
The ICC's Role in Enforcing International Humanitarian Law under Political Challenges: A Special Reference to President Trump's Executive Order 14203

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This article critically assesses the role of the International Criminal Court's (ICC) in enforcing International Humanitarian Law (IHL). The ICC was designed to ensure accountability for severe IHL violations. However, its operational capacity faces significant challenges, particularly its reliance on state cooperation for enforcement and political resistance. This article explores the Court's jurisdiction, the principle of complementarity, and its investigative processes while analyzing resistance from nonsignatory states such as

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the US, China, and Russia. The US sanctions against the ICC especially with President Trump's executive order of February 6, 2025, will exemplify the ongoing tension between state sovereignty and international accountability. Additionally, the article highlights issues within the Rome Statute, including ambiguities regarding state cooperation, jurisdiction, and immunity, which affect the Court's efficacy. Despite some successes in prosecuting high-profile leaders, the ICC's credibility remains a matter of debate due to its limited enforcement, inconsistent state support, and continued political resistance.

Keywords

International Criminal Court, War Crimes, International Humanitarian Law, Global Accountability, Rome Statute, Political Resistance, Executive Order 14203

I. Introduction

The International Criminal Court (ICC) represents a significant advancement in international law, serving as the primary institution for prosecuting individuals responsible for the world's most heinous crimes, including war crimes, genocide, and crimes against humanity.¹ Established under the Rome Statute in 1998 and inaugurated in 2002,² the ICC was created to provide justice for victims of severe violations of international law and to deter future atrocities by holding individuals accountable.³ However, despite its ambitious mandate, the ICC's capacity to fulfill its role has been repeatedly questioned because of a series of political, legal, and practical challenges.⁴

A major challenge to the ICC's operation is its reliance on state cooperation for enforcing its judgments, particularly in securing the arrest and prosecution of indicted individuals.⁵ Without its own enforcement mechanism, the ICC depends on states to apprehend and surrender suspects, which becomes problematic when key states,

1 Rosaria Vigorito, *The Evolution and Establishment of the International Criminal Court (ICC)*, 30:1 INT'L J. LEGAL INFO. 92-162 (2002).

2 Rome Statute of the International Criminal Court, July 17, 1998, 2187 U.N.T.S. 90.

3 Vigorito, *supra* note 1.

4 Milena Sterio, *The International Criminal Court: Current Challenges and Prospect of Future Successes*, 52:1 CASE W. RES. J. INT'L L. 468-75 (2020).

5 Awa Adamu, *Analyses of the Challenges Faced by the International Criminal Court in the Exercise of Its Jurisdiction*, 6:6 INT'L J. L. 98-105 (2020).

including major powers such as the US, China, and Russia, refuse to recognize the Court's jurisdiction, as seen in their decision not to ratify the Rome Statute.⁶ The case of Sudan's ex-President Omar al-Bashir,⁷ who was indicted by the ICC but has continued to evade arrest due to insufficient cooperation from states, clearly highlights this issue.⁸

The challenge of state sovereignty adds another layer of complexity to the ICC's operations, as countries are frequently hesitant to relinquish power to an international body, especially when the individuals facing indictment are their own citizens or allies. This tension is evident in the political resistance to the Court's investigations.⁹ A prominent example occurred during the Trump administration, which imposed sanctions on the ICC in response to investigations involving alleged war crimes in Afghanistan and the Gaza conflict.¹⁰ In an executive order issued on February 6, 2025, President Donald Trump imposed sanctions on the ICC, asserting that the court had taken "illegitimate and unfounded actions against the United States and its close ally Israel."¹¹ These sanctions, including asset freezes and travel bans, underscored opposition from powerful states that viewed court's jurisdiction as a threat to their sovereignty.¹² This was not the first instance of the US's efforts to challenge the ICC's authority, as earlier measures in 2019¹³ and 2021 targeted the ICC officials, further straining the court's ability to function effectively.¹⁴

This ongoing resistance by powerful states weakens the ICC's legitimacy and operational effectiveness. Despite being the primary judicial body charged with

6 Adam White, *A Force to Be Reckoned With? – The International Criminal Court and the Problem of Enforcement* 19-25 (Bachelor of Laws Dissertation, University of Otago, 2019), https://www.otago.ac.nz/_data/assets/pdf_file/0020/331454/a-force-to-be-reckoned-with-the-international-criminal-court-and-the-problem-of-enforcement-734259.pdf.

7 The Prosecutor v. Omar Hassan Ahmad Al-Bashir, Judgment, Case No. ICC-02/05-01/09 OA2 (Int'l Crim. Ct. Appeals Chamber, May 6, 2019).

8 Vigorito, *supra* note 1.

9 White, *supra* note 6, at 20-4.

10 Jean Galbraith, *Trump Administration Expresses Strong Disapproval of the International Criminal Court*, 113:1 AM. J. INT'L L. 169-73 (2019).

11 The White House, *Imposing Sanctions on the International Criminal Court* (Feb. 6, 2025), <https://www.whitehouse.gov/presidential-actions/2025/02/imposing-sanctions-on-the-international-criminal-court>.

12 Nehaluddin Ahmad, *The ICC and the Possible Effects of Trump's Sanctions*, DAILY WORLD (Feb. 13, 2025), <https://epaper.dailyworld.in/epapermain.aspx?queryed=9&eddate=2025-02-13>; *Trump sanctions 'illegitimate' International Criminal Court*, AL JAZEERA (Feb. 7, 2025), <https://www.aljazeera.com/news/2025/2/7/trump-sanctions-international-criminal-court-over-its-us-israel-probes>; Just Security, *Bolton's Remarks on the International Criminal Court* (Sept. 10, 2018), <https://www.justsecurity.org/60674/national-security-adviser-john-bolton-remarks-international-criminal-court>.

13 *US Revokes Visa of International Criminal Court Prosecutor*, BBC NEWS (Apr. 5, 2019), <https://www.bbc.com/news/world-us-canada-47822839>.

14 Galbraith, *supra* note 10. See also Kenneth Roth, *Trump's Sanctions Against the ICC Are Disgraceful*, GUARDIAN (Feb. 9, 2025), <https://www.theguardian.com/commentisfree/2025/feb/09/trump-icc-sanctions>

prosecuting crimes against humanity, the Court's power is limited by key nations' unwillingness to cooperate.¹⁵ This lack of support from major powers is compounded by ambiguities within the Rome Statute, particularly regarding immunity, state cooperation, and jurisdiction. Critics argue that these ambiguities have hindered the ICC's ability to effectively enforce cooperation and jurisdiction, thereby complicating its mission to hold perpetrators of international crimes accountable.¹⁶

Despite these challenges, the ICC has achieved notable successes. One such success was the conviction of Ahmad Al Mahdi¹⁷ for war crimes related to the destruction of cultural heritage in Mali, illustrating the Court's capacity to address traditional and non-traditional crimes.¹⁸ However, such successes are often overshadowed by the Court's ongoing struggles with political resistance, the absence of an effective enforcement mechanism, and insufficient cooperation from key states.¹⁹ Figures such as Omar al-Bashir and warlord Joseph Kony²⁰ remain at large due to the unwillingness of states to execute the ICC's arrest warrants.²¹

Although the ICC remains an important symbol of international accountability, its long-term effectiveness remains uncertain. Its reliance on state cooperation, combined with resistance from major powers²² and gaps in the Rome Statute,²³ continues to undermine its credibility and enforcement capacity. The Court's ability to navigate these challenges will shape the future of international criminal law and the pursuit of justice for victims of mass atrocities.

This research examines the ICC's operational effectiveness under the political realities that hinder its capacity to deliver justice to victims of international crimes. This paper is composed of five parts including a short Introduction and Conclusion. Part two will refer to the changing political environment around the ICC. Part three will examine the obstacles to the ICC's effectiveness with special references to President Trump's executive order 14203 for the sanctions of the ICC officials. Part four will examine the latest ICC cases. Specifically, this article explores the implications of the

15 White, *supra* note 6; Galbraith, *supra* note 10.

16 Roger Clark, *Ambiguities in Articles 5:2, 121 and 123 of the Rome Statute*, 41:2 CASE W. RS. J. INT'L L. 413-27 (2009).

17 The Prosecutor v. Ahmad Al Faqi Al Mahdi, Case No. ICC-01/12-01/15, Judgment (Int'l Crim. Ct. Trial Chamber VIII, Sept. 27, 2016).

18 Alice Curci, *The Prosecutor v. Al Mahdi and The Destruction of Cultural Heritage: Property Crime or Crime Against Humanity?*, 23:1 UCLA J. INT'L L. & FOREIGN AFF. 159-82 (2019).

19 Galbraith, *supra* note 10.

20 The Prosecutor v. Ahmad Al Faqi Al Mahdi, Case No. ICC-01/12-01/15, Judgment (Int'l Crim. Ct. Trial Chamber VIII, Sept. 27, 2016).

21 Galbraith, *supra* note 10, at 172.

22 *Id.*

23 Clark, *supra* note 16.

Court's reliance on state cooperation, the criticism of the Rome Statute's ambiguities, and the effects of political resistance from major powers, particularly the US, on the ICC's authority and its ability to prosecute international crimes.

II. A Changing Political Environment around the ICC

The ICC was established through the adoption of the Rome Statute in 1998 and became operational in 2002.²⁴ As the first permanent court tasked with prosecuting the gravest international crimes - including war crimes, genocide, crimes against humanity, and, since 2010, the crime of aggression - the ICC was created to build upon the precedents set by ad hoc tribunals such as the ICTY and the ICTR. Unlike these temporary bodies, the ICC is a permanent, independent institution designed to ensure ongoing global efforts in the prosecution of mass atrocities.²⁵

The Court's core mission is to ensure accountability for serious violations of International Humanitarian Law (IHL),²⁶ intervening when national courts are unable or unwilling to prosecute such crimes. However, its operations face significant challenges, particularly due to a lack of state cooperation in general. Major powers, including the US, China, and Russia, are not signatories to the Rome Statute, which complicates the Court's ability to enforce its rulings.²⁷

Central to the ICC's function is the principle of complementarity, as highlighted in the Preamble.²⁸ This principle ensures that the Court complements, rather than supplants national judicial systems,²⁹ intervening only when a state is unwilling or unable to prosecute individuals for serious international crimes, such as war crimes, genocide, and crimes against humanity.³⁰ Although this principle respects national

24 Rome Statute of the International Criminal Court, <https://www.icc-cpi.int/publications/core-legal-texts/rome-statute-international-criminal-court>.

25 NEHALUDDIN AHMAD ET AL., INTRODUCTION TO INTERNATIONAL HUMAN RIGHTS LAW 615-8 (2022).

26 IHL establishes rules to protect individuals not participating in hostilities, such as civilians and medical personnel, and limits the means and methods of warfare. It upholds principles of humane treatment, ensuring dignity and protection from inhumane and degrading treatment for all affected by conflict, including soldiers, civilians, and prisoners of war. See Geneva Convention Relative to the Treatment of Prisoners of War, Aug. 12, 1949, 6 U.S.T. 3316, 75 U.N.T.S. 135.

27 Galbraith, *supra* note 10, at 171-2.

28 Rome Statute, pmbl., ¶2. It states: "The International Criminal Court established under this Statute shall be complementary to national criminal jurisdictions."

29 *Id.*

30 Philippe Kirsch, *The Role of the International Criminal Court in Enforcing International Criminal Law*, 22:4 AM. U. INT'L L. REV. 539-47 (2007).

sovereignty,³¹ it simultaneously poses challenges, particularly in cases involving powerful states or influential political figures.³² This resistance reflects a broader tension between national sovereignty and the international pursuit for justice, as states with strong political or military influence often assert that their own legal systems can address these violations, thereby preventing the ICC action.³³

In practice, however, the principle of complementarity functions as a double-edged sword. Although it aims to safeguard state sovereignty, it often limits the ICC's ability to prosecute effectively. States, particularly those with substantial political or military influence, have resisted the ICC's intervention by asserting that their legal systems can adequately handle international crimes.³⁴ As noted, this challenge is evident in cases such as Omar al-Bashir in Sudan, where the ICC's efforts have been thwarted without state cooperation.³⁵

Moreover, the application of complementarity is not always straightforward. The ICC can intervene when a state's prosecution efforts are deemed insufficient or undertaken in bad faith,³⁶ proving this in a politically charged environment is difficult.³⁷ For example, the US's refusal to cooperate with the ICC's investigation into alleged war crimes in Afghanistan further illustrates the political resistance the Court faces.³⁸ The US maintained that its legal system was capable of addressing these violations, even imposing sanctions on the ICC officials when the investigation was pursued.³⁹

The Rome Statute outlines the legal framework for prosecuting war crimes under Article 8, which encompasses acts such as deliberate killings, torture, attacks on civilians, and other violations of the laws of war.⁴⁰ The ICC's jurisdiction, as defined in Article 5, focuses on the most serious crimes that impact the global community.⁴¹ Notably, the Court only prosecutes crimes committed after the Statute's entry into force on July 1, 2002.⁴² Jurisdiction is also based on state consent: signatory states

31 Etesam Alwheebe, *The Role of the International Criminal Court in the Implementation of International Humanitarian Law: An Applied Study*, 8:10 INT'L J. ADVANCED & APPLIED SCI. 131-50 (2021).

32 Galbraith, *supra* note 10.

33 *Id.*

34 *Id.*

35 *Id.* at 172.

36 Kirsch, *supra* note 30, at 544.

37 Galbraith, *supra* note 10.

38 Sara Ochs, *The United States, the International Criminal Court, and the Situation in Afghanistan*, 95:2 NOTRE DAME L. REV. REFLECTION 89-100 (2019).

39 Galbraith, *supra* note 10, at 169-70.

40 Rome Statute art. 8.

41 *Id.* art. 5.

42 Scott McTaggart, *The International Criminal Court: History and Role* (2002), at 4-12, <https://lop.parl.ca/staticfiles/PublicWebsite/Home/ResearchPublications/HillStudies/PDF/2002-11-E.pdf>.

automatically allow the ICC to prosecute crimes,⁴³ whereas nonsignatory states may accept jurisdiction voluntarily or through the UN Security Council's referrals under Chapter VII of the UN Charter.⁴⁴ Consequently, the ICC's jurisdiction is conditional - only intervening when national systems fail or are unwilling to prosecute effectively.⁴⁵ This conditionality has led to criticism of the Court's limited reach, especially when key states, such as the US, refuse to join or cooperate.⁴⁶

Despite its comprehensive legal framework for prosecuting international crimes, the ICC's effectiveness remains dependent on state cooperation and the political dynamics surrounding its jurisdiction.⁴⁷ The complementarity principle underscores the Court's role as a supplementary institution, yet its capacity to function effectively is continually challenged by political resistance, the refusal of key states to join,⁴⁸ and legal ambiguities within the Rome Statute itself.⁴⁹

III. Obstacles to the ICC's Effectiveness

The ICC has long been subject to political pressure, particularly from states and actors who perceive the Court as a threat to their interests or sovereignty. These pressures often manifest through sanctions against the Court, its officials, and those that cooperate with its mandate.⁵⁰ Such measures could undermine the ICC's impartiality and independence, which are essential for its role as a global institution focused on justice. The ICC, therefore, faces the persistent challenge of maintaining its autonomy while pursuing justice for the most serious international crimes.⁵¹

Despite these external challenges, the ICC continues to receive unwavering support from many member states.⁵² On February 7, 2025, 69 States Parties to the Rome Statute

43 Galbraith, *supra* note 10, at 171-2; Rome Statute art. 12.

44 Monique Cormier, *The UN Security Council, the ICC and Nationals of Non-States Parties*, in *THE JURISDICTION OF THE INTERNATIONAL CRIMINAL COURT OVER NATIONALS OF NON-STATES PARTIES* 114-58 (2020).

45 Galbraith, *supra* note 10.

46 Vigorito, *supra* note 1.

47 *Id.*

48 *Id.*

49 Galbraith, *supra* note 10.

50 *Id.*

51 William Burke-White, *Proactive Complementarity: The International Criminal Court and National Courts in the Rome System of International Justice*, 49:1 HARV. INT'L L. J. 53-8 (2008).

52 Bernd Debusmann & Amy Walker, *Dozens of Countries Back International Criminal Court After Trump Sanctions*, BBC News (Feb. 8, 2025), <https://www.bbc.com/news/articles/cx2p19l24g2o>.

issued a joint statement reaffirming their commitment to the ICC's independence, integrity, and mission. The statement condemned the sanctions imposed on the Court and highlighted the significant risks these measures pose to global accountability. It emphasized that such sanctions could threaten the confidentiality of sensitive information, endanger the safety of victims, witnesses, and officials, and disrupt ongoing investigations, potentially leading to the closure of critical field offices.⁵³

This statement also underscores the ICC's indispensable role in promoting the rule of law and ensuring accountability for war crimes. It stressed that sanctions against the Court undermine efforts to arrest perpetrators and contribute to a climate of impunity for international crimes.⁵⁴ For the ICC to operate effectively and independently, it should remain free from external interference. Thus, the global community must stand together in its support of the Court's essential role in upholding the IHL and human rights.⁵⁵

Essentially, the statement serves not only as a diplomatic response, but also as a call to action to safeguard the ICC's operations. This highlights the growing recognition that international justice, as championed by the ICC, is foundational to global peace and security. The Court's work is still crucial in ensuring that war criminals and perpetrators of other crimes face justice despite political pressure.

A. Reliance on State Cooperation and Enforcement Difficulties

A key challenge facing the ICC is state cooperation to enforce its decisions.⁵⁶ Without an independent enforcement mechanism, such as a police force, the ICC depends on states to execute arrest warrants, transfer suspects, and provide evidence.⁵⁷ This reliance exposes a vulnerability: the ICC's ability to function is contingent on the political will of states to comply, which becomes problematic when states refuse

53 The Joint Statement of 69 State Parties to the Rome Statute (Feb. 7, 2025) reaffirms support for the ICC's independence and role in promoting international justice, condemning sanctions that threaten its ability to carry out investigations and endanger the safety of those involved. It stresses the importance of the ICC in conflict zones such as Syria, Ukraine, and Palestine, and calls for continued international support to uphold the Court's mandate and ensure accountability for the most serious crimes. See Government of Netherlands, Joint Statement - Sanctions International Criminal Court (ICC) (Feb. 7, 2025), <https://www.government.nl/documents/diplomatic-statements/2025/02/07/joint-statement--sanctions-international-criminal-court-icc>.

54 Necva Sevinc, *Over 70 Countries Warn Sanctions on ICC Heighten 'Risk of Impunity' for Grave Crimes*, ANADOLU AGENCY (Feb. 8, 2025), <https://www.aa.com.tr/en/politics/over-70-countries-warn-sanctions-on-icc-heighten-risk-of-impunity-for-grave-crimes/3475257>.

55 Claire Klobucista & Mariel Ferragamo, *The Role of ICC*, Council on Foreign Relations (Nov. 22, 2024), <https://www.cfr.org/background/role-icc>.

56 Galbraith, *supra* note 10.

57 Kirsch, *supra* note 30, at 546.

cooperation for political, strategic, or diplomatic reasons.⁵⁸ The ICC's dependency on states reflects its structural limitations, highlighting the absence of coercive power and its efficiency.⁵⁹

The case of Sudanese President Omar al-Bashir illustrates this challenge. In 2009 and 2010, the ICC released arrest warrants for al-Bashir, accusing him of war crimes, crimes against humanity, and genocide in Darfur.⁶⁰ Despite the Court's mandate, al-Bashir traveled freely to other countries, including signatories of the Rome Statute, without being arrested. The failure of South Africa, Chad, and Kenya to enforce the warrants highlights the ICC's vulnerability to political influence and its limited power to compel compliance. The reluctance of African Union (AU) members to cooperate, driven by perceived bias, further undermines the Court's legitimacy in some regions.⁶¹

Moreover, the ICC's jurisdiction is governed by the complementarity principle, which allows the Court to intervene only when national systems are unwilling or unable to prosecute international crimes.⁶² While this respects state sovereignty, it becomes problematic when states invoke it despite weak or dysfunctional legal systems.⁶³ Despite evidence of war crimes committed by both the Taliban and US personnel, for example, the Afghan government has preferred domestic prosecution, raising concerns about the independence of the judiciary in a corrupt political system. This example reflects the inconsistency in applying the principle and its potential to allow political factors to override legal requirements.⁶⁴

Moreover, the complementarity principle creates disparities in justice because states with weak legal systems can avoid international scrutiny. In conflict zones or authoritarian regimes, where the state lacks the capacity or will to prosecute, the ICC's intervention is often blocked.⁶⁵ The Court's reach is dependent on state consent, which is far from guaranteed.⁶⁶ Political and strategic factors also influence state cooperation with the ICC. The US's refusal to ratify the Rome Statute and its opposition to the

58 *Id.* See also Galbraith, *supra* note 10.

59 Hemin Bayz, *The Role and Impact of the International Criminal Court in Global Justice*, 3:4 OTS CAN. J. 95-109 (2024).

60 Galbraith, *supra* note 10, at 172.

61 Zoë Jay & Matt Killingsworth, *To Arrest or Not Arrest? South Africa, the International Criminal Court, and New Frameworks for Assessing Noncompliance*, 68:2 INT'L STUD. Q. 1-11 (2024).

62 Kirsch, *supra* note 30.

63 Galbraith, *supra* note 10.

64 *Id.* See also Ochs, *supra* note 38.

65 Courtney Hillebrecht & Scott Straus, *Who Pursues the Perpetrators? State Cooperation with the ICC*, 39:1 HUM. RTS. Q. 162-88 (2017).

66 Galbraith, *supra* note 10, at 171-2.

ICC jurisdiction over the Americans reflect concerns about sovereignty and politically motivated prosecutions.⁶⁷ The US's resistance to the ICC investigations into alleged war crimes in Afghanistan, along with sanctions against ICC officials, demonstrates how powerful states can undermine the Court's independence.⁶⁸

In summary, the ICC's dependence on state cooperation remains a significant challenge. The case of al-Bashir exemplifies how political and strategic considerations can obstruct justice.⁶⁹ Although the complementarity principle upholds national sovereignty, it can also protect weak legal systems from proper international oversight.⁷⁰ To address these issues, it is important to strengthen the Court's power to intervene when states are unwilling or unable to prosecute.

B. Sovereignty Concerns and Non-Ratification by Major Powers

Sovereignty concerns remain a significant challenge to the ICC's effectiveness. Several major powers, including the US, Russia, and China, have refrained from ratifying the Rome Statute, citing fears that the Court's jurisdiction could infringe upon their sovereignty, particularly concerning military operations and political decisions.⁷¹ These states are concerned that the ICC may prosecute their nationals for the actions taken in conflict or other state interests, potentially threatening their sovereignty.⁷²

The US, despite playing a key role in the creation of the ICC, is one of the most notable non-signatories. The US argued that ICC jurisdiction over its citizen, especially military personnel, could undermine national sovereignty, particularly in situations involving conflicts like Iraq and Afghanistan.⁷³ The US also contends that the ICC could be used for politically motivated prosecutions, given its wide jurisdiction over international crimes such as war crimes, crimes against humanity, and genocide.⁷⁴ The US not only chose not to ratify the Rome Statute, but also actively opposed the ICC's activities, such as when the Trump administration imposed travel bans and asset freezes on ICC officials following the Court's decision to investigate alleged US war crimes in Afghanistan.⁷⁵ This opposition underscores the US's commitment to

67 *Id.* at 169-70.

68 *Id.* at 169-73. *See also* Ochs, *supra* note 38.

69 Galbraith, *supra* note 10.

70 Alwheebe, *supra* note 31.

71 Klobucista & Ferragamo, *supra* note 55.

72 Galbraith, *supra* note 10.

73 *Id.*

74 *Id.* at 169-70. *See also* Bolton, *supra* note 12.

75 Ochs, *supra* note 38. *See also supra* note 12.

shielding its sovereignty from the reach of international justice.⁷⁶

Russia and China share similar concerns. Both countries, as permanent members of the UN Security Council, have significant geopolitical influence and are wary of the ICC jurisdiction over politically sensitive issues. Russia fears that the Court could investigate its actions in Crimea and Syria, while China is concerned about scrutiny over its human rights record, particularly in regions like Xinjiang and Tibet. Both nations prefer to retain control over their internal and foreign affairs, arguing that participation in the ICC could expose their nationals to international prosecution.⁷⁷

The refusal of these major powers to engage with the ICC severely limits the Court's ability to assert its mandate globally.⁷⁸ By opting out of the Rome Statute, the US, Russia, and China effectively shield themselves from the Court's jurisdiction, reducing the ICC's capacity to hold individuals from these nations accountable. This lack of participation also undermines the Court's legitimacy, as its ability to prosecute high-profile cases involving powerful states is significantly curtailed. Consequently, the decisions of these states not to join the ICC weaken the Court's ability to ensure accountability for international crimes across all states, regardless of their geopolitical power or influence. This geopolitical fragmentation also hampers the ICC's capacity to assert its universal jurisdiction and to hold accountable those responsible for international crimes across borders.⁷⁹

C. The US's Opposition and Sanctions against the ICC: Trump's Executive Order 14203

The relationship between the US and the ICC has been complex, particularly in relation to cases involving the US military personnel and officials. While the US initially supported the creation of the ICC in 1998, its stance shifted as the Court began to investigate the US nationals.⁸⁰ The latest development occurred in February 2025, when President Donald Trump issued an executive order (14203) imposing sanctions on the ICC, citing the Court's actions against the US and Israel. This followed the ICC's initiation of investigations and the issuance of arrest warrants for Israeli officials, including Prime Minister Benjamin Netanyahu and former Israeli Defense Minister Yoav Gallant, in connection with the Gaza conflict. These warrants were

⁷⁶ Galbraith, *supra* note 10, at 169-70.

⁷⁷ Frederic Megret, *Epilogue to an Endless Debate: The International Criminal Court's Third-Party Jurisdiction and the Looming Revolution of International Law*, 12:2 EUR. J. INT'L L. 247-68 (2001).

⁷⁸ Galbraith, *supra* note 10.

⁷⁹ Martijn Groenleer, *The United States, the European Union, and the International Criminal Court: Similar Values, Different Interests?*, 13:4 INT'L J. CONST. L. 923-44 (2015).

⁸⁰ Galbraith, *supra* note 10.

based on allegations of such crimes as “murder, persecution, and other inhumane acts,” including the use of famine as a weapon of war.⁸¹

Trump’s executive order, signed on February 6, 2025, targeted the ICC leadership and operations, accusing the Court of overstepping its authority by asserting jurisdiction over the US personnel and its allies.⁸² In 2020, similar sanctions were imposed on Fatou Bensouda, the ICC’s then Chief Prosecutor,⁸³ and other senior officials for investigating alleged war crimes committed by the US military personnel in Afghanistan. Trump’s administration has consistently criticized the ICC as an “unaccountable political entity masquerading as a judicial institution.”⁸⁴

An executive order, while holding the force of law, does not require Congressional approval, but can be challenged in court or overridden by Congress. The exact impact of the sanctions remains uncertain, but they are likely to target individuals involved in the Netanyahu investigation, including the three judges who authorized the arrest warrants.⁸⁵ The Treasury and State Departments have the authority to enforce sanctions, including asset freezes, travel bans, and other restrictions on the ICC officials and their families. The sanctions focus on those involved in “investigating, arresting, detaining, or prosecuting” individuals deemed “protected persons,” including the American citizens, military officials, and officials from allied nations like Israel, which do not recognize the ICC’s authority.⁸⁶

Although the US and Israel are not signatories to the Rome Statute,⁸⁷ 125 other countries, including major US allies such as Canada, the UK, and Australia, have ratified the treaty, recognizing the ICC’s role in holding individuals accountable for war crimes and crimes against humanity.⁸⁸ In response, the ICC condemned the sanctions and reaffirmed its commitment to justice for victims of international crimes. Countries like the UK, Germany, and France have also criticized this executive order, emphasizing the ICC’s role as a vital pillar of the international justice system.⁸⁹

81 *Supra* note 12.

82 White House, *supra* note 11.

83 *US Revokes Visa of International Criminal Court Prosecutor*, BBC News (Apr. 5, 2019), <https://www.bbc.com/news/world-us-canada-47822839>.

84 Galbraith, *supra* note 10.

85 Molly Quell, *What Is the International Criminal Court and How Might Trump’s Sanctions Impact It?*, 8 NEWS NOW (Feb. 7, 2025), <https://www.8newsnow.com/news/ap-top-headlines/ap-what-is-the-international-criminal-court-and-how-will-trumps-sanctions-impact-it>.

86 Galbraith, *supra* note 10.

87 Klobucista & Ferragamo, *supra* note 55.

88 *What is the ICC and why has Trump sanctioned it?*, BBC News (Feb. 7, 2025), <https://www.bbc.com/news/world-11809908>.

89 Roth, *supra* note 14. *See also* Debusmann & Walker, *supra* note 52.

The ICC was established in 2002 as a permanent international court like the Nuremberg and Tokyo Tribunals.⁹⁰ Despite its significant role, the ICC is challenged by political opposition, limited resources, and state participation. The US's opposition, as demonstrated by Trump's executive order 14203, is driven by both legal concerns and geopolitical considerations, undermining the Court's legitimacy and functioning. By undermining the ICC's operations, the US sets a precedent for other states to follow suit, potentially weakening global accountability mechanisms for international crimes.⁹¹

This executive order could jeopardize ongoing ICC investigations, particularly those in Ukraine, Venezuela, Afghanistan, and Myanmar. Under Article 70 of the Rome Statute, the ICC has the authority to charge individuals, including the US officials, with obstruction of justice for interfering with its investigations.⁹² This may also impact Trump's international presence, as the ICC member states, bound by the Court's decisions, could restrict his travel, as seen with Russian President Vladimir Putin after his arrest warrant was issued in 2022.⁹³

In conclusion, the US sanctions against the ICC present a significant challenge to the Court's ability to operate effectively within the broader international justice system. This opposition is not merely a legal dispute, but a geopolitical hurdle that complicates the pursuit of global accountability for international crimes, raising critical questions about the future of international justice. The US opposition continues to shape the global landscape of accountability, provoking the challenges international criminal justice systems face.⁹⁴

D. Perceived Bias and Selective Justice

The ICC has faced significant criticism for its selective approach to justice, particularly its focus on African countries.⁹⁵ Critics argue that the Court disproportionately targets African leaders while failing to hold political figures from more powerful Western nations to the same standards.⁹⁶ This criticism is compounded by the fact that, in its early years, the Court's work predominantly focused on the Global South.⁹⁷ High-profile

90 Klobucista & Ferragamo, *supra* note 55.

91 Galbraith, *supra* note 10.

92 Rome Statute art. 70 (addressing crimes against the administration of justice).

93 Kenneth Roth, *Sanctioning the ICC Could Put Most Travel Off-Limits for Trump*, FOREIGN POL'Y (Jan. 21, 2025), <https://foreignpolicy.com/2025/01/21/trump-international-criminal-court-sanctions>.

94 Galbraith, *supra* note 10.

95 Ochs, *supra* note 38, at 90-1.

96 Birju Kotecha, *The International Criminal Court's Selectivity and Procedural Justice*, 18:1 J. INT'L CRIM. JUST. 107-39 (2020).

97 Eric Wiebelhaus-Brahm & Kirsten Ainley, *The Evolution of Funding for the International Criminal Court: Budgets*,

cases, such as those involving Sudan's Omar al-Bashir,⁹⁸ Kenya's Uhuru Kenyatta,⁹⁹ and Libya's Muammar Gaddafi,¹⁰⁰ have raised questions about the Court's fairness and impartiality. The perception that the ICC overlooks similar crimes committed by Western leaders has fueled accusations that it serves the geopolitical interests of these powerful states rather than functioning as a genuinely neutral judicial institution.¹⁰¹

This perceived double standard is particularly evident in the context of the ICC's reluctance to pursue cases against Western powers. While the Court has acted against African leaders accused of war crimes and crimes against humanity, for example, it has been criticized for its hesitancy to investigate allegations of war crimes committed by the US personnel in Iraq and Afghanistan.¹⁰² Despite widespread accusations of torture and other human rights abuses by the US forces, the ICC has yet to pursue formal charges, further strengthening claims of bias and favoritism toward Western powers. Critics argue that this disparity undermines the Court's credibility and its ability to function as a truly global arbiter of justice.¹⁰³

Some opponents of the Court describe it as a "kangaroo court," suggesting that it operates more as a political tool than as an impartial institution dedicated to upholding the law.¹⁰⁴ This term, often used with derogatory intent, implies that the ICC's proceedings are shaped by political agendas, particularly those of Western states, rather than a strict commitment to justice. These critics contend that the Court's decisions are frequently influenced by the strategic interests of powerful countries, which compromise the integrity of its work. This perception of political manipulation has been further reinforced by the ICC's failure to investigate actions largely associated with Western powers, such as the controversial military operations in Iraq

Donors and Gender Justice, 22:1 J. HUM. RTS. 31-46 (2023).

98 The Prosecutor v. Omar Hassan Ahmad Al-Bashir, Case No. ICC-02/05-01/09 OA2, Judgment (Int'l Crim. Ct. Appeals Chamber, May 6, 2019).

99 The Prosecutor v. Saif Al-Islam Gaddafi, Case No. ICC-01/11-01/11, Warrant of Arrest (Int'l Crim. Ct. Pre-Trial Chamber I, June 27, 2011).

100 The Prosecutor v. Saif Al-Islam Gaddafi, ICC-01/11-01/11, Pre-Trial Chamber, Int'l Crim. Ct.

101 Geoff Dancy et al., *What Determines Perceptions of Bias toward the International Criminal Court? Evidence from Kenya*, 64:7-8 J. CONFLICT RESOL. 1-27 (2019); Michael Drake, *They Hate U.S. for Our War Crimes: An Argument for U.S. Ratification of the Rome Statute in Light of the Post-Human Rights Era*, 52 UIC JOHN MARSHALL L. REV. 1020-7 (2019).

102 Ochs, *supra* note 38.

103 *Id.* See also Kirsten Fischer, *Africa's Role in the Progression of International Criminal Justice: A Moral and Political Argument*, 56:4 J. MOD. AFR. STUD. 541-68 (2018).

104 Foundation for Defense of Democracies, 'Kangaroo Court': House Passes Bill to Sanction ICC for Israel Arrest Warrants (Jan. 10, 2025), <https://www.fdd.org/analysis/2025/01/10/kangaroo-court-house-passes-bill-to-sanction-icc-for-israel-arrest-warrants>.

and Afghanistan, where allegations of war crimes have been made against US forces.¹⁰⁵

The ICC's focus on African leaders, coupled with its inaction on cases involving Western nations, has led to growing frustration among countries in the Global South, who increasingly view the Court as an instrument of neo-imperialism. This perception has been echoed by officials from the AU and scholars who argue that the Court disproportionately targets African leaders while ignoring alleged crimes by powerful Western states.¹⁰⁶ From this perspective, the ICC is seen not as an independent institution pursuing justice for all but rather as a mechanism for exerting control over weaker nations while shielding the more powerful nations from accountability. This criticism highlights a broader concern that the Court is serving the interests of Western powers rather than upholding the principles of international law and justice.¹⁰⁷

This selective approach to prosecution has not only tarnished the ICC's reputation but also strengthened the belief in some quarters of the Global South that the Court is fundamentally unjust. For many, the ICC is not a fair and impartial judicial body, but rather a tool that enforces an unbalanced international order, where powerful states can avoid facing consequences for their actions. As a result, calls for reforms within the ICC have grown louder, with many advocating for a re-examination of its jurisdiction and methods to ensure that it operates in a manner neutral and equitable for all nations involved.¹⁰⁸

E. The Role of the ICC in Promoting Accountability during Political Challenges

Despite these challenges, the ICC's role in ensuring accountability remains indispensable, especially when national courts are unwilling or unable to prosecute serious international crimes. The prosecution of Congolese warlord Thomas Lubanga,¹⁰⁹ for using child soldiers illustrates the Court's vital role in addressing impunity where local systems fail. However, resistance from powerful states, often driven by political interests, poses significant vulnerabilities to the Court's mandate,

105 Jeremy Sarkin, *Reforming the International Criminal Court (ICC): Progress, Perils and Pitfalls Post the ICC Review Process*, 21:1 INT'L & COMP. L. REV. 7-42 (2021).

106 Mia Swart, *Is the International Criminal Court a Colonial Institution?*, Center for International and Regional Studies (Feb. 28, 2018), <https://cirs.qatar.georgetown.edu/event/international-criminal-court-colonial-institution>; *Africa: ICC's Double Standards – a Court for the Powerful or Against the Weak?*, ALLAFRICA (Mar. 24, 2025), <https://allafrica.com/stories/202503240661.html>.

107 Sarkin, *supra* note 105, at 7-42.

108 *Id.* See also Stewart, *supra* note 106.

109 *The Prosecutor v. Thomas Lubanga Dyilo*, Case No. ICC-01/04-01/06-2842, Judgment and Sentence (Int'l Crim. Ct. Trial Chamber I, Mar. 14, 2012).

threatening its effectiveness and impartiality.¹¹⁰

In response to increasing political pressure, 69 States Parties to the Rome Statute issued a joint statement on February 7, 2025, expressing unwavering support for the ICC's independence and condemning the sanctions imposed on the Court.¹¹¹ The statement stresses that these sanctions not only jeopardize ongoing investigations, such as those into the conflicts in Syria and Ukraine, but also endanger the safety of victims, witnesses, and officials involved in the Court's work.¹¹² This collective action by the Parties reinforces the critical role of the ICC in advancing global justice, protecting human rights and maintaining the rule of law, particularly in regions where impunity is rampant.¹¹³

Actually, continued support from the State Parties is essential to protect the ICC from political interference, allowing it to fulfill its mandate effectively. Such support ensures that the Court remains empowered to prosecute the most serious international crimes, promote accountability, and uphold the IHL. As global challenges evolve, the ICC's role in enforcing justice and safeguarding global peace becomes increasingly vital.¹¹⁴

IV. Case Studies on the ICC's Success and Shortcomings

The ICC has encountered both significant successes and notable failures in its pursuit of international justice. These case studies not only underscore the Court's capacity to address evolving international crimes, but also highlight its operational and political hurdles.¹¹⁵ The examination of these examples provides valuable insight into both the strengths and limitations of the ICC's legal framework and enforcement mechanisms.

A. Successful Prosecutions and Legal Precedents

One of the ICC's most notable achievements was the conviction of Thomas Lubanga, a Congolese warlord, in 2012 for his involvement in the recruitment and use of

¹¹⁰ Galbraith, *supra* note 10.

¹¹¹ Government of Netherlands, *supra* note 53.

¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ Klobucista & Ferragamo, *supra* note 55.

¹¹⁵ ICC, Past Achievements and Future Challenges of the ICC, Speech by Judge Sang-Hyun Song, The 2nd President of the ICC (July 17, 2018), <https://www.icc-cpi.int/sites/default/files/itemsDocuments/20a-ceremony/20180717-sang-speech.pdf>.

child soldiers during the 2002-03 conflict in the Democratic Republic of Congo.¹¹⁶ This case marked the ICC's first conviction and established crucial legal precedents, particularly regarding the protection of children in conflict zones. Lubanga's conviction emphasized that the recruitment and use of child soldiers was a serious international crime and highlighted the Court's commitment to protecting vulnerable groups, especially children. Additionally, the case introduced the principle of victim participation, enabling victims to express their views and experiences during the trial. This has since become an important feature of ICC procedures.¹¹⁷

Another significant case was that of Jean-Pierre Bemba,¹¹⁸ the former vice president of the Democratic Republic of Congo, who was convicted in 2016 for crimes committed by his militia in the Central African Republic during the 2002-03 conflict. Bemba's conviction was significant in reinforcing the principle of command responsibility, where a leader can be held accountable for the actions of subordinates if they fail to prevent or punish crimes.¹¹⁹ This case also brought international attention to sexual violence in armed conflict, as Bemba's forces were responsible for widespread acts of rape. The ruling underscored the ICC's focus on addressing such atrocities and marked a pivotal moment in the Court's broader agenda on gender justice in the context of armed conflict.¹²⁰

The conviction of Ahmad Al Mahdi¹²¹ in 2016 for the destruction of cultural property during the 2012 Mali conflict represented another important step for the ICC. Al Mahdi was found guilty of deliberately destroying nine historical buildings and a mosque in Timbuktu, a UNESCO World Heritage site. This was the first time the ICC had prosecuted someone solely for the destruction of cultural property, emphasizing the significance of protecting cultural heritage under international law.¹²² The case also demonstrated the Court's adaptability, addressing new forms of harm in conflict beyond physical violence, thus broadening the IHL's scope to include cultural and

116 Lubanga, *supra* note 109

117 Nehaluddin Ahmad et al., *Legal Challenges of Prosecuting War Crimes and Crimes Against Humanity: A Comparative Analysis of Islamic Law and Modern International Law*, 20:3 MANCHESTER J. TRANSNAT'L ISLAMIC L. & PRAC. 216 (2024).

118 The Prosecutor v. Jean-Pierre Bemba Gombo, Case No. ICC-01/05-01/08, Judgment and Sentence (Int'l Crim. Ct. Trial Chamber III, Mar. 21, 2016).

119 Carmel O'Sullivan, *New Court, Same Division: The Bemba Case as an Illustration of the Continued Confusion Regarding the Command Responsibility Doctrine*, 32:3 LEIDEN J. INT'L L. 661-78 (2022); International Crimes Database, The Prosecutor v. Jean-Pierre Bemba Gombo, <https://www.internationalcrimesdatabase.org/Case/3320/Bemba-Case>.

120 Joseph Powderly, *Prosecutor v. Jean-Pierre Bemba Gombo: Judgment on the Appeal of Mr. Jean-Pierre Bemba Gombo against Trial Chamber III's 'Judgment Pursuant to Article 74 of the Statute'*, 57:6 I.L.M. 1031-79 (2019).

121 The Prosecutor v. Ahmad Al Faqi Al Mahdi, Case No. ICC-01/12-01/15, Judgment (Int'l Crim. Ct. Trial Chamber VIII, Sept. 27, 2016).

122 Kulsoom Khan, *Man Who Destroyed Artifacts in Mali Gets Nine Years in Prison*, PBS News (Sept. 27, 2016), <https://www.pbs.org/newshour/world/man-destroyed-artifacts-mali-gets-nine-years-prison>.

religious crimes.¹²³

The successes of the ICC in cases such as Lubanga, Bemba, and Al Mahdi highlight the Court's ability to create significant legal precedents, protect vulnerable groups, and adapt to emerging forms of international crimes. These cases underscore the Court's critical role in advancing international justice and highlight its ability to evolve in response to new forms of harm, including gender-based violence, the destruction of cultural heritage, and the protection of children.¹²⁴

B. High-Profile Failures and Enforcement Challenges

Despite these successes, the ICC has faced significant challenges in executing its mandate, particularly in cases involving high-profile individuals. A key example is the case of Omar al-Bashir, the former president of Sudan, who was indicted by the ICC in 2009 and 2010 for genocide, war crimes, and crimes against humanity during the Darfur conflict. The Court issued two arrest warrants for Bashir, but he managed to evade capture, even traveling to such countries that were party to the Rome Statute, without facing arrest. The failure to apprehend Bashir exposed the limitations of the ICC in cases in which state cooperation was not forthcoming.¹²⁵ Despite being a member of the African Union (AU), several African states refused to arrest Bashir, citing political considerations and regional alliances. This case revealed the tension between national sovereignty and international law, as well as the difficulty the ICC faces in ensuring compliance with sovereign states, especially when powerful political forces are involved.¹²⁶

Another case that illustrates the ICC's enforcement challenges is that of Joseph Kony,¹²⁷ the leader of the Lord's Resistance Army (LRA), who remains at large despite being wanted by the ICC since 2005 for his role in committing atrocities in northern Uganda. Kony's forces were responsible for the abductions, massacres, and forced conscription of child soldiers. Despite the ICC issuing an arrest warrant, however, Kony has evaded capture, largely due to the LRA's guerrilla tactics and the volatile

¹²³ Curci, *supra* note 18.

¹²⁴ The Prosecutor v. Thomas Lubanga Dyilo, Case No. ICC-01/04-01/06-2842, Judgment and Sentence (Int'l Crim. Ct. Trial Chamber I, Mar. 14, 2012); Ahmad et al., *supra* note 118; The Prosecutor v. Jean-Pierre Bemba Gombo, Case No. ICC-01/05-01/08, Judgment and Sentence (Int'l Crim. Ct. Trial Chamber III, Mar. 21, 2016); Powderly, *supra* note 121, at 1031-79; The Prosecutor v. Ahmad Al Faqi Al Mahdi, Case No. ICC-01/12-01/15, Judgment (Int'l Crim. Ct. Trial Chamber VIII, Sept. 27, 2016).

¹²⁵ Galbraith, *supra* note 10, at 172.

¹²⁶ Jay & Killingsworth, *supra* note 61

¹²⁷ The Prosecutor v. Joseph Kony, Case No. ICC-02/04-01/05, Warrant of Arrest (Int'l Crim. Ct. Pre-Trial Chamber II, Sept. 27, 2005).

security situation in the region. The case underscores the difficulties the ICC faces in prosecuting non-state actors who operate in remote and lawless areas. The case also highlights the challenges of capturing individuals who are not within the jurisdiction of a state party to the Rome Statute and whose activities span multiple countries.¹²⁸

The ICC has also faced resistance from powerful states,¹²⁹ such as the US, particularly in the case of its investigation into war crimes committed by the US forces in Afghanistan. In 2019, the ICC authorized an investigation into allegations of torture and other crimes committed by the US military personnel and the CIA. However, the US strongly opposed the investigation, arguing that the ICC had no jurisdiction over its nationals because it was not a party to the Rome Statute.¹³⁰ The US imposed sanctions on the ICC officials, including Prosecutor Fatou Bensouda, in 2020 to prevent the investigation from proceeding.¹³¹ This standoff highlights the difficulties the ICC faces in asserting its authority over powerful states, particularly when their nationals or interests are implicated in potential violations of international law.¹³² The US's refusal to cooperate and its active efforts to undermine the investigation reflect broader geopolitical dynamics and illustrate the challenges the ICC faces in holding powerful nonsignatory states accountable. The case also exemplifies the tension between state sovereignty and the ICC's mandate to prosecute international crimes. The US views that the ICC is overreaching its jurisdiction challenges the Court's ability to function effectively in the realm of global justice, especially when key global powers like the US assert their national interests over international legal obligations.¹³³

The high-profile failures of the ICC, such as the cases involving Omar al-Bashir and Joseph Kony, reveal the persistent challenges the Court faces in securing cooperation and enforcement, especially when political interests or sovereignty issues are at play. These cases highlight the limitations of the ICC's jurisdiction and enforcement capacity.¹³⁴ These failures illustrate the tension between state sovereignty and international law, emphasizing the Court's vulnerability to external pressures and the difficulty in securing cooperation from powerful states, ultimately highlighting the limitations of the ICC's enforcement capabilities.¹³⁵

128 Saqiba Saleem et al., *The Role of the International Criminal Court in Combating War Crimes*, 4:2 INT'L J. HUM. & SOC'Y 940-9 (2024).

129 Galbraith, *supra* note 10.

130 Ochs, *supra* note 38.

131 *Supra* note 13.

132 Galbraith, *supra* note 10.

133 Groenleer, *supra* note 79.

134 Bayz, *supra* note 59.

135 Galbraith, *supra* note 10.

C. Emerging Cases and Evolving Challenges

The emerging cases also reflect the evolving challenges faced by the ICC. One of the most prominent incidents is the investigation into the Rohingya crisis, where Myanmar's military has been accused of genocide and crimes against humanity against the Rohingya Muslim minority.¹³⁶ Although Myanmar is not a party to the Rome Statute, the ICC has jurisdiction because the crimes were committed in part on the territory of Bangladesh, a state party to the Statute.

On November 14, 2019, the Pre-Trial Chamber III authorized the investigation into crimes allegedly committed against the Rohingya, including deportation, persecution, and other crimes against humanity.¹³⁷ These crimes were committed at least in part on the territory of Bangladesh, where many Rohingya were forcibly displaced, thus connecting the situation to the jurisdiction of the Court. The investigation encompasses crimes committed on or after June 1, 2010, the date the Rome Statute entered into force for Bangladesh and extends to any future crimes linked to the situation.

This case illustrates the ICC's evolving approach to cross-border jurisdiction and its ability to investigate crimes affecting multiple countries. The Court's focus on ethnic persecution as a form of international crime is significant because it highlights the intersection of human rights and humanitarian law in preventing ethnic cleansing. The ongoing investigation into the Rohingya crisis highlights the ICC's crucial role in addressing large-scale atrocities and protecting vulnerable populations from state-led persecution.¹³⁸

Another notable emerging case is Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud,¹³⁹ who was accused of war crimes and crimes against humanity for his role in the 2012 Mali conflict. Al Hassan is charged with overseeing the persecution of civilians based on ethnicity and religion, as well as committing sexual violence and destroying cultural property. Al Hassan's case highlights the ICC's increasing attention to gender-based violence and cultural heritage protection in conflict settings. The prosecution of sexual slavery and the destruction of religious sites underscores the Court's commitment to addressing a broader range of international crimes, including those that specifically target cultural and religious identities. His

136 ICC, Situation in the People's Republic of Bangladesh/Republic of the Union of Myanmar, <https://www.icc-cpi.int/node/4536>.

137 ICC, Situation in the People's Republic of Bangladesh/Republic of the Union of Myanmar, <https://www.icc-cpi.int/bangladesh-myanmar>.

138 ICC, Decision to Authorize Investigation (Nov. 14, 2019), https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2019_06955.PDF.

139 The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, Case No. ICC-01/12-01/18, Warrant of Arrest (Int'l Crim. Ct. Pre-Trial Chamber I, Mar. 27, 2018).

involvement with the armed group Ansar Dine and his role as the de facto chief of the Islamic police led to systematic persecution, including attacks on cultural heritage. This conviction marks a significant example of the ICC's growing mandate to hold individuals accountable for cultural destruction and religious persecution. Al Hassan was sentenced to 10 years in prison on November 20, 2024.¹⁴⁰

Emerging cases like the Rohingya crisis and the prosecution of Al Hassan reflect the ICC's evolving approach to complex international crimes, including ethnic persecution, gender-based violence, and the destruction of cultural heritage. These cases demonstrate the Court's commitment to remain relevant in the face of new challenges and to expand its reach to protect vulnerable populations globally. As the ICC addresses these emerging challenges, its ability to adapt to the changing nature of conflict will be essential for maintaining its legitimacy and effectiveness in promoting global justice.

V. Conclusion

The ICC has played a key role in shaping IHL by holding individuals accountable for grave crimes, such as war crimes, genocide, and crimes against humanity.¹⁴¹ Noteworthy cases, such as the conviction of Ahmad Al Mahdi for the destruction of cultural heritage, demonstrate the Court's ability to address emerging forms of criminality. Al Mahdi's conviction illustrates the ICC's responsiveness to issues like the protection of cultural property during armed conflict - an area previously underexplored within international legal discourse.¹⁴² The ICC, however, faces considerable challenges, particularly in cases involving prominent political and military figures such as Sudanese President Omar al-Bashir and warlord Joseph Kony. These cases highlight the difficulty the Court encounters when confronted with powerful political figures and the persistent reluctance of states to cooperate.¹⁴³

Moreover, a key challenge lies in the ICC's dependency on state cooperation. While cooperation is essential for its operations, it becomes a constraint when influential states refuse to engage with the Court or actively obstruct its effort. Opposition from

¹⁴⁰ Danai Kupemba, *Timbuktu's Jihadist Police Chief Guilty of War Crimes*, BBC NEWS (June 27, 2024), <https://www.bbc.com/news/articles/c2ee4208mlzo>.

¹⁴¹ Vigorito, *supra* note 1.

¹⁴² Curci, *supra* note 18.

¹⁴³ Jay & Killingsworth, *supra* note 61. *See also* Saleem et al., *supra* note 128.

influential bodies like the AU, combined with broader concerns about selectivity and perceived bias, has further weakened the ICC's authority and undermined its credibility in certain regions.¹⁴⁴

Adding to these challenges, the executive order issued by President Trump on February 6, 2025, imposes sanctions on individuals or organizations involved in the ICC's investigation, arrest, detention, or prosecution of the American nationals, military personnel, or citizens of the US allies without their countries' consent. The sanctions also target those who support the ICC financially or materially. These sanctions include asset freezes in the US and bans on entry for sanctioned individuals and their families. The order specifically applies to the American nationals, military personnel, and citizens or residents of the US, NATO allies or "major non-NATO allies," such as Israel and the Philippines. As of March 25, 2025, the ICC Prosecutor Karim Khan is the only individual sanctioned, although further sanctions may be imposed. This action amplifies existing tensions between the ICC and major global powers, raising concerns about the Court's jurisdiction and the willingness of states to cooperate. By undermining the ICC's independence and discouraging engagement, these sanctions hinder the Court's ability to pursue justice for victims of severe international crimes.¹⁴⁵

Despite these obstacles, the ICC remains a vital institution in the fight against impunity. To strengthen its effectiveness, the Court must navigate complex political dynamics, address concerns regarding impartiality, and build stronger relationships with states to foster collaboration.¹⁴⁶ In doing so, the ICC can continue to fulfill its mission of promoting justice, protecting human rights, and enforcing IHL. Ultimately, the Court's long-term success will depend on reform, increased global cooperation, and greater state collaboration that will ensure its ability to navigate the evolving landscape of global justice.¹⁴⁷

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144 Galbraith, *supra* note 10.144

145 White House, *supra* note 11. See also Amnesty International, What Do the Trump Administration's Sanctions on the ICC Mean for Justice and Human Rights? (Mar. 25, 2025), <https://www.amnesty.org/en/latest/campaigns/2025/03/what-do-the-trump-administrations-sanctions-on-the-icc-mean-for-justice-and-human-rights>

146 Roth, *supra* note 14. See also Debusmann & Walker, *supra* note 52.

147 *Id.* See also Klobucista & Ferragamo, *supra* note 55.