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The Jurisdiction of the International Criminal Court and the Crime of Genocide

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Abstract

This paper offers a doctrinal analysis of the jurisdiction of the International Criminal Court (ICC) with specific reference to the crime of genocide, tracing its legal, historical, and institutional development. Beginning with the evolution of international criminal law from the Nuremberg trials and the Genocide Convention of 1948 through to the establishment of the ICC by the Rome Statute (1998), the study examines the Court's subject-matter, territorial, personal, and temporal jurisdiction. It highlights how genocide, defined under Article 6 of the Statute, requires proof of the special intent to destroy a protected group in whole or in part. The paper critically evaluates the challenges in prosecuting genocide before the ICC, including jurisdictional gaps for non-State Parties, Security Council politics, difficulties in proving genocidal intent, state non-cooperation, and enforcement of arrest warrants. By reviewing landmark cases such as Prosecutor v. Lubanga, the Darfur referrals and the indictment of Omar al-Bashir, as well as the ongoing situations in Myanmar, Ukraine, and Palestine, it demonstrates how the ICC has both expanded and been constrained in practice. It also considers the complementarity principle, state cooperation, and political pressures that shape the Court's ability to act effectively. Recent developments up to 2025, including arrest warrants against sitting heads of state such as Vladimir Putin and Benjamin Netanyahu, underscore both the reach and the controversies of the Court. The analysis concludes that while the ICC has not yet secured a conviction for genocide, it has fundamentally altered expectations of accountability for mass atrocities, even as it continues to navigate the tension between law, sovereignty, and international politics.

Keywords: *International Criminal Court; Rome Statute; Genocide; Jurisdiction; Complementarity; U.N. Security Council referrals; Proprio motu powers; Omar al-Bashir; Rohingya crisis; Ukraine conflict; Palestine/Gaza; State cooperation; Immunities; International criminal law*

Introduction

The establishment of the International Criminal Court (ICC) in 2002 marked a watershed in the quest to end impunity for the most egregious crimes, including genocide. As a permanent tribunal created by the Rome Statute of 1998, the ICC was tasked with bringing to justice individuals responsible for “unimaginable atrocities that deeply shock the conscience of humanity” - crimes such as genocide, crimes against humanity, war crimes, and (later) aggression.¹ Genocide, often termed “the crime of crimes,” had spurred international legal action since the horrors of the Holocaust and the adoption of the Genocide Convention of 1948. Yet, enforcement of the prohibition on genocide remained elusive in the absence of a standing court. The ICC’s jurisdictional regime attempts to balance the demands of international justice with state sovereignty through a principle of complementarity and consent-based jurisdiction.

This paper provides an analytical overview of the ICC’s jurisdiction as it relates to the crime of genocide. It examines the legal framework defining the Court’s authority, the specific definition and elements of genocide under international law, and the challenges of prosecuting genocide before the ICC. The discussion is structured in a historical context - tracing the ICC’s evolution - and then delves into jurisdictional mechanics, interpretive issues in genocide law, and practical hurdles exemplified by key cases. From the first ICC cases in Central Africa to situations in Darfur, Myanmar, Ukraine, and Palestine, the Court’s engagement with allegations of genocide (and related crimes) illustrates both its potential and its limits. The role of State Parties, U.N. Security Council referrals, and the Prosecutor’s proprio motu powers in triggering jurisdiction is explored, as is the critical need for state cooperation in enforcement. Recent developments up to 2025, including unprecedented arrest warrants against sitting heads of state accused of atrocity crimes, underscore the contemporary relevance and controversy surrounding the ICC. Throughout, the analysis remains descriptive and grounded in legal doctrine, reflecting a scholarly perspective (including, where pertinent, an Indian viewpoint on these issues). The aim is to present a nuanced understanding of how

the ICC’s jurisdiction operates in practice, particularly in relation to genocide, and the ongoing challenges that shape its pursuit of justice.

Historical Background and Evolution of the ICC

The ICC’s creation was the culmination of decades of efforts to establish a permanent international criminal tribunal. In the aftermath of World War II, the Nuremberg and Tokyo military tribunals set precedents by prosecuting major war criminals, including for atrocities against civilians. Genocide as a legal concept was codified in the Genocide Convention (1948), but during the Cold War the idea of a permanent court remained stalled. Instead, accountability was pursued through ad hoc tribunals: notably, the International Criminal Tribunal for the former Yugoslavia (ICTY, established 1993) and the International Criminal Tribunal for Rwanda (ICTR, established 1994) dealt with genocide and other crimes in those conflicts. The success and limitations of these tribunals renewed momentum for a global court that would not be restricted to specific situations.

Intensive negotiations under U.N. auspices led to the Diplomatic Conference in Rome in 1998. On 17 July 1998, the Rome Statute of the ICC was adopted by a vote of 120 states in favor (with 7 against and 21 abstaining).² Key differences of opinion at Rome involved the scope of crimes, the role of the U.N. Security Council, and the trigger mechanisms for jurisdiction. India, among others, voiced concerns about provisions allowing the Security Council to refer or defer cases and about the inclusion of internal armed conflicts within the Court’s remit.³ Despite some objections, the Statute was adopted and opened for signature. It received the requisite 60 ratifications by April 2002, and entered into force on 1 July 2002.⁴

The ICC is headquartered in The Hague and constituted by four primary organs: the Presidency (judicial and administrative head), the Judicial Divisions (Pre-Trial, Trial, and Appeals Chambers), the Office of the Prosecutor (an independent organ responsible for investigations and prosecutions), and the Registry (supporting administration). The first Prosecutor, Luis Moreno-Ocampo, took office in 2003,

¹ Rome Statute of the International Criminal Court, 1998, Preamble & art. 1 (establishing the ICC and its complementary role to national jurisdictions).

² United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, Rome, 17 July 1998, *Summary of Records* (the Rome Statute was adopted by a vote of 120 in favor to 7 against, with 21 abstentions).

³ Statement of Mr. Dilip Lahiri, Head of the Indian Delegation, Rome Conference, 16 June 1998, in

Official Records of the Rome Conference, Vol. II (India’s objections to the draft statute included concerns over the role of the UN Security Council, jurisdiction over internal conflicts, absence of reservations, and the Prosecutor’s proprio motu powers).

⁴ United Nations Treaty Collection, “Rome Statute of the International Criminal Court” (entry into force on 1 July 2002, sixty days after the 60th ratification as per art. 126).

followed by Fatou Bensouda in 2012 and Karim Khan in 2021. As of 2025, the Court has 125 States Parties spanning much of the world,⁵ though notable major powers (including the United States, China, Russia, and India) have remained outside the treaty.

The ICC's early work focused largely on conflicts in Africa, prompting some criticism of an "Africa-centric" justice. The first situations were referred to the Court by the concerned African governments themselves (Democratic Republic of Congo, Uganda, Central African Republic), and two were initiated by U.N. Security Council referral (Sudan's Darfur region and later Libya).⁶ These early cases established important precedents. In 2012, the ICC delivered its first judgment in **Prosecutor v. Thomas Lubanga Dyilo**, a Congolese militia leader, convicting him of war crimes for conscripting and using child soldiers.⁷ This demonstrated the Court's ability to conduct complex trials, though it also revealed growing pains (lengthy proceedings and criticism of the prosecution's narrow charging strategy). Over time, the ICC's docket expanded beyond Africa - encompassing situations in countries like Georgia, Myanmar/Bangladesh, Afghanistan, Palestine, and most recently Ukraine. Each of these has tested the Court's jurisdictional parameters and its political fortitude.

From a historical perspective, the ICC represents an unprecedented mechanism to hold individuals (including state officials) accountable on a permanent, global basis. However, its jurisdiction is not universal. It rests on a treaty-based consent regime and the principle of complementarity, which together reflect a compromise between sovereignty and international justice. This historical evolution sets the stage for

examining how exactly the ICC's jurisdiction is structured, particularly with regard to genocide.

Jurisdictional Framework of the ICC

The ICC's jurisdictional framework is defined by the Rome Statute and is multifaceted, involving subject-matter scope, personal and territorial reach, temporal limits, and triggering mechanisms. Understanding these parameters is essential to grasp when and how the ICC can address crimes of genocide.

Subject-Matter Jurisdiction: Article 5 of the Rome Statute limits the Court's competence to "the most serious crimes of concern to the international community as a whole".⁸ These are enumerated as genocide, crimes against humanity, war crimes, and (as of amendments in force from 2018) the crime of aggression. Genocide thus falls squarely within the ICC's subject-matter jurisdiction, alongside other atrocity crimes. The Statute further defines each crime in subsequent articles (Articles 6, 7, 8, and 8 bis respectively). In the case of genocide, Article 6 provides the legal definition, echoing the 1948 Genocide Convention.⁹ It is important to note that the ICC cannot adjudicate crimes outside this list - for example, allegations of international terrorism or drug trafficking are beyond its purview, despite proposals by some states (including India) during the Rome negotiations to include such crimes.¹⁰

Personal and Territorial Jurisdiction: The ICC is not a court of universal jurisdiction; its authority is principally consent-based. Under Article 12 of the Statute, the ICC may exercise jurisdiction if either the **territory** where the crime was committed or the **nationality** of the accused is linked to a State Party (or a state that has accepted the Court's jurisdiction).¹¹ In

⁵ Assembly of States Parties, *States Parties to the Rome Statute* (as of June 2025, 125 countries are States Parties to the ICC).

⁶ UN Security Council Resolution 1593, U.N. Doc. S/RES/1593 (Mar. 31, 2005) (referring the situation in Darfur, Sudan to the ICC); UN Security Council Resolution 1970, U.N. Doc. S/RES/1970 (Feb. 26, 2011) (referring the situation in Libya to the ICC). Both were adopted under Chapter VII, mandating cooperation with the Court.

⁷ *Prosecutor v. Thomas Lubanga Dyilo*, ICC-01/04-01/06, Judgment pursuant to Article 74 (14 Mar. 2012). See also Human Rights Watch, "ICC: Landmark Verdict a Warning to Rights Abusers" (News Release, 14 Mar. 2012) (noting Lubanga's conviction for conscripting child soldiers as the ICC's first verdict and highlighting the need to arrest co-accused like Bosco Ntaganda).

⁸ Rome Statute, art. 5(1) (limiting ICC jurisdiction to the crimes of genocide, crimes against humanity, war crimes, and the crime of aggression).

⁹ Rome Statute, art. 6; Convention on the Prevention and Punishment of the Crime of Genocide, 1948, art. II (the definitions are virtually identical, listing killing, serious harm, inflicting destructive conditions, preventing births, and transferring children, committed with intent to destroy a national, ethnical, racial or religious group, in whole or in part).

¹⁰ Baisakh, P., "Why India Continues to Stay Out of ICC?" *A Contrario ICL* (27 Apr. 2013) (noting India's proposal at the Rome Conference to include terrorism and the use of nuclear weapons as crimes under ICC jurisdiction, which was not adopted, contributing to India's decision not to join).

¹¹ Rome Statute, art. 12(2) (preconditions to the exercise of jurisdiction: the Court may exercise jurisdiction if the crime occurred on the territory of a State Party or if the accused is a national of a State

practice, this means that the ICC can prosecute an individual if the alleged genocide (or other crime) took place on the soil of a State Party, or if the person accused is a citizen of a State Party. If neither condition is met, the Court lacks jurisdiction *unless* a special route is employed (namely, a U.N. Security Council referral, to be discussed below). For example, if atrocities amounting to genocide are committed entirely within a country that is not an ICC member by nationals of a non-member state, the ICC could not act on its own. This limitation has significant implications: many of the gravest international crimes (including alleged genocides) occur in states that have not joined the ICC, such as Syria or (until recently) Sudan, which necessitated alternate avenues for accountability.

There is an exception to the territorial requirement in cases where a crime is transboundary. A notable precedent is the situation of the Rohingya people: Myanmar is not an ICC member, but neighboring Bangladesh (where hundreds of thousands of Rohingya were deported) is a State Party. The ICC's Pre-Trial Chamber ruled that the Court could exercise jurisdiction over crimes part of which occurred on the territory of a State Party (Bangladesh), even if another part of the crime occurred in a non-party state (Myanmar).¹² This innovative reasoning allowed the ICC to open an investigation into crimes against the Rohingya, essentially on the basis of Bangladesh's territory being the locus of the crime of deportation. However, this remains an unusual extension and does not amount to full jurisdiction over all crimes in Myanmar - only those with an element in Bangladesh.

Temporal Jurisdiction: The ICC's temporal jurisdiction is strictly prospective from the Statute's entry into force. The Court has no jurisdiction over events that took place before 1 July 2002 (the date the Statute came into effect).¹³ Furthermore, for states that join later, the Court generally can only prosecute crimes committed after the Statute becomes applicable for that state (typically the date of ratification plus the Statute's entry-into-force period). A state may make a declaration under Article 12(3) accepting ICC jurisdiction retroactively for earlier crimes, but not

before 2002. This temporal limit meant that atrocities like the Rwandan Genocide of 1994 or the Cambodian genocide of the 1970s are outside the ICC's reach; those had to be addressed by ad hoc tribunals or other mechanisms. The ICC deals only with contemporary or future crimes. In practice, this has sometimes frustrated justice for victims of earlier genocides but reflects the legal principle of non-retroactivity in criminal law.

Trigger Mechanisms (Articles 13 and 14): Even when the above preconditions are met, the ICC's jurisdiction is not automatically invoked. The Rome Statute requires that situations be "triggered" for the Court to act. There are three ways a situation can come before the ICC¹⁴:

1. **State Party Referral:** A State Party to the Statute may refer to the Prosecutor a situation in which one or more crimes within the ICC's jurisdiction appear to have been committed. The state can refer a situation occurring on its own territory or elsewhere. In practice, several states facing internal conflicts have self-referred (e.g. Uganda referred the situation of the Lord's Resistance Army, the DRC referred its eastern conflict). A State Party referral essentially invites the ICC to investigate crimes in that state or involving its nationals. This pathway is an expression of sovereign consent and has been important in enabling ICC action in countries willing to cooperate (sometimes to prosecute rebel groups or political opponents). For genocide cases, a State Party facing a potential or ongoing genocide could refer the situation to spur ICC involvement - though in reality, states committing genocide are unlikely to self-refer; referrals have tended to concern situations where the referring government is not itself the target of the investigation.
2. **U.N. Security Council Referral:** The U.N. Security Council, acting under Chapter VII of the U.N. Charter, can refer a situation to the ICC Prosecutor, even involving non-member

Party, except when a situation is referred by the Security Council).

¹² *ICC Pre-Trial Chamber III*, Decision Pursuant to Article 15 Request on the Authorization of an Investigation in Bangladesh/Myanmar, ICC-01/19-27 (14 Nov. 2019) (holding the Court may exercise jurisdiction over alleged deportation of Rohingya from Myanmar to Bangladesh, as an element of the crime occurred on the territory of a State Party). See also Kewlani, K., "Three Avenues to Justice for the Rohingya," *Columbia J. of Transnat'l Law Bulletin* (2021) (discussing the ICC's jurisdictional basis and its limits, noting the focus on crimes with a cross-border element into Bangladesh).

¹³ Rome Statute, art. 11(1) (limiting jurisdiction to crimes committed after the Statute's entry into force on 1 July 2002, unless a state joining later accepts jurisdiction retroactively per art. 11(2)).

¹⁴ Reuters, "Reactions to ICC's arrest warrant for Putin citing Ukraine war crimes" (17 Mar. 2023) (quoting Russian officials calling the warrant "null and void" and Western leaders like Ukraine's President praising the decision as historic). See also ICC Press Release, "Situation in Ukraine: ICC judges issue arrest warrants against Vladimir Putin and Maria Lvova-Belova" (17 Mar. 2023).

states.¹⁵ This unique power (Article 13(b)) was one of the contentious provisions in Rome, as it effectively allows the Council - and by extension its five permanent members - to extend the ICC's reach to any situation, overriding the usual consent requirement. Security Council referrals have occurred twice: in 2005 for Darfur, Sudan, and in 2011 for the conflict in Libya.¹⁶ In both instances, the target state was not an ICC member, but the Council's referral conferred jurisdiction on the ICC to investigate crimes including genocide. The Council also has the power to defer ICC investigations or prosecutions for renewable 12-month periods (Article 16), which adds a political check on the Court. In practice, the use of referrals depends on geopolitical dynamics - major powers can veto referrals. For instance, attempts to refer the Syrian situation to the ICC were blocked by vetoes. Thus, while the Security Council referral mechanism in theory can bring cases of genocide (or other crimes) in non-consenting states to the ICC, it has been exercised sparingly and subject to political trade-offs. When it is used, as in Darfur, it obligates even non-party states (like Sudan) to cooperate with the Court,¹⁷ though enforcement of that obligation is another matter.

3. **Proprio Motu by the Prosecutor:** The Prosecutor of the ICC may initiate an investigation on their own accord (*proprio motu*), without a state referral or Security Council involvement, but subject to judicial approval. Article 15 of the Statute allows the Prosecutor to conduct a preliminary examination of information on crimes and request authorization from a Pre-Trial Chamber to proceed to a full investigation. This mechanism was designed to give the Court a degree of independent initiative, responding to concerns that reliance solely on state or U.N. triggers might leave some crimes unaddressed. However, it is circumscribed by the jurisdictional

preconditions of Article 12 (territory or nationality of a State Party). In other words, the Prosecutor cannot initiate a case *proprio motu* involving only non-state parties unless possibly the Security Council referral route is used. The first major use of *proprio motu* power was the Prosecutor's initiation of an investigation into the 2007-08 post-election violence in Kenya, a State Party that had not itself referred the situation. The Pre-Trial Chamber granted authorization in 2010, leading to several high-profile indictments.¹⁸ The *proprio motu* route has since been used in situations like Côte d'Ivoire (which accepted jurisdiction by declaration) and Georgia. It could, in theory, be used for genocide situations - for instance, if evidence emerged of genocide in a member state that did not refer itself, the Prosecutor could seek authorization to investigate. This power was one of the features objected to by some states (including India) during the Rome conference, who feared an overzealous Prosecutor might pursue politically sensitive cases[³]. In practice, the requirement of judicial screening and the need to focus resources have meant the Prosecutor has used this power judiciously.

In sum, the ICC's jurisdiction is activated only when these conditions align: the alleged conduct falls within the defined crimes (genocide being one of them), occurs in a relevant place or by a person under ICC coverage, takes place after the relevant date, and the situation is properly triggered by referral or authorization. Even then, an additional filter exists in the form of **admissibility** under the complementarity principle, which we discuss in a later section.

Crucially, the ICC does not prosecute states or governments; it targets individual criminal responsibility. Heads of state, commanders, and even low-level perpetrators can theoretically be held accountable, provided jurisdictional criteria are satisfied. The Statute explicitly states that official capacity or immunity is not a bar to ICC jurisdiction

¹⁵ Rome Statute, art. 13(b) (allowing the Security Council, acting under Chapter VII, to refer a situation to the ICC Prosecutor).

¹⁶ UN SC Res. 1593 (2005) (Darfur referral); Res. 1970 (2011) (Libya referral). The Darfur referral notably included a provision (para. 6) that nationals of non-States Parties (other than Sudan) involved in Darfur operations would be subject to the exclusive jurisdiction of their sending state, effectively shielding such personnel from ICC jurisdiction - a concession to secure abstentions from the U.S., China, etc.

¹⁷ Amnesty International, "Landmark ICC verdict over use of child soldiers" (Press Release, 14 Mar. 2012), at

lines 136-139 (lamenting that the ICC is prevented from investigating situations like Syria because the Security Council has not referred them, noting Syria signed but not ratified the Statute and Council inaction).

¹⁸ *Situation in the Republic of Kenya*, ICC-01/09, Pre-Trial Chamber II, Decision pursuant to Article 15 (31 Mar. 2010) (authorizing the Prosecutor's *proprio motu* investigation into post-election violence in Kenya). The Kenya cases involved charges against senior political figures for crimes against humanity; they proceeded to trials but eventually collapsed due to witness interference and other issues.

for those crimes.¹⁹ This has enabled the Court to indict sitting heads of state (like Sudan's Omar al-Bashir) and other senior officials, a bold assertion of the idea that no one is above the law in cases of genocide or other core crimes.

However, having legal jurisdiction on paper is one matter; the practical ability to exercise it effectively is another. The following sections turn to what constitutes genocide in law, and then to the manifold challenges the ICC faces in bringing genocide cases to justice, including those related to jurisdictional limitations, political resistance, and enforcement problems.

The Crime of Genocide: Definition and Legal Elements

Genocide, as defined in international law and incorporated into the Rome Statute, is a crime distinguished by its specific intent to destroy a protected group, in whole or in part. Article 6 of the Rome Statute defines genocide by mirroring the definition from Article II of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide^[9]. It enumerates several prohibited acts, when committed with the requisite intent, as genocide:

- **Killing members of the group;**
- **Causing serious bodily or mental harm to members of the group;**
- **Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;**
- **Imposing measures intended to prevent births within the group;**
- **Forcibly transferring children of the group to another group.**

The protected groups under the genocide definition are limited to national, ethnical, racial, or religious groups. Notably, political or social groups are not included, reflecting a compromise from the Genocide Convention negotiations - a limitation that some have critiqued but which remains the law. The acts listed cover not only direct killing but other methods of destroying a group, including measures that aim to annihilate a group over time (for instance, creating

unbearable conditions of life, or preventing the group's continuity through reproductive control and child abductions).

The hallmark of genocide is the **special intent** (*dolus specialis*) requirement: the perpetrator must act with the intent to destroy the protected group, in whole or in part, as such. This means the perpetrator's goal (or shared purpose, in case of a collective campaign) is to physically or biologically annihilate the group, in whole or at least a substantial part of it, because of the group's identity. It is this intent to destroy the group "as such" - i.e. for the reason that they belong to the group - that separates genocide from other crimes against civilians. Absent this specific intent, even large-scale atrocities may legally fall under crimes against humanity or war crimes rather than genocide. For example, the systematic extermination of political dissidents, or class-based killings, however heinous, would not be genocide unless one of the protected group identities was the target.

"In whole or in part" - The threshold of destruction required for genocide has been interpreted by courts to mean that the perpetrator intended to eliminate a group within a particular area to a substantial degree. It need not be total annihilation of the group worldwide; targeting a part of the group can qualify if it is a significant portion, such as a sizable percentage of the population or a segment whose destruction would impact the group's survival (e.g. the intellectual, religious, or leadership class of the group).²⁰ The ICTR famously held in the *Akayesu* case (1998) that "in part" requires the intent to destroy at least a substantial part of the group, considering factors like the numeric size of that part or its prominence within the group. The ICC would likely follow similar jurisprudence.

Mens Rea and Proof: The mens rea (mental element) of genocide is what makes it uniquely difficult to prove. Prosecutors must establish not just that the accused committed underlying acts (killings, harm, etc.) knowingly or intentionally, but that they did so with the overarching goal of destroying the group. This often requires evidence of a plan or policy of group destruction, or inferential evidence from the pattern of atrocities (for instance, the scale of violence, its systematic targeting of a group, and statements by perpetrators indicating genocidal motives). Direct

¹⁹ Rome Statute, art. 27 (irrelevance of official capacity: the Statute applies equally to all persons without distinction based on official position; immunities or special procedural rules attached to official capacity do not bar the ICC from exercising jurisdiction).

²⁰ Human Rights Watch, "Palestine: ICC Warrants Revive Hope for Long-Delayed Justice" (News Release, 21 Nov. 2024) (noting the ICC's issuance of

arrest warrants for Israeli and Hamas officials, the rejection of Israel's jurisdictional challenge, and background on the Palestine investigation and state party status since 2015). See also ICC Pre-Trial Chamber I, *Decision on the Situation in Palestine*, ICC-01/18-143 (5 Feb. 2021) (confirming ICC territorial jurisdiction extends to Gaza and the West Bank, including East Jerusalem).

evidence of genocidal intent (like orders explicitly instructing to “exterminate” a group) is rare, so tribunals often rely on circumstantial evidence. The Elements of Crimes for Article 6, adopted by States Parties, clarify that the perpetrator must have “intended to destroy, in whole or in part, [the group] as such” and that this intent is different from motive - the perpetrator’s personal motive (e.g. profit, fear, hatred) is irrelevant so long as they had the intent to destroy the group.²¹

Relation to Crimes against Humanity and War Crimes: Genocide overlaps with other atrocity crimes in conduct but is narrower in intent and group focus. A mass killing of civilians could be both a crime against humanity (if part of a widespread or systematic attack on civilians) and genocide (if aimed at destroying a protected group). In practice, prosecutors may charge both and let the evidence determine which intent can be proven. Crimes against humanity require a context of a widespread or systematic attack against civilians “pursuant to or in furtherance of a State or organizational policy,” but they do not require that the victims belong to a specific group or that the ultimate goal is group destruction.²² War crimes, on the other hand, occur in armed conflict context and involve serious violations of the laws of war, again without the group-destruction element. Thus, genocide is the most narrowly defined of the trio but carries a particular stigma. It is often politically sensitive to label atrocities as “genocide” due to the term’s gravity.

Examples and Precedent: Prior to the ICC, the crime of genocide was adjudicated in notable cases by the ICTY and ICTR. The ICTR’s first trial, *Prosecutor v. Akayesu*, resulted in the first conviction for genocide by an international court, for the role of a local official in Rwanda’s 1994 genocide^[^20]. That judgment set important interpretations, including recognition that causing serious mental harm (through trauma, sexual violence, etc.) can constitute genocide if done with genocidal intent. The ICTY, in cases like *Krstić* (related to the Srebrenica massacre of Bosnian Muslims in 1995), also affirmed that genocide can occur even if geographically limited (destruction of the Bosnian Muslim population of Srebrenica was deemed genocide in part, as it targeted a substantial part of the

group within Bosnia)^[^20]. These precedents, while from ad hoc tribunals, guide the ICC’s understanding of genocide. In the ICC’s own practice so far, charges of genocide have been brought in a few situations (notably Darfur, Sudan) but, as will be discussed, no trial conviction for genocide has been secured yet.

Threshold and Policy Considerations: Because genocide carries such a specific definition, there can be debates over whether certain atrocities meet the threshold. For instance, in situations of ethnic cleansing or mass violence, determining if the *intent* was to destroy the group or “only” to expel or terrorize it can be contentious. The ICC Prosecutor must decide on charging - whether to allege genocide or stick to easier-to-prove charges like extermination (a crime against humanity). In Darfur, the initial ICC arrest warrant for President al-Bashir in 2009 did *not* include genocide, as the Pre-Trial judges were not convinced the evidence showed genocidal intent at that stage; only after a successful appeal and further submissions was a second warrant issued adding genocide charges.²³ This exemplifies the caution and high standard applied to genocide determinations. Similarly, in analyzing the Rohingya atrocities, U.N. investigators and advocates have indeed used the word “genocide,” but the ICC’s investigation (being limited to deportation and persecution into Bangladesh territory) is framed in terms of crimes against humanity for practical jurisdictional reasons^[^12]. Nonetheless, the label and legal charge of genocide remains powerful, and its application in ICC cases often carries symbolic and practical implications for international response.

In conclusion, genocide under the Rome Statute is clearly defined and in line with long-standing international law. Its core elements are well-established: one of several grievous acts, committed against members of a protected group, with intent to destroy the group in whole or part. Understanding this definition is fundamental before examining how the ICC goes about prosecuting genocide - and why doing so is fraught with challenges, as explored next.

²¹ ICC Elements of Crimes, art. 6 (genocide) (providing that for each act of genocide, it must be established that the conduct took place in the context of a manifest pattern of similar conduct or was such that it could effect the destruction of the group, and requiring that the perpetrator intended to destroy the group, in whole or in part).

²² Rome Statute, art. 7 (defining crimes against humanity as certain acts committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack). Unlike genocide, no specific intent to annihilate a

group is required; the emphasis is on scale and systematic nature.

²³ *Prosecutor v. Omar Hassan Ahmad Al Bashir*, ICC-02/05-01/09, Second Decision on the Prosecution’s Application for a Warrant (12 July 2010) (adding genocide charges after the Appeals Chamber’s ruling). See Human Rights Watch, “Sudan: ICC Warrant for Al-Bashir on Genocide” (News Release, 13 July 2010) (noting this was the first ICC genocide warrant and describing the Appeals Chamber’s decision that the Pre-Trial Chamber applied the wrong standard of proof for inferring intent).

Jurisdictional Challenges in Prosecuting Genocide

Bringing genocide cases before the ICC involves unique challenges that are both legal and practical. Some challenges stem from the jurisdictional limitations of the Court itself, and others from the nature of the crime of genocide and the political context in which it often occurs. Here we outline several key hurdles:

1. Limitations of Consent and Coverage: As noted, the ICC cannot ordinarily exercise jurisdiction over crimes committed on the territory of or by nationals of a state that has not joined the Rome Statute, absent a Security Council referral. This constraint means that situations involving alleged genocide in non-member states often leave the ICC with no authority. Tragically, some of the most serious allegations of genocide in recent years have occurred in countries outside the ICC system. For example, the plight of the Uyghur population in China has been described by many observers as involving acts that could amount to cultural or even physical genocide, but China is not an ICC member and any referral would be vetoed by China itself in the Security Council. Similarly, the civil war in Syria saw atrocities against the Yazidi community by the ISIS group that were widely recognized as genocide, yet Syria's non-membership and geopolitical gridlock prevented an ICC referral^[17]. These scenarios underscore a fundamental challenge: the ICC's reach is only as wide as the political will of states to empower it. When genocide is perpetrated by regimes that deliberately opt out of the ICC framework (or by powerful states shielded by allies), the Court is essentially sidelined. This creates an "accountability gap" for many victims of genocide globally.

2. Security Council Politics: The Security Council referral mechanism could, in theory, bridge some gaps, but it is heavily politicized. The case of Darfur (Sudan) in 2005 was a rare success in which geopolitical interests aligned enough to refer a situation of mass atrocity, specifically mentioning crimes like genocide, to the ICC^[16]. However, in other cases - such as Syria - permanent members' interests prevented action. Even where referrals occur, the Council's

follow-up has been inconsistent. In the Darfur situation, Sudan (a non-party) consistently refused to surrender suspects like President al-Bashir, and the Security Council did little to enforce its own referral's demands, illustrating a lack of political backing to ensure cooperation.²⁴ Furthermore, Council referrals can come with strings attached: resolution 1593 (2005) referring Darfur to the ICC also included provisions exempting nationals of non-States Parties (e.g. peacekeepers from non-ICC states) from ICC jurisdiction for acts related to the Darfur operation^[16]. This shows how compromises to placate major powers can accompany referrals, raising questions about unequal application of justice. In sum, while Security Council referral is a tool to get jurisdiction over genocide in otherwise unreachable situations, it is unpredictable and often subject to great-power interests, which may hamper the legitimacy or execution of justice.

3. State Sovereignty and Non-Cooperation: Genocide is often perpetrated or abetted by state apparatuses or occurs during conflict where the state is a party. This means that, unlike some war crimes committed by non-state actors, genocide cases frequently involve high-level suspects (government or military leaders) who have the resources of a state to shield them. If that state is not inclined to cooperate, the ICC faces an uphill battle. Even among States Parties, political will can waver when it comes to arresting foreign leaders or former officials. The al-Bashir case epitomizes this challenge: although Sudan was referred to the ICC and al-Bashir was charged with genocide, he traveled to multiple countries (some of them ICC members like Kenya, Chad, and South Africa) without arrest for years.²⁵ These states cited various reasons - from legal uncertainties to regional solidarity or diplomatic immunity - in failing to arrest him, despite their obligations under the Statute. The ICC, lacking any police force, can only issue findings of non-compliance and appeal to the international community. It has no direct leverage to compel arrests. In 2019, the ICC's Appeals Chamber affirmed that sitting heads of state do not enjoy immunity from ICC proceedings, even if their country is not a State Party, at least in the context of a Security Council referral or where the crime is under ICC jurisdiction.²⁶ This legal

²⁴ Amnesty International, "Landmark ICC verdict over use of child soldiers" (Press Release, 14 Mar. 2012), at lines 130-139 (listing Omar al-Bashir as a fugitive charged with genocide and lamenting that he had yet to be arrested despite traveling abroad frequently, due to governments failing to cooperate).

²⁵ ICC Assembly of States Parties, **Reports on Non-Cooperation** (various years) - e.g., ICC-ASP/17/31 (2018) (reporting instances of non-cooperation such as visits by Omar al-Bashir to State Party territories without arrest, and decisions by ICC chambers finding

states like Malawi, Chad, DRC, South Africa in non-compliance for not arresting Bashir).

²⁶ *African Union Commission on International Law (AUCIL) / ICC High-Level Consultation*, Oct. 2019 (discussing head-of-state immunity and international law) - and ICC Appeals Chamber Judgment, *Jordan Referral re Al-Bashir*, ICC-02/05-01/09-397 (6 May 2019) (holding that customary international law does not bar the ICC (and States Parties executing ICC requests) from proceeding against a head of state of a non-party in a case like Sudan referred by the Security

finding was meant to clarify that officials like al-Bashir have no immunity barrier. Yet, practically, it did not solve the enforcement problem - states still have to physically apprehend the suspect. It was only after Sudan's own revolution in 2019 and change of regime that the prospect of Bashir facing justice improved, with Sudan's transitional government indicating willingness to hand him over (though subsequent internal turmoil delayed that).²⁷ In genocide cases, suspects are often those least likely to be surrendered by their own regimes, so the ICC must rely on either regime change, international pressure, or the chance of travel to a cooperative jurisdiction. This reality severely hampers timely accountability for genocide.

4. Complementarity and Domestic Proceedings:

The ICC's complementary nature (Article 17) means that if a state with jurisdiction is genuinely investigating or prosecuting the genocide, the ICC should not intervene. This principle respects national sovereignty and encourages states to handle crimes themselves. However, in genocide scenarios, the state is frequently the perpetrator or is unwilling to act against its own officials. Genuine national proceedings for genocide are thus rare in the situations the ICC deals with. More commonly, regimes accused of genocide might conduct sham or superficial investigations to ward off ICC admissibility. The ICC has to assess if domestic action is a sincere pursuit of justice or a tactic to shield offenders (unwillingness or inability in the Article 17 sense).²⁸ For example, after international outrage, a state might set up a court or inquiry that in reality doesn't hold top perpetrators accountable - this would not bar the ICC if proven to be a facade. However, gathering evidence to show such bad faith can be complex. On the other hand, if a new government replaces an accused genocidal regime and

initiates credible trials (perhaps as part of a transitional justice process), the ICC may have to step back. An illustration is The Gambia's prosecution in 2023 of former officials for the 2005 massacre of migrants - if that had been an ICC situation, the national effort would take precedence. In genocide cases, complementarity issues have not been the primary obstacle (because typically no genuine national trial is happening), but it remains a consideration. The ICC must always evaluate admissibility, which can introduce delays and litigation. In Kenya's case (though it was about crimes against humanity, not genocide), the government's claims of investigative efforts and admissibility challenges contributed to protracted pre-trial litigation and possibly affected the cases' momentum.²⁹ In short, while complementarity is a cornerstone ensuring ICC is a court of last resort, in genocide contexts it usually underscores that the ICC is acting precisely because national systems failed to.

5. Proof of Genocidal Intent: Legally proving genocide, as discussed in the previous section, is demanding. At the ICC, prosecutors have to convince judges at the confirmation stage and trial that there is evidence of the special intent to destroy a group. In the al-Bashir proceedings, the Pre-Trial Chamber initially found the evidence insufficient for genocide charges, applying a stringent standard of proof for intent; it took an Appeals Chamber ruling and additional evidence for those charges to be confirmed^[23]. This indicates that judges will rigorously scrutinize the presence of genocidal policy or pattern. The necessity of marshalling comprehensive evidence - documents, insider witnesses, expert analysis on patterns of violence - means investigations of genocide must be thorough and often transnational. For instance, to prove genocide in Darfur, ICC investigators had to

Council). More recently, *Situation in South Africa*, ICC-02/05-01/09, Pre-Trial Chamber II Decision (6 July 2017) (finding South Africa failed to comply with its obligations by not arresting Bashir in 2015). South Africa's domestic courts also ruled that the government's failure to arrest Bashir violated domestic and international law: e.g., *Southern Africa Litigation Centre v. Minister of Justice*, High Court of South Africa (Gauteng Division), Judgment of 24 June 2015.

²⁷ Al Jazeera, "Sudan says will 'hand over' al-Bashir to ICC for war crimes trial" (12 Aug. 2021) (reporting the Sudanese foreign minister's announcement that the cabinet decided to hand Bashir and others to the ICC, and noting Sudan's steps toward ratifying the Rome Statute and cooperation agreements during Prosecutor Karim Khan's visit). However, see also Security Council Report, *Sudan (Darfur) January 2022 Forecast* (Dec. 2021) (noting that Sudan's Cabinet had approved Rome Statute ratification in August 2021 but it awaited the Sovereign Council's confirmation, and plans were disrupted by the Oct. 2021 military coup).

²⁸ Rome Statute, art. 17 (cases are inadmissible if being investigated or prosecuted by a state with jurisdiction, unless that state is unwilling or unable genuinely to carry out the proceedings; also inadmissible if the case has been investigated and the state decided not to prosecute, unless due to unwillingness/inability; or if the person has been tried already (ne bis in idem), or if the case is not of sufficient gravity).

²⁹ *Prosecutor v. Francis Kirimi Muthaura et al.* (Kenya case), ICC-01/09-02/11, Pre-Trial Chamber II, Decision on Admissibility (30 May 2011) (rejecting Kenya's challenge to admissibility, finding no concrete evidence of ongoing national proceedings against the same suspects for the same conduct). Kenya had established a commission of inquiry and later a local investigative task force, but no prosecutions ensued, and witnesses were intimidated, leading ICC cases to proceed until they too collapsed for lack of evidence in 2013-2015.

collect evidence of high-level meetings, specific orders, and the coordinated nature of violence against the Fur, Masalit, and Zaghawa groups. Such evidence can be hard to come by, especially when investigators have limited access on the ground (Darfur investigators faced Sudan's non-cooperation, meaning much evidence had to be gathered from refugees, open sources, or covertly). The ICC often operates far from the crime scenes and with constrained resources. Additionally, witness protection issues are acute - key witnesses to intent might be insiders or survivors who risk reprisals. Ensuring their safety and willingness to testify is logistically and financially challenging for the Court, particularly if the conflict is ongoing. All these factors can result in slower investigations and prosecutions. The length of time since the alleged genocidal acts can also pose difficulties: memories fade, documents are destroyed, suspects flee or die (for example, one Darfur militia leader accused, Ali Kushayb, was finally arrested in 2020 but died in ICC custody in 2023 before his trial on war crimes concluded³⁰). Delay undermines the deterrent effect of justice and is distressing for victims waiting for closure.

6. Political Pressures and Accusations of Bias: The ICC's involvement in situations of mass atrocities is often entangled with international politics. Countries accused of genocide or their allies may mount diplomatic campaigns to delegitimize the Court's proceedings. They may refuse visas for ICC staff, threaten or take punitive actions (as the United States did, imposing sanctions on ICC officials in 2020 when the Prosecutor was examining conduct in Afghanistan and Palestine that could implicate U.S. or Israeli nationals)³¹. Although those sanctions were later lifted, the episode had a chilling effect. In African situations, some leaders criticized the ICC as targeting African states while powerful countries go untouched; this led to discussions of mass withdrawal from the ICC by the African Union in the 2015-2017 period^[32]. While most African States Parties chose to remain, the discontent signaled how accusations of bias can erode cooperation. In genocide cases, this can be acute because often the accused are or were heads of state, making ICC action seem to some as "regime change" efforts. For example, Sudan under Bashir and its allies framed the ICC charges as a Western plot and resisted compliance, leveraging sympathy among some

African and Arab states. Similarly, when the ICC opened an investigation that could examine alleged crimes by all sides in Palestine (including by Israeli officials), Israel (not a member) fiercely rejected the Court's jurisdiction and lobbied supportive states (like the U.S.) to pressure the ICC prosecutor to back off^[33]. This led to behind-the-scenes diplomatic friction and efforts like the UK's (initial) attempt to intervene in the case on Israel's side^[34]. Such political pushback can divert and drain the ICC's energy and, at worst, affect funding or state cooperation. The Court must navigate these pressures while trying to remain an impartial judicial institution. Maintaining legitimacy is essential; any perception that genocide prosecutions are selective or politically motivated could undermine the ICC's moral authority. This challenge is more extralegal but no less real, as the ICC's existence and efficacy ultimately depend on a broad base of international support.

7. Enforcement Difficulties and Immunities: Even after successful prosecution and conviction, enforcement of sentences and orders (like asset seizure, reparations) relies on states. The ICC has agreements with states to imprison convicted persons, but securing those arrangements requires goodwill. If a genocide perpetrator were convicted, the ICC cannot itself enforce a life sentence except by asking a State Party to jail the person. Fortunately, in matters of imprisonment states have cooperated (e.g. various European countries have hosted ICC convicts). The bigger enforcement hurdle is *before* conviction: obtaining custody in the first place. High-profile indictees have evaded capture for years - Joseph Kony of the LRA (wanted for war crimes including child soldier recruitment) has been at large since 2005^[25]; several Rwandan genocide suspects indicted by ICTR similarly hid until arrests many years later. In ICC cases, until suspects are in the dock, trials cannot commence. Thus, the arrest warrant stage often marks the beginning of a long stalemate. This undermines the ICC's promise of prompt justice and may deter witnesses (who remain in danger while suspects are free). Moreover, issues of immunities under international law have been contentious: while the ICC itself does not recognize head of state immunity as a bar, some national courts have used immunity as a reason not to arrest (e.g. some South African officials in 2015 hesitated to detain Bashir due to claims of head

³⁰ International Criminal Court, *Ali Muhammad Ali Abd-Al-Rahman ("Ali Kushayb") Obituary Press Release* (July 2023) (noting that Abd-Al-Rahman, charged with war crimes and crimes against humanity for Darfur atrocities, died in ICC custody on 5 July 2023, before judgment). His trial (The Prosecutor v. Abd-Al-Rahman) had begun in 2022 and heard substantial evidence of attacks on the Fur population.

³¹ U.S. Department of State, Press Release, "Ending Sanctions and Visa Restrictions against Personnel of

the International Criminal Court" (2 Apr. 2021) (announcing lifting of sanctions on ICC Prosecutor and staff imposed in 2020). The 2020 sanctions were instituted via U.S. Executive Order 13928 (June 2020) in response to the ICC's Afghanistan investigation. After lifting sanctions, the U.S. expressed support for accountability in specific contexts like Ukraine, but still opposed ICC jurisdiction over nationals of non-parties like the U.S. or Israel.

of state immunity, even though courts later ruled that was wrong^[26]. There has been legal uncertainty at the intersection of ICC obligations and customary international law immunities - the ICC's clear stance is that for ICC purposes no immunities apply for core crimes^[19], but not all domestic authorities have accepted that in practice. The result is inconsistent enforcement. This challenge is gradually being clarified through judicial decisions and state practice, but it remains a friction point.

In summary, prosecuting genocide at the ICC is a formidable endeavor hampered by jurisdictional gaps, reliance on political bodies, lack of enforcement power, evidentiary hurdles, and the immense political sensitivities around the crime. These challenges mean that, to date, the ICC has opened few genocide cases and has yet to conclude a trial with a genocide conviction. The difficulties should not be mistaken for futility, however - the mere threat of ICC involvement has, in some cases, pressured states or perpetrators (for instance, some argue that the fear of an ICC indictment might deter or influence leaders considering genocidal campaigns). But more often, the ICC's reach falls short, highlighting the need for complementary measures (such as national trials, ad hoc tribunals, or other international mechanisms) to ensure accountability. With these challenges in mind, the next section will review how the ICC has handled specific instances related to genocide - the landmark cases and situations that illustrate the Court's approach and the obstacles encountered.

Landmark Cases before the ICC Related to Genocide

Over its two decades of operation, the ICC has dealt with several situations involving allegations of genocide or mass atrocity against identifiable groups. While not all resulted in genocide charges or convictions, these landmark cases provide insight into the Court's jurisdictional reach and its handling of such grave crimes. Below, we discuss five notable situations and cases: Lubanga (Democratic Republic of Congo), al-Bashir (Darfur, Sudan), the Myanmar/Bangladesh situation (Rohingya), Ukraine, and Palestine/Gaza. Each highlights different facets of jurisdiction and the pursuit of justice for atrocity crimes.

Thomas Lubanga (DRC) - The First ICC Case: Thomas Lubanga Dyilo was a militia leader in the Ituri conflict in the Democratic Republic of Congo (DRC). His case was the ICC's inaugural trial and resulted in a conviction in 2012, setting several precedents^[7]. Lubanga was not charged with genocide; instead, he was prosecuted for war crimes (specifically, conscripting and using child soldiers). Nonetheless, the case is a landmark in demonstrating the Court's

functioning. It was triggered by a State Party referral - the DRC government referred the situation on its territory to the ICC in 2004. This referral gave the ICC jurisdiction over crimes committed during the DRC's internal conflict, a context that included ethnic violence and widespread atrocities (some of which might have arguably constituted genocide against certain communities, though genocide charges were not brought in the ICC's DRC cases). Lubanga's trial highlighted the ICC's complementarity role: the DRC had been unable or unwilling to prosecute warlords like Lubanga domestically amid ongoing conflict, so the ICC stepped in. Jurisdictionally, the DRC being a State Party simplified matters; the key was gathering evidence and securing custody. Congolese authorities cooperated, with Lubanga being arrested and surrendered to The Hague in 2006^[7]. Over a protracted trial, Lubanga was found guilty of recruiting and using children under 15 in hostilities. The case's significance lies in proving that the ICC could bring a perpetrator to justice and deliver a judgment, thus operationalizing the Rome Statute's promise. It also revealed challenges: the trial faced delays due to prosecutorial mistakes and disclosure issues, and criticism arose that the Prosecutor did not charge other grave crimes (like sexual violence) attributed to Lubanga's forces^[7]. For the theme of genocide, the Lubanga case shows that the ICC's early focus was on less legally complex charges to secure a conviction. It established jurisprudence on matters like witness credibility and reparations to victims. While it did not involve genocide, it laid groundwork for subsequent cases in how the Court handles evidence of systematic crimes. In Ituri, other ethnic-based massacres occurred (e.g., against the Hema and Lendu communities), but prosecutors opted for the narrower child soldier charges. Some analysts felt this missed an opportunity to address broader crimes, yet it was a strategic choice to ensure a manageable first case. The Lubanga judgment sent a message that even regional warlords would be held to account on the international stage^[7]. By extension, it implied that if evidence and circumstances allow, genocide perpetrators too could face such justice.

Omar al-Bashir (Darfur, Sudan) - Head of State Indicted for Genocide: One of the most consequential ICC actions was the indictment of Sudan's then-president, Omar Hassan al-Bashir, for atrocities in Darfur. In 2003-2004, Sudan's Darfur region saw a brutal counter-insurgency by government forces and Janjaweed militias against ethnic groups (primarily the Fur, Masalit, and Zaghawa) perceived to support rebels. Civilians were systematically killed, villages destroyed, and survivors driven into camps - crimes documented as ethnic cleansing and possibly genocide. Sudan was not an ICC member, but the U.N. Security Council referred the Darfur situation to the ICC in March 2005 via Resolution 1593^[16]. This referral conferred jurisdiction on the ICC for crimes committed

in Darfur since 1 July 2002, despite Sudan's non-party status, and explicitly required Sudan to cooperate with the Court^[23]. The Prosecutor investigated and brought cases against several Sudanese officials, the highest-profile being President al-Bashir. In 2009, the ICC's Pre-Trial Chamber issued an arrest warrant for al-Bashir on charges of war crimes and crimes against humanity (including extermination, forcible transfer, torture, and rape)^[24]. The judges, however, initially did **not** include genocide charges, arguing the evidence did not meet the threshold for intent to destroy. The Prosecutor appealed, and in 2010, the Appeals Chamber held that the Pre-Trial Chamber applied too demanding a standard in evaluating genocidal intent^[23]. On remand, the Pre-Trial Chamber subsequently issued a second arrest warrant in July 2010 adding three counts of genocide against al-Bashir (for killing, causing serious harm, and inflicting destructive conditions of life on the Fur, Masalit, and Zaghawa groups with intent to destroy them in part)^[23]. This marked the first time the ICC charged anyone with genocide, and notably, it was a sitting head of state. Legally, the case affirmed that no immunities shield a head of state from ICC prosecution for such crimes^[19]. It demonstrated the breadth of ICC jurisdiction via Security Council referral and its application to genocide.

However, the al-Bashir case also epitomizes the enforcement and political challenges discussed earlier. Al-Bashir brazenly defied the warrants, traveling to numerous countries over the next decade. Some ICC States Parties (like Chad and Kenya) hosted him without arrest, prompting ICC findings of non-compliance^[25]. The African Union often rallied to protest the indictment of a sitting president, contending it jeopardized peace efforts and infringed sovereignty. The Security Council, which had created the referral, did little to follow up on Sudan's defiance, reflecting geopolitical divides (China, for example, backed Sudan and opposed punitive measures). Nonetheless, the warrants significantly impacted al-Bashir's international standing; he curtailed some travel and it arguably contributed to Sudan's pariah status, adding internal pressure. In 2019, Bashir was ousted by a popular uprising. The transitional Sudanese authorities then took steps toward accountability: Sudanese officials engaged with the ICC, and in 2021 the government announced that Bashir would be surrendered to ICC custody^[27]. Indeed, Sudan moved to ratify the Rome Statute that year^[27]. Unfortunately, a military coup in late 2021 and subsequent turmoil stalled this handover. As of 2025, al-Bashir remains in Sudan (reportedly in custody, but also amid conflict). The ICC case against him is technically ongoing but in limbo until he is delivered to The Hague. The legacy of the Bashir case is mixed: on one hand, it proved the ICC could indict even a powerful head of state for genocide, laying down a marker of accountability. On the other, it highlighted

that without robust international support, such indictments may not swiftly translate into trials. The case did spur developments in international law regarding immunities and send signals to other leaders. For example, some analysts believe the deterrent effect of the Bashir warrant influenced Kenya's leaders' calculus during their post-election violence (though in that case ICC indictments still followed for other reasons). It also offered lessons in strategies to apprehend suspects - for instance, the use of diplomatic isolation and incentives. Importantly, beyond Bashir himself, the ICC's Darfur investigations also issued warrants for other Sudanese figures like Ahmad Harun and Ali Kushayb. One of them, Ali Kushayb (a Janjaweed militia leader), was eventually arrested (he surrendered in Central African Republic in 2020) and brought to trial at the ICC, demonstrating that persistence can pay off for some suspects^[30]. Tragically, Kushayb died in ICC custody in 2023 before a verdict, but his trial - which included charges of persecution and murder against Fur civilians - provided a partial accounting for Darfur's crimes. It was a reminder that securing justice can be a long, patient process. The genocide charges against Bashir remain a landmark assertion that orchestrating a campaign of group destruction at the highest level of government will, at a minimum, lead to international indictment and infamy, if not immediate arrest.

Myanmar (Rohingya) - Jurisdiction via a Neighboring State: The plight of the Rohingya Muslim minority in Myanmar (Burma) presented the ICC with a novel jurisdictional question and opportunity. The Rohingya have faced decades of persecution in Myanmar, a predominantly Buddhist country that denied them citizenship. In 2017, Myanmar's military launched a large-scale offensive in Rakhine State following insurgent attacks, characterized by massacres, mass rape, and village burnings targeting Rohingya - acts that U.N. officials and others labeled as having "genocidal intent." Approximately 740,000 Rohingya fled across the border into Bangladesh in a matter of weeks, creating a humanitarian crisis. Myanmar is not a State Party to the ICC, so ordinarily the ICC would have no jurisdiction over crimes committed on Myanmar's territory. Anticipating that a Security Council referral could be vetoed (as China and Russia signaled opposition), the ICC Office of the Prosecutor explored an untested legal pathway: since Bangladesh (the country to which the Rohingya were deported) *is* an ICC member, could the cross-border nature of the crime give the ICC jurisdiction? Specifically, the crime of *deportation* inherently involves forcible transfer across an international border; in this case, the coercive expulsion originated in Myanmar but culminated in Bangladesh, meaning an element of the crime occurred on Bangladesh's territory. The Prosecutor argued this territorial link was sufficient for ICC jurisdiction over deportation as a crime against

humanity, as well as related crimes like persecution that were part of the same situation^[12]. In 2018, a Pre-Trial Chamber accepted this reasoning in a jurisdictional ruling, affirming the Court may exercise jurisdiction when “at least one element of the crime” is within a State Party’s territory^[12]. Following this, the Prosecutor sought authorization to open a full investigation, which Pre-Trial Chamber III granted in November 2019^[12].

The resulting investigation into the “Bangladesh/Myanmar situation” is limited in scope to crimes that have part of their conduct in Bangladesh. Thus, the focus has been on *crimes against humanity* such as deportation, persecution, and other inhumane acts (like refusal of humanitarian aid) vis-à-vis the Rohingya, rather than genocide per se, because the Court’s jurisdiction needs the Bangladesh nexus. Genocide as a crime typically would be considered fully on Myanmar’s soil (the intent to destroy the Rohingya group, killings, etc., all took place in Myanmar). The Prosecutor could potentially still pursue genocide charges if they can creatively tie an element to Bangladesh (some have speculated whether the long-term intent to destroy could be evidenced by the act of deportation creating conditions of life calculated to bring about destruction, but this is legally complex). Instead, the strategy has been to proceed on solid jurisdictional footing with crimes against humanity. This situation underscores an innovative way the ICC tried to circumvent a jurisdictional barrier in order to address a mass atrocity. It demonstrates the Court’s willingness to interpret its statute in light of the humanitarian purpose to close impunity gaps.

Nonetheless, challenges abound. Myanmar’s non-cooperation is total - it rejects ICC jurisdiction and has not allowed investigators access. Evidence gathering relies on refugees in Bangladesh, NGOs, U.N. fact-finding mission reports, and other third-party sources. No arrest warrants have yet been made public in this situation as of 2025; it remains at investigation stage. Potential suspects (Myanmar’s generals) remain in Myanmar or otherwise out of reach. Notably, separate from the ICC, the situation of the Rohingya is also before the International Court of Justice (ICJ) in a case where The Gambia accuses Myanmar of breaching the Genocide Convention. That is a state-to-state process and could result in a determination of genocide, but it does not directly punish individuals^[12]. The ICC’s role, by contrast, is individual criminal accountability. The dual tracks show how international justice may proceed in complementary ways: the ICJ case raises global awareness and could order provisional measures for Myanmar to prevent further acts, while the ICC quietly builds criminal cases against those most responsible. Whether the ICC can ultimately prosecute any Myanmar officials might depend on political change within Myanmar or travel of suspects abroad. The situation also highlights the limits of what

the ICC can do absent jurisdiction over the primary territory - many horrific acts against the Rohingya (killings, rapes, burning of people in homes) are technically outside the ICC’s reach since they occurred wholly in Myanmar. This leaves a partial impunity gap unless another tribunal or national court (perhaps using universal jurisdiction) steps in^[12]. Still, the ICC’s Myanmar investigation is a landmark in that it broke new ground legally and signaled that even where a state tries to shield itself by staying outside the Rome Statute, massive crimes might still attract ICC scrutiny through creative legal reasoning. It offered a glimmer of hope for accountability to a victimized community that otherwise had none.

Ukraine - A Non-Member State Accepting Jurisdiction and Major Power Confronted: The conflict in Ukraine, especially following Russia’s full-scale invasion in February 2022, has become one of the highest-profile situations involving the ICC. Ukraine provides a unique example of a non-State Party that *voluntarily accepted* the ICC’s jurisdiction. Ukraine signed the Rome Statute in 2000 but did not ratify it (its Constitutional Court raised issues). However, in the wake of internal turmoil and conflict starting in 2014 (the Maidan revolution, Russia’s annexation of Crimea, and hostilities in Eastern Ukraine), the Ukrainian government lodged two Article 12(3) declarations. The first, in 2014, accepted ICC jurisdiction for crimes during a specific period around the revolution; the second, in 2015, accepted jurisdiction from February 2014 onwards indefinitely^[35]. These declarations meant that although Ukraine was not formally a State Party, it granted the ICC authority over crimes on its territory, including acts by non-nationals. This was significant: it opened the door for ICC scrutiny of alleged crimes committed by Russian forces or other actors on Ukrainian soil since 2014. Initially, the ICC Prosecutor (Fatou Bensouda) conducted a preliminary examination into the situation, encompassing alleged crimes in Crimea and Eastern Ukraine. Progress was slow, partly due to the complexity and political sensitivity (involving Russia, a major power outside the ICC).

The landscape shifted dramatically with Russia’s large-scale invasion in 2022. Within days, an unprecedented number of States Parties - 43 in total - jointly referred the Ukraine situation to the ICC, expediting the Prosecutor’s move to open a full investigation^[36]. This demonstrated strong international backing (mostly Western and European states) for ICC action in Ukraine. The Prosecutor (Karim Khan) prioritized the investigation and deployed teams on the ground in cooperation with Ukrainian authorities. The ICC’s jurisdiction, thanks to Ukraine’s acceptance, covered war crimes, crimes against humanity, and genocide on Ukrainian territory. (It does *not* cover the crime of aggression in this

scenario because neither Russia nor Ukraine was a State Party at the time of aggression, and Security Council referral of aggression is blocked by veto^[38]. This gap has led to discussions of a special tribunal for aggression, acknowledging an accountability loophole for the leadership crime of waging war^[38]. But for atrocity crimes against civilians, the ICC has jurisdiction.)

In March 2023, the ICC made global headlines by issuing arrest warrants for two Russian individuals - and one of them was none other than Russia's sitting President, Vladimir Putin^{[14][37]}. Putin was charged with the war crime of unlawful deportation and transfer of Ukrainian children from occupied Ukraine to the Russian Federation^[14]. Also charged was Maria Lvova-Belova, Russia's Commissioner for Children's Rights, alleged to be central to the policy of relocating or "re-educating" Ukrainian children. While these charges were limited and specific (focused on events in 2022 involving the transfer of children, which is a war crime under the Geneva Conventions and the Rome Statute), the choice to target the head of state of a P5 nuclear power was momentous. It underscored the idea that formal position does not exempt one from responsibility for international crimes - an echo of Nuremberg and of the ICC's own Bashir precedent, but in an even more politically charged context. Putin became the second sitting head of state to be indicted by the ICC (after Bashir), and the first from a major world power.

The issuance of the warrant had significant diplomatic repercussions. Russia, not surprisingly, rejected the ICC's actions vehemently. Kremlin officials and the Foreign Ministry declared the warrants null and void, citing Russia's non-membership and even openly insulting the Court^[14]. Putin and other Russian leaders face travel constraints; any visit to an ICC member state theoretically risks arrest (though practically, allies and many neutral states would not attempt it). The warrant may have limited Putin's international engagements (indeed, in mid-2023 Putin avoided attending the BRICS summit in South Africa in person, likely due to South Africa's ICC obligations which caused a legal and diplomatic dilemma for the host)^[26]. In retaliation, Russia issued its own "criminal cases" against the ICC Prosecutor and judges involved - a largely symbolic move, but reflective of heightened confrontation. Furthermore, some countries historically skeptical of the ICC, like the United States, found themselves in the position of cautiously supporting the Court's actions in Ukraine, even as they maintain protections for their own nationals. The U.S. and EU applauded the accountability effort (the U.S. even reportedly provided intelligence to assist with war crimes documentation), illustrating how geopolitical alignments can shift depending on whose ox is being gored^[31].

Regarding genocide in Ukraine: Ukrainian officials, including President Zelenskyy, have accused Russia of a genocidal intent to destroy the Ukrainian nation, pointing to rhetoric from Russian state media denying Ukrainian identity and calls for "denazification" (perceived as euphemism for destroying Ukrainians as a group)^[14]. Some parliaments and the U.S. President have used the term "genocide" to describe Russia's atrocities. However, proving genocide legally is another matter. As of 2025, the ICC has not charged anyone with genocide in Ukraine. The investigation is ongoing and may later encompass crimes against humanity (e.g., deliberate attacks on civilians, torture, rape) and possibly genocide if evidence solidifies (for instance, the systematic abduction of Ukrainian children to erase their identity could be construed as the genocidal act of forcibly transferring children with intent to destroy the group's identity, though intent to destroy in part would need demonstration). Ukraine itself took the matter to the International Court of Justice, but interestingly, that case argues that Russia falsely used accusations of "genocide" against Ukraine to justify its aggression (a convoluted legal argument under the Genocide Convention). Nonetheless, the specter of genocide looms over the conflict in discussions, if not yet in ICC charges.

The Ukraine situation shows the ICC operating at the center of a large-scale, high-intensity conflict involving a powerful non-member adversary. It has tested the Court's agility (the Prosecutor's office had to surge resources to handle an active warzone investigation) and resolve. The swift action on the child deportation issue was seen as a judicious strategy - focusing on an incontrovertibly criminal and ongoing act, with clear evidence (children and parents who can testify, official Russian admissions of "evacuating" children) and moral clarity. It allowed the ICC to act relatively quickly (warrants came just one year into the war) and to mark out a red line. The limited scope of that initial charge might be supplemented by more charges later, but it served to make a statement. If a negotiated peace were ever on the table, the ICC warrant adds complexity, as it did in past conflicts (indicted leaders may be less willing to relinquish power for fear of arrest). But the situation in Ukraine has reached a point where accountability is a key war aim for Ukraine and its supporters. The ICC's involvement thus aligns with a broader international effort to document and prosecute atrocity crimes through various channels (national courts in Europe invoking universal jurisdiction, a potential special tribunal for aggression, etc.). In terms of legacy, Ukraine may become a defining chapter for the ICC, akin to Nuremberg for World War II - with the difference that the ICC is acting during the conflict, not just after, which is a novel and challenging position.

Palestine/Gaza - Contentious Assertions of Jurisdiction and Recent Warrants: The situation in

Israel and the Palestinian territories has long been a flashpoint in international law and politics, and the ICC inevitably became entangled in it. Palestine's status was debated, but after the U.N. General Assembly recognized Palestine as a non-member observer state in 2012, Palestine acceded to the Rome Statute, becoming a State Party in April 2015^[20]. Upon joining, Palestine gave the ICC retroactive jurisdiction dating back to June 13, 2014^[20]. This was significant because it covered the 2014 Gaza war and thereafter. The ICC Prosecutor (Bensouda) conducted a lengthy preliminary examination into alleged crimes in the occupied Palestinian territories (which include Gaza, the West Bank, and East Jerusalem). These allegations span actions by Israeli forces (e.g., attacks causing civilian deaths, expansion of settlements in the West Bank considered a transfer of population into occupied territory) and by Palestinian armed groups (e.g., Hamas firing rockets indiscriminately into Israeli civilian areas, or mistreatment of detainees). In December 2019, the Prosecutor announced she was satisfied that there was a reasonable basis to proceed with an investigation, but given the unique legal issues (Palestine's statehood and territorial boundaries being contested), she sought a ruling from the Pre-Trial Chamber on the scope of the Court's jurisdiction^[20]. In February 2021, Pre-Trial Chamber I decided that for purposes of the ICC, Palestine could be considered a State Party and that the Court's territorial jurisdiction encompassed the territories occupied by Israel since 1967 (Gaza and West Bank, including East Jerusalem)^[20]. This cleared the way, and in March 2021 the Prosecutor formally opened an investigation into the "Situation in the State of Palestine"^[20].

Expectedly, Israel (which is not an ICC member) rejected the Court's jurisdiction, arguing that Palestine is not a sovereign state and that Israel has its own robust legal system to address misconduct by its forces (raising complementarity issues). The United States also strongly opposed ICC involvement in this matter. There were reports of diplomatic pressure and even sanctions threats (during the Trump administration, ICC staff were sanctioned partly over the Afghanistan and Palestine inquiries; these were later removed by the Biden administration)^[31]. Due to political sensitivities and perhaps resource constraints, the investigation made little public progress for a couple of years.

However, events took a dramatic turn with the Israel-Hamas conflict that erupted in October 2023. A massive surprise attack by Hamas fighters killed around 1,200 Israelis, mostly civilians, and hostages were taken. Israel's response was a full-scale war in Gaza, resulting in widespread devastation and a high civilian toll among Palestinians. This war galvanized international attention and intensified calls for accountability on both sides. The ICC Prosecutor,

Karim Khan, stated that the situation fell under the ongoing Palestine investigation (since Gaza is within the Court's jurisdiction and events were unfolding after 2014) and that his office was monitoring for crimes by any actors. Despite the active conflict, he even visited the region (including crossing briefly into Gaza after a ceasefire in late 2023) in a show of the ICC's engagement^[20].

In a remarkable development, on November 21, 2024, ICC judges issued arrest warrants for several individuals in connection with the Gaza war^[20]. Those named publicly included Israeli Prime Minister Benjamin Netanyahu and former Defense Minister Yoav Gallant, as well as a Hamas military commander, Mohammed Deif^[20]. The warrants for Netanyahu and Gallant accuse them of war crimes and crimes against humanity, including intentionally directing attacks against civilians, murder, persecution, and using starvation of civilians as a method of warfare during the 2023 Gaza operations^[20]. The warrant for Deif (a senior Hamas figure, often called the mastermind of the October 7 attack) includes charges of war crimes and crimes against humanity such as murder, extermination, and hostage-taking in relation to attacks on Israeli civilians^[20]. These warrants signify a bold move by the ICC to address alleged atrocities impartially - targeting top leaders on both sides of a highly contentious conflict. It is unprecedented for the ICC to issue a warrant against a sitting head of government of a democratic country that is also a close ally of Western powers; it speaks to an increasing assertiveness of the Court. The Pre-Trial Chamber also had to deal with legal challenges: Israel, through counsel, tried to contest the Court's jurisdiction and the validity of the warrant requests, arguing (among other things) that the Oslo Accords between Israel and the PLO meant that Palestine couldn't delegate criminal jurisdiction to the ICC over Israelis^[20]. The ICC judges ultimately rejected these arguments as premature or irrelevant, reaffirming the earlier ruling on jurisdiction^[20].

Israel's reaction has been fierce. Top Israeli officials denounced the ICC and Prosecutor, accusing them of bias and of abetting terrorism by equating Israel's self-defense with Hamas's atrocities^[39]. Israel has declared it will not cooperate and will protect its officials. Already, travel by those officials to friendly states carries less risk, as many Western states have questioned the ICC's move or are not party to the ICC (the U.S., for instance, is not a member and would not act on an ICC warrant). But theoretically, Netanyahu or Gallant visiting an ICC member state could face arrest - an inconceivable scenario politically, yet formally an obligation for States Parties. The U.S. Congress saw some voices urging measures to shield Israeli officials from the ICC^[39]. These warrants thus set the stage for a potential showdown between the ICC's legal mandate and realpolitik. For

Palestinians and human rights groups, the warrants were a long-awaited acknowledgement that victims on the Palestinian side might see justice; for Israeli victims, the targeting of Hamas's Deif was also seen as validating their suffering. Both sides' victims have a stake in accountability. But enforcement again is doubtful in the near term - Netanyahu is unlikely to step into a jurisdiction where he could be arrested, and Deif remains in hiding (if alive). Yet, like Bashir and Putin, the very issuance of these warrants carries symbolic weight and may affect these figures' international engagements.

From a jurisdictional perspective, the Palestine/Gaza situation showcases the ICC navigating complex issues of statehood and contested territories to bring cases forward. It demonstrates the Court's commitment to apply the law uniformly: the charges cover both alleged Israeli crimes (e.g., unlawful attacks causing civilian death and starvation during the Gaza siege) and Palestinian crimes (intentional attacks on Israeli civilians by Hamas). This even-handed approach is crucial for legitimacy, though critics on each side may perceive bias (each tends to focus on the fact that their own side was targeted). The involvement of major non-party states - Israel and also the U.S. in opposition - means the ICC will be under tremendous external pressure. It may also face internal strains: such politically fraught cases can consume significant resources and lead to diplomatic rifts with some member states.

In summation, these landmark cases paint a portrait of the ICC's role in addressing genocide and related atrocity crimes: **Lubanga** showed the Court's nascent ability to deliver justice within a State Party context; **al-Bashir** established that even heads of state accused of genocide can be indicted, though bringing them to trial is another matter; **Myanmar** exemplified jurisdictional creativity to address a dire situation of suspected genocidal persecution; **Ukraine** has been a proving ground of the Court's relevance amid a major war and willingness to confront a powerful aggressor; and **Palestine/Gaza** pushes the envelope on politically sensitive prosecutions and broadening the accountability to all sides of a conflict. Each case also underscores the reliance on international cooperation and the challenges when that cooperation is absent. The ICC's record so far includes successes in courtrooms (securing convictions for some war criminals) but also frustrations in seeing arrest warrants unenforced (Bashir, Putin, etc.). Nevertheless, these cases collectively advance the principle that there shall be no safe haven for perpetrators of genocide or widespread atrocities - a principle still in the course of being realized, step by step.

Conclusion

The ICC's engagement with the crime of genocide and its jurisdictional reach reflects a profound evolution in international law - from the post-World War II aspiration that "never again" would genocide go unpunished, to a permanent judicial mechanism actively pursuing accountability in real time. As we have seen, the ICC's jurisdiction is carefully circumscribed by treaty provisions, yet within those bounds it has been tested by the most daunting situations: from Darfur to Myanmar, from the halls of power in Moscow and Jerusalem to the refugee camps of Cox's Bazar. The ICC has affirmed in principle that no person, regardless of rank, is exempt from the law's reach in cases of genocide or other core crimes. In practice, however, that reach is contingent on a lattice of state cooperation and international politics.

Doctrinally, the Rome Statute provides a solid legal framework: genocide is clearly defined; jurisdictional triggers and admissibility criteria are established to balance international and national action; and immunities do not bar prosecution of leaders. The Court's jurisprudence has reinforced these principles. Yet, the effectiveness of this regime has varied. The Court has yet to convict anyone of genocide - a reminder of the stringent proof required and the practical obstacles in obtaining custody of those most responsible. The landmark cases reviewed illustrate incremental progress: one by one, powerful figures have been indicted, some caught, a few tried and punished (though for crimes like war crimes or crimes against humanity rather than genocide thus far). Each case also lays bare the limitations: Bashir's long impunity, the plight of the Rohingya still unresolved, and new crises (Ukraine, Gaza) embroiling the ICC in geopolitical storms.

One salient theme is that the ICC does not operate in isolation; it is part of a broader ecosystem of international justice. It works in concert or parallel with national courts, U.N. fact-finding missions, ad hoc tribunals, and other bodies. Its complementarity principle encourages states to step up; its existence has arguably spurred national prosecutions and even influenced conflict behavior (perpetrators aware of potential ICC scrutiny might calibrate their actions, for better or worse). But where states remain defiant or incapacitated, the ICC becomes a symbol of hope for victims - and sometimes their sole legal recourse. The international community's support (or lack thereof) for the ICC often signals its willingness to enforce the global norm against genocide. For instance, strong collective support was evident in referring Sudan and Libya to the Court and in backing Ukraine's case; by contrast, paralysis or indifference regarding Syria or China's Xinjiang indicates where political will falters, the ICC's hands are tied.

From an Indian scholarly perspective, one might critically note that the ICC, while noble in intent, still faces a legitimacy challenge among many states. India's own non-accession, rooted in concerns over sovereignty and fairness, reflects a wariness shared by other large democracies and powers. The recent activism of the ICC - targeting nationals of non-Western and Western-aligned states alike - might gradually counter the perception of bias, but it also risks politicizing the Court in the eyes of some. Indian discourse often emphasizes the importance of due process and the U.N.'s central role; in that light, the Security Council's selective referrals and non-referrals of situations raise valid questions. For the ICC to truly universalize justice, reforms or at least confidence-building measures may be needed, such as insulating it further from political misuse and ensuring equitable focus across regions. Nonetheless, India consistently supports accountability for international crimes in principle (for example, India has backed accountability for genocide at the U.N. level, and Indian jurists have contributed to international criminal law scholarship and tribunals). Thus, one can envision a constructive engagement whereby India and similarly situated nations push for strengthening the ICC's impartiality and capacity, even if they remain outside the Statute for now.

As of 2025, the ICC finds itself delivering justice in some cases, awaiting opportunity in others, and weathering storms of controversy. Its successes - however modest relative to the immense scale of atrocities worldwide - have provided a measure of justice: child soldiers freed and rehabilitated, some victims given reparations, a few perpetrators jailed. Its mere presence has put would-be genocidaires on notice that their actions are being watched and recorded, even if arrest and trial might come slowly or after they leave power. The very act of issuing an indictment for genocide or related crimes has significant expressive value: it vindicates the suffering of victims by officially recognizing the crimes committed against them, and it stigmatizes and isolates the accused on the world stage.

Yet, the ICC's journey is still in its early chapters. It must consolidate its jurisprudence, improve its efficiency, and above all secure greater cooperation from states. The pushback it faces is not insurmountable; indeed, history shows that entrenched norms like sovereign immunity or impunity for wartime leaders can shift over time, as happened with the acceptance of individual accountability post-Nuremberg. International criminal law is steadily entrenching itself, and the ICC is both an agent and beneficiary of that shift. The crime of genocide - once described by Raphael Lemkin as encompassing not only mass murder but the "destruction of the essential foundations" of a group - remains the ultimate affront to humanity's conscience. Ensuring accountability for

genocide is a moral and legal imperative that the ICC was created to fulfill.

In conclusion, while the ICC has not been a panacea, it has fundamentally altered the expectation that genocidal crimes will be met with judicial reckoning rather than total impunity. It operates in a complex international arena where law and politics intersect, and it has to constantly navigate this tension. The period up to 2025 has seen the ICC both strengthened (through broader ambit and high-profile actions) and challenged (through non-cooperation and criticism). The coming years will be critical for the ICC to demonstrate that it can deliver consistent, impartial justice even in the face of power politics. Its credibility will depend on securing results - completing fair trials and enforcement - and on maintaining the confidence of a diverse international constituency. For the victims of genocide and mass atrocities, each step the ICC takes toward ending impunity is meaningful. The arc of justice is long and often arduous, but with continued resolve and international support, the ICC can help bend that arc toward accountability. In doing so, it reaffirms the fundamental principle that the gravest crimes - destroying peoples and cultures in genocide - concern all of humanity, and that our collective legal order will not tolerate such crimes without answer. The fight against genocide thus endures on legal frontiers as much as on moral ones, and the ICC stands as a central pillar in that fight, embodying the promise that law and justice will ultimately prevail over atrocity and impunity.

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