

What impact does an ICC investigation have on ongoing conflicts?

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Abstract:

This essay concentrated on the cases of the Democratic Republic of the Congo (DRC), Uganda, and Sudan in the study on how the International Criminal Court's (ICC's) investigation affects current wars. The research presents three hypotheses based on the examination of these three cases: ICC investigations can prevent violence by discouraging offenders, result in the termination of hostilities and the establishment of a new order, or occasionally even exacerbate them. The findings show that while the ICC's involvement has had some success in weakening violent groups and reducing acts of violence, challenges remain in bringing a complete end to conflict and achieving lasting peace. This paper proposes to amend the Rome Statute to require all States, including non-member States, to arrest defendants who committed international law when necessary to improve the inadequate enforcement of ICC judgments. Through such measures, societies can more effectively achieve a balance between justice and peacekeeping.

Keywords:-International criminal court; Rome Statute; Sudan Darfur; war crimes.

1. Introduction

In 2002, the International Criminal Court was established under the Rome statute. It is currently the only organization in the world that is allowed to prosecute important crimes such as genocide, crime of waging war, and war crimes. Since the ICC began issuing arrest warrants in 2005, it has dealt with many cases in different countries and different circumstances. For each case, experts and researchers have different opinions. The investigations conducted by the ICC's influences on current conflicts are a noteworthy field of study, mainly because of the inconsistent results documented in various settings. There are inherent

difficulties in analyzing how ICC investigations have affected hostilities in Sudan, DRC, and Uganda. Attaining a balance between the upholding of peace and the pursuit of justice requires a thorough grasp of these effects to guide effective international initiatives.

2. Thesis

In the examination of the question, "What impact does an ICC investigation have on ongoing conflicts?" the findings reveal different outcomes for each country's case. To solve the issue of the ICC's

limited ability to prevent conflicts and violence, this thesis recommends that the Rome Statute should be amended to impose a legal obligation to all states, including non-members, to arrest indictees. The ineffectiveness of many ICC investigations is often caused by the inability to cage indictees, as perpetrators can escape from justice by fleeing to countries beyond the ICC's jurisdiction. Therefore, an international agreement enforcing this obligation is essential.

3. Road map

This essay will first review the literature and statements from experts and researchers in the field, and then present three hypotheses, accompanied by three case studies, to test these hypotheses and support my thesis. In the conclusion, there will be recommendations for implementing my thesis and addressing potential counterarguments.

4. Literature review

In Stuart Ford's article assessing the effectiveness of the ICC in promoting peace, reducing conflict, and upholding international justice, despite considerable skepticism about the ICC's capabilities, Ford argues that the ICC is already showing signs of success [1]. The authors point out that the ICC's success should be measured by how well it achieves its objectives. However, these goals are not equally important but have a hierarchy. Among them, crime prevention is the most important because the consequences of crime are very serious. In his methodical analysis of the connection between the ICC and a country's respect for people's rights, Benjamin J. Appel contends that the ICC deters human rights violations by placing heavy costs on countries that have accepted the Rome Statute, including the possibility of imprisonment and reputational harm [2]. The article by Mba Chidi Nmaju examines the ICC's joining in resolving violence in Kenya, with a particular emphasis on the organization's attempts to hold offenders accountable for offenses including genocide and crimes against people's interest. The essay highlights the necessity for systematic attacks to be considered crimes against humanity and stresses that Kenya must show that it has a fair and reasonable process in place to prevent ICC intervention [3]. In addition, some scholars argue that the existing literature is often contradictory, because from a root cause analysis, many key terms, such as crimes, are not clearly defined. As a result, leaders of many crimes can avoid prosecution by slightly changing their practices. In this case, it is impossible to judge whether the leader understands and corrects his or her crimes. Moreover, the leader may even continue to commit crimes, and the

victims continue to be harmed. So the researchers used a variety of methods, looking at changes in domestic institutions and the tendency of the military to deliberately kill civilians to determine whether the ICC's operation prevented violence [4]. The area north of the Nile was largely destroyed during Uganda's two decades of civil war, so the Rome statute and the ICC investigation are highly welcome here. In contrast to the excitement of supporters such as the Ugandan government, many have raised questions about Uganda's handling of the case and the organization of the ICC, and therefore doubt that the ICC and the Rome statute will bring justice and peace to the people of Uganda [5]. In the ICC, some problems have always existed, but over the years, even if they have not been fully corrected, there may have been improvements [6].

5. Hypothesis and Methodology

This paper proposes three hypotheses to research the question "What impact does an ICC investigation have on ongoing conflicts?". The first hypothesis is ICC investigations reduce violence by deterring perpetrators who fear arrest. The second one is that ICC investigations can lead to an end of conflict and establish new stability. The third hypothesis considers the possibility that ICC's investigations might prolong conflicts, as fighters resist arrest. By three case studies, this research will have the capability to provide clear answers by analyzing the outcomes and conclusions of these cases.

6. Case study

6.1 Democratic Republic of Congo (DRC)

Thomas Lubanga is the rebel leader in the DRC, a member of the Union of Congolese Patriots (UPC), and the founder of its military organization, the Forces Patriotiques pour la Liberation du Congo (FPLC). Because of war crimes committed during the Ituri conflict, including the recruiting and using of underage soldiers, Lubangawas indicted and convicted by the ICC [7]. After Lubanga's arrest, the UPC and FPLC experienced a split and reorganization, which led to a significant loss of power. However, at the same time, they continue to spread threats to local populations [8]. After the ratification of the Treaty of Rome, the system of the democratic republic of Congo was greatly reformed. As a result of the legal encouragement and protection received by the people, the number of cases in which the military is prosecuted for human rights violations in the DRC has increased significantly. Subsequently, the number of civilians killed by the military for

no apparent reason declined. Deterrence of ICC action has played an important role in reducing military violence. Because of changes in the law, people who commit violent acts will stop or reduce their crimes out of fear of being sanctioned, not because they have been sanctioned [4].

6.2 Uganda

Joseph Kony, who led and founded the Lord's Resistance Army (LRA), a rebel group in Uganda, used to claim to be a prophet when he founded the LRA by mixing Christian and local religious beliefs. In 2005, the ICC accused them of the crime of leading wars and crimes against human benefit, including murder, rape, forced child conscription, and sexual slavery, and announced warrants to arrest Kony and other senior war leaders [9]. As international and regional military operations continued with many members surrendering or being captured, the LRA's size and influence diminished significantly. However, Kony remains at large in several countries [10]. In the case of Uganda, the ICC investigation has even spawned new violence against the population. At first, the ICC convicted the LRA's leaders, and the LRA's forces quickly split. After the LRA lost its power, the ICC did not pay attention to the legitimate complaints and claims of the LRA leadership, such as government oppression and inequality between the north and south of the country. The ICC simplifies Uganda's complex internal conflicts by mentioning only the LRA's violations. In fact, the LRA arose because of shortcomings within the government system, and the case should be discussed among the Ugandan government, the people, and the LRA. Instead, the ICC has decided on behalf of the Ugandan people what justice is and what compensation they deserve. The Ugandan people's claims have been treated by the ICC as testimony against LRA, while the suffering of the people itself has been ignored, making the role of the ICC seem to be that of appeasement rather than a real solution. Because the ICC narrowly understands the overall contradictions of this complex country, Ugandans have lost the right to make decisions and get justice. Moreover, given the living conditions and hardships of the local people, the decision to devote a large amount of resources to arresting a few criminals is undoubtedly a disregard for people and humanity [5].

6.3 Sudan

Ahmed Harun is the previous Deputy Minister of the Interior and Minister of State for Humanitarian Affairs and the previous governor of Southern Kordofan State. He has been prosecuted by the ICC for the conflict in Darfur for multiple warfare openings and crimes against people's rights [11]. In 2007, for crimes committed during the Dar-

fur conflict, the ICC published a warrant for the arrest of Harun. Even if there was a warrant, Harun has consistently denied the charges and has never been arrested. Until now, he is still holding various influential government positions within Sudan and maintaining significant influence. Since Harun has not been apprehended and handed over to the ICC, the court has been unable to formally sentence him [12]. In some cases, states may be reluctant to cooperate with the ICC. At some points, the ICC does take action, but it is less strict about all aspects of the case. While the ICC's investigations are encouraging, the resources available to the ICC are often limited, so it is sometimes difficult for the ICC to effectively prevent violence. Although the ICC has the hope of reducing violence, its work will be hampered by political factors [6].

6.4 Hypotheses testing

H1: In all three case studies (DRC, Uganda, and Sudan), this hypothesis appears valid. The arrest of key perpetrators led to a reduction in violence in the DRC, as their capture weakened their organizations, significantly diminishing their influence.

H2: The ICC has not been successful in completely ending any of the conflicts in these case studies. Among the three perpetrators, only one has been successfully captured. Furthermore, the organizations linked to these individuals continue to exist and engage in similar activities as before.

H3: The ICC's investigations did not prolong conflicts or violence most of the time. Most individuals prosecuted by the ICC experienced a significant loss of influence, and their organizations were substantially weakened, but in cases like Uganda, the conflicts can be prolonged for complicated reasons.

It seems like the ICC already obtained so many accomplishments, but what the ICC has done is not enough. The left section of those evil organizations still causes people in certain regions suffering although overall a lot of parts of those organizations were destroyed. ICC still needs to be improved in plenty of aspects such as its obligations, because people need real peace and justice.

7. Conclusion

In conclusion, although the prosecution of ICC reduces the existence of violence, conflicts were not totally ended. To achieve the target of the Rome Statute to be amended to establish a legal obligation for all states, including non-members, to arrest indictees, there can be a recommendation that there should be bribes or rewards for those joined countries to encourage more countries to join. Meanwhile, rules can change to fit different situations or cases. Or there can be some support for less developed countries

that are unable to deal with the crimes happening in their own countries to solve crime problems that are not only related to international crimes but include general crimes. There might be a counter argument that different rules for every case can generate unfairness, but by supervising or checks and balances, there will be a relatively better balance between peace and justice.

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