond the Banality of Evil: Criminology and Genocide*. Oxford University Press. https://doi.org/10.1093/acprof:oso/9780199674626.001.0001

IV. Chiarion Casoni, N. (2022). 'The Fog that it has Drawn upon Itself': Darfur and the future of the ICC. *Reinvention: An International Journal of Undergraduate Research*, *15*(1). https://doi.org/10.31273/reinvention.v15i1.791

V. Conley, B., DeFalco, R., Abraha, S., & De Waal, A. (2022). 'An Unprosecuted Crime.' In B. Conley, A. De Waal, C. Murdoch, & W. Jordash Qc (Eds.), *Accountability for Mass Starvation* (1st ed., pp. 71–104). Oxford University PressOxford. https://doi.org/10.1093/oso/9780192864734.003.0004

VI. Dewi, J. S., & Najica, F. U. (2022). KEJAHATAN GENOSIDA MYANMAR TERHADAP ETNIS ROHINGYA DITINJAU DARI PERSPEKTIF HUKUM PIDANA INTERNASIONAL. *Borneo Law Review*, *6*(1), 42–61. https://doi.org/10.35334/bolrev.v6i1.2645

VII. Doebbler, C. F. J. (2007). An Intentionally Unfair Trial. *Journal of International Criminal Justice*, *5*(2), 264–271. https://doi.org/10.1093/jicj/mqm005

VIII. Eboe-Osuji, C. (2007). Rape as genocide: Some questions arising. *Journal of Genocide Research*, *9*(2), 251–273. https://doi.org/10.1080/14623520701368669

IX. Flint, J. (2023). Australia's Investigation of Alleged ADF War Crimes in Afghanistan. *Journal of International Criminal Justice*, *21*(3), 633–658. https://doi.org/10.1093/jicj/mqad032

X. Fyfe, S. (2022). Negative Aesthetic Experiences of Prosecuting the Barely Alive. *International Criminal Law Review*, *22*(1–2), 23–42. https://doi.org/10.1163/15718123-bja10089

XI. International Court of Justice (ICJ). Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro). Judgment of 26 February 2007. https://www.icj-cij.org/node/103164

XII. Koenig, A., Irving, E., McDermott, Y., & Murray, D. (2021). New Technologies and the Investigation of International Crimes. *Journal of International Criminal Justice*, *19*(1), 1–7. https://doi.org/10.1093/jicj/mqab040

XIII. Kuo, S. S., Marshall, J. T., & Rowberry, R. (Eds.). (2022). *The Cambridge Handbook of Disaster Law and Policy: Risk, Recovery, and Redevelopment* (1st ed.). Cambridge University Press. https://doi.org/10.1017/9781108770903

XIV. Lingenfelter, K. (2021). Margaret M. deGuzman, Shocking the Conscience of Humanity: Gravity and the Legitimacy of International Criminal Law. *International*

Criminal Law Review, *21*(2), 398–401. https://doi.org/10.1163/15718123-bja10044

XV. Manley, S. (2019). Hugo Blick (directed and screenplay), Michaela Coel and John Goodman (actors), Black Earth Rising. *Journal of International Criminal Justice*, *17*(2), 467–469. https://doi.org/10.1093/jicj/mqz028

XVI. Mettraux, G. (2019). *International Crimes: Law and Practice: Volume I: Genocide* (1st ed.). Oxford University Press. https://doi.org/10.1093/law/9780198843115.001.0001

XVII. Moodrick-Even Khen, H. (2023). *How to Win a Genocide Case: Analyzing the Triple Strategy of the Advocates of the Rohingya in Myanmar. 14, 109–132.*

XVIII. Moore, J. J. (2000). Arbitral Review (Or Lack Thereof): Examining the Procedural Fairness of Arbitrating Statutory Claims. *Columbia Law Review*, *100*(6), 1572. https://doi.org/10.2307/1123573

XIX. Nemitz, J. C. (2022). Kai Ambos (ed.), *Rome Statute of the International Criminal Court, Article-by-Article Commentary*. *Journal of International Criminal Justice*, *20*(3), 772–774. https://doi.org/10.1093/jicj/mqac017

XX. Oktaviana, M. (2022). YURISDIKSI INTERNATIONAL CRIMINAL COURT (ICC) DALAM PENEGAKAN PELANGGARAN HAK ASASI MANUSIA BERAT OLEH OMAR HASSAN AL-BASHIR DI DARFUR, SUDAN. *BELLI AC PACIS*, *7*(2), 59. https://doi.org/10.20961/belli.v7i2.59993

XXI. Pisillo Mazzeschi, R., & Carli, E. (2024). Proof of Specific Intent in the Crime of Genocide. *Journal of*

International Criminal Justice, *22*(2), 429–443. https://doi.org/10.1093/jicj/mqae025

XXII. Pruitt, W. R. (2021). *An Introduction to the Criminology of Genocide*. Springer International Publishing. https://doi.org/10.1007/978-3-030-65211-1

XXIII. Schabas, W. A. (2009). *Genocide in International Law: The Crime of Crimes* (2nd ed.). Cambridge University Press. https://doi.org/10.1017/CBO9780511575556

XXIV. Tisna Amidjaja, R., Dasuki, & Putra Zenno Januarsyah, M. (2024). A Review of International Criminal Law on Human Rights Violations to The Rohingya Ethnicity. *Alauddin Law Development Journal*, *6*(3), 571–581. https://doi.org/10.24252/aldev.v6i3.49895

XXV. *United Nations. Convention on the Prevention and Punishment of the Crime of Genocide (1948).* (n.d.). https://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.1_Convention.pdf

XXVI. Van Goudoever, A. (2007). Gerhard Werle et al., Principles of International Law. The Hague, The Netherlands: T.M.C. Asser Press, 2005. *Human Rights Review*, *8*(4), 425–426. https://doi.org/10.1007/s12142-007-0012-8

XXVII. Werle, G., & Jeßberger, F. (2020). *Principles of International Criminal Law* (4th ed.). Oxford University Press. https://doi.org/10.1093/law/9780198826859.001.0001