

Legal Accountability For War Crimes: Analyzing International Tribunals And Jurisdictional Limits

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ABSTRACT

The prosecution of war crimes has been a cornerstone of international law since the Nuremberg Trials, aiming to hold individuals accountable for violations of international humanitarian law. This paper critically analyzes the effectiveness of international tribunals such as the International Criminal Tribunal for the former Yugoslavia (ICTY), the International Criminal Tribunal for Rwanda (ICTR), and the International Criminal Court (ICC) in prosecuting war crimes. The central research objective is to examine the jurisdictional challenges these tribunals face, including state sovereignty, enforcement limitations, and perceptions of selective justice. Using a doctrinal research methodology, the study explores case law, legal frameworks, and scholarly critiques to identify gaps and propose reforms. The findings highlight that the principle of complementarity, lack of effective enforcement mechanisms, and political biases significantly impede these tribunals' ability to deliver justice impartially. The paper advocates for enhanced enforcement capabilities, transparent case selection, and revisions to the complementarity principle as essential reforms to strengthen accountability for war crimes. The study underscores the need for a more robust and universally accepted framework to ensure justice for victims and uphold the credibility of international criminal justice mechanisms.

Keywords: War crimes, International tribunals, Jurisdictional limits, International Criminal Court (ICC), State sovereignty.

1. Introduction

1.1 Background

War crimes, as defined under international law, encompass grave breaches of the Geneva Conventions and other serious violations of the laws and customs applicable in armed conflicts. The prosecution of such crimes has been a cornerstone of international law since the Nuremberg Trials, which sought to hold individuals accountable for atrocities committed during World War II. The establishment of international tribunals such as the International Criminal Tribunal for the former Yugoslavia (ICTY), the International Criminal Tribunal for Rwanda (ICTR), and the International Criminal Court (ICC) represents significant progress in addressing impunity for war crimes. However, these institutions face substantial challenges, particularly related to jurisdictional limits, state sovereignty, and the enforcement of their decisions.

The effectiveness of these tribunals is often compromised by the limitations imposed by state sovereignty and the principle of non-interference in domestic affairs. Many states have been reluctant to accept the jurisdiction of international tribunals, fearing a loss of national sovereignty and political control. Additionally, the selective prosecution of war crimes based on political considerations raises concerns about the legitimacy and impartiality of these institutions (Aksar, 2000). For instance, the focus of the ICTY on Serbian leaders, while overlooking potential war crimes committed by NATO forces, has been cited as an example of selective justice, undermining the credibility of international criminal justice mechanisms (Bakshi, 2024)

1.2 Research Objective

The primary objective of this paper is to critically assess the legal accountability mechanisms for war crimes through international tribunals, focusing on the jurisdictional limits that impede their effectiveness. By examining the legal frameworks, case law, and judicial decisions of the ICTY, ICTR, and ICC, this study seeks to identify key jurisdictional challenges and propose practical reforms to enhance the effectiveness of these

tribunals. In particular, the paper explores how the principle of complementarity under the ICC's jurisdiction allows powerful states to evade accountability, thereby compromising the principle of impartial justice.

1.3 Research Methodology

This study adopts a doctrinal research methodology, relying on primary sources such as international treaties, statutes, case law, and secondary sources including scholarly articles and theses. The doctrinal approach is appropriate as it allows for an in-depth analysis of legal principles, statutory provisions, and case precedents, facilitating a comprehensive understanding of the legal and procedural aspects of war crimes prosecution (Aksar, 2000). By analyzing existing legal frameworks and scholarly critiques, the paper aims to provide a robust foundation for proposing practical reforms to address the identified challenges.

1.4 Research Gap

Although considerable research has been conducted on the contributions of international tribunals to international law, limited studies focus explicitly on the jurisdictional and enforcement challenges they encounter. Most literature tends to highlight the tribunals' successes in establishing precedents for war crimes without adequately addressing their limitations in enforcing judgments and mitigating perceptions of selective justice. The jurisdiction of these tribunals is often contested by states invoking sovereignty and non-interference principles, further complicating their ability to deliver justice effectively. This paper seeks to fill this gap by providing a comprehensive analysis of these challenges and proposing actionable reforms.

1.5 Novelty of the Study

The novelty of this study lies in its focused analysis of jurisdictional limitations within the context of both ad hoc tribunals (ICTY and ICTR) and the permanent ICC. Unlike previous studies that primarily highlight the achievements of these tribunals, this paper critically examines the constraints posed by state sovereignty, selective prosecution, and enforcement challenges. By juxtaposing the practices and challenges faced by these tribunals, the paper offers new insights into the structural and procedural reforms necessary to strengthen international criminal justice. This approach emphasizes the need for a more coherent and universally accepted jurisdictional framework to address war crimes effectively (Furphy, 2015).

1.6 Significance of the Study

The significance of this research stems from the ongoing impunity for war crimes in several conflict zones. Effective prosecution of war crimes is essential not only for justice for victims but also for the deterrence of future atrocities. By identifying the limitations of current jurisdictional frameworks and proposing reforms, this paper contributes to the broader discourse on strengthening international criminal justice mechanisms. Enhancing the accountability of war criminals through effective legal frameworks is imperative for maintaining international peace and security (Aksar, 2000). Moreover, addressing the challenges posed by state sovereignty and selective justice is crucial for restoring the credibility and legitimacy of international tribunals.

1.7 Literature Review

Evolution of War Crimes Jurisprudence:

The Nuremberg and Tokyo Tribunals marked the beginning of modern war crimes jurisprudence, establishing accountability for state leaders under international law (Wright, 1987). These tribunals laid the foundation for subsequent developments, particularly the establishment of the ICTY and ICTR, which significantly contributed to defining war crimes, genocide, and crimes against humanity.

Challenges to Jurisdiction:

Scholars like Aksar (2000) have highlighted that jurisdictional challenges, including issues of state sovereignty and selective justice, significantly hinder the effectiveness of these tribunals. The principle of complementarity under the ICC's jurisdiction has also been criticized for allowing powerful states to evade accountability (Aksar, 2000). The selective prosecution of war crimes based on political considerations raises concerns about the legitimacy and impartiality of these institutions.

Perception of Selective Justice:

Research by Bakshi (2024) emphasizes that the perception of selective justice is a critical challenge to the legitimacy of international tribunals. The selective focus on prosecuting leaders from weaker states, while overlooking potential crimes committed by powerful nations, has been a recurrent criticism. Such perceptions not only undermine the credibility of these tribunals but also discourage cooperation from states that perceive the prosecution process as biased.

Proposed Reforms:

Existing literature suggests several reforms to address these challenges, including strengthening enforcement mechanisms, enhancing impartiality in case selection, and revising the principle of complementarity to close the accountability gap (Furphy, 2015). Effective enforcement mechanisms and impartial case selection are essential to ensure that international tribunals can prosecute war crimes without bias or political interference.

2. Evolution of International War Crimes Tribunals

The evolution of international war crimes tribunals has been marked by significant developments since the Nuremberg and Tokyo Trials, which set a historic precedent for prosecuting individuals responsible for war crimes, crimes against humanity, and genocide. The Nuremberg Trials, held in the aftermath of World War II, established the foundational principles of individual criminal responsibility and accountability under international law (Wright, 1987). These principles have since been instrumental in shaping the mandates and

jurisdiction of subsequent international tribunals, including the International Criminal Tribunal for the former Yugoslavia (ICTY), the International Criminal Tribunal for Rwanda (ICTR), and the International Criminal Court (ICC).

2.1 The Nuremberg and Tokyo Trials: Setting the Precedent

The Nuremberg Trials (1945-1946) were pivotal in establishing legal accountability for state leaders and military officials who orchestrated war crimes and crimes against humanity. The principles articulated during these trials, such as the rejection of the defense of superior orders and the recognition of crimes against humanity as independent offenses, formed the bedrock of modern international criminal law (Wright, 1987). Similarly, the Tokyo Trials extended these principles to the Asia-Pacific region, reinforcing the notion that individuals, irrespective of rank, could be held accountable for international crimes.

2.2 The Emergence of Ad Hoc Tribunals: ICTY and ICTR

The post-Cold War era witnessed a resurgence of international criminal justice with the establishment of ad hoc tribunals. The ICTY, established in 1993, was the first tribunal since Nuremberg to hold individuals accountable for war crimes, genocide, and crimes against humanity committed during the Yugoslav Wars (Aksar, 2000). The tribunal's jurisprudence played a crucial role in defining the elements of these crimes, particularly in cases such as *Prosecutor v. Tadić*, which expanded the definition of armed conflicts to include non-international conflicts (Aksar, 2000).

Similarly, the ICTR, established in 1994, was tasked with prosecuting those responsible for the Rwandan Genocide. Notably, the tribunal's ruling in *Prosecutor v. Akayesu* was groundbreaking as it recognized rape as a constitutive act of genocide, thereby broadening the scope of crimes prosecutable under international law (Furphy, 2015). The ICTR's legacy lies in its contribution to the jurisprudence of genocide and the protection of victims of sexual violence.

2.3 The Establishment of the International Criminal Court (ICC)

The adoption of the Rome Statute in 1998 and the subsequent establishment of the ICC in 2002 marked a significant milestone in international criminal justice. Unlike the ad hoc tribunals, the ICC is a permanent institution with jurisdiction over genocide, war crimes, crimes against humanity, and the crime of aggression. The principle of complementarity, a cornerstone of the Rome Statute, allows the ICC to exercise jurisdiction only when national courts are unwilling or unable to prosecute (Bakshi, 2024).

However, the ICC has faced substantial challenges, particularly related to its jurisdictional limitations and the reluctance of powerful states to ratify the Rome Statute. The absence of major powers such as the United States, China, and Russia has significantly undermined the court's universality and enforcement capabilities (Aksar, 2000).

2.4 Jurisdictional Challenges and State Sovereignty

One of the critical challenges to the effectiveness of international war crimes tribunals is the issue of state sovereignty. The principle of non-interference in domestic affairs has often been invoked by states to resist the jurisdiction of international tribunals. For instance, Sudan's refusal to cooperate with the ICC's investigation into crimes committed in Darfur highlighted the limitations of the ICC's jurisdiction when state consent is absent (Furphy, 2015).

Moreover, the selective prosecution of war crimes has been a recurring criticism, undermining the legitimacy of these tribunals. The focus on prosecuting leaders from weaker states while ignoring potential crimes committed by powerful nations has reinforced perceptions of selective justice (Bakshi, 2024).

2.5 Contributions to International Humanitarian Law

Despite these challenges, the contributions of international war crimes tribunals to international humanitarian law are undeniable. The jurisprudence developed by the ICTY, ICTR, and ICC has significantly clarified the definitions of war crimes, genocide, and crimes against humanity, providing a robust legal framework for accountability. For example, the ICTY's rulings on joint criminal enterprise (JCE) have been instrumental in holding individuals accountable for their participation in collective crimes (Aksar, 2000).

The ICC's rulings, particularly in the cases of Thomas Lubanga and Bosco Ntaganda, have further advanced the legal understanding of child soldier recruitment and sexual slavery as war crimes (Furphy, 2015). These precedents have not only strengthened international humanitarian law but have also provided a measure of justice for victims of such crimes.

The evolution of international war crimes tribunals represents significant progress in addressing impunity for the most serious crimes under international law. However, the effectiveness of these tribunals continues to be undermined by jurisdictional challenges, state sovereignty issues, and perceptions of selective justice. Addressing these challenges through legal and institutional reforms is essential for ensuring that the promise of justice envisioned at Nuremberg is fully realized.

3. Jurisdictional Challenges

The effectiveness of international war crimes tribunals is significantly impeded by a range of jurisdictional challenges. These challenges stem primarily from the principles of state sovereignty and non-interference, the perception of selective justice, and substantial enforcement limitations. While the establishment of the International Criminal Tribunal for the former Yugoslavia (ICTY), the International Criminal Tribunal for

Rwanda (ICTR), and the International Criminal Court (ICC) represents progress in international justice, these institutions continue to struggle with securing universal jurisdiction and compliance from sovereign states. This section examines these jurisdictional challenges in detail.

3.1 State Sovereignty and Non-Interference

The principle of state sovereignty is a fundamental tenet of international law that asserts the authority of a state to govern itself without external interference. This principle has often been at odds with the jurisdiction of international war crimes tribunals, particularly the ICC, which relies on state cooperation for the execution of its mandates (Aksar, 2000). Many states resist the jurisdiction of international tribunals, arguing that it infringes upon their sovereignty and political autonomy.

For instance, the refusal of Sudan to cooperate with the ICC's investigation into crimes committed in Darfur illustrates the limitations posed by state sovereignty. Despite ICC arrest warrants for key figures, including former President Omar al-Bashir, Sudan's non-cooperation rendered these warrants ineffective (Furphy, 2015). This example underscores the ICC's dependence on member states for enforcement, highlighting a significant gap in the tribunal's ability to administer justice independently.

Moreover, the United States' refusal to ratify the Rome Statute is a notable example of sovereignty concerns obstructing international justice. The American Service-Members' Protection Act (2002), colloquially known as the "Hague Invasion Act," explicitly prohibits U.S. cooperation with the ICC, reflecting a broader reluctance among powerful states to submit to international jurisdiction (Bakshi, 2024). This resistance not only weakens the ICC's legitimacy but also sets a precedent for other nations to reject its authority.

3.2 Selective Justice

The perception of selective justice is another significant challenge that undermines the credibility of international tribunals. The focus on prosecuting leaders from weaker states, while ignoring potential war crimes committed by powerful nations or their allies, has led to widespread criticism of these tribunals. This perception is particularly prominent in the context of the ICTY, which was accused of disproportionately targeting Serbian leaders while overlooking alleged war crimes by NATO forces during the Kosovo conflict (Aksar, 2000).

Similarly, the ICC's focus on prosecuting African leaders has been a point of contention, leading to accusations of neo-colonial bias. By 2016, all 39 individuals publicly indicted by the ICC were African, prompting the African Union to consider a collective withdrawal from the Rome Statute (Furphy, 2015). While the ICC has since broadened its focus, the lingering perception of selective justice continues to pose a significant legitimacy challenge.

The principle of complementarity under the Rome Statute, which allows the ICC to intervene only when national jurisdictions are unwilling or unable to prosecute, further exacerbates the perception of selective justice. Powerful states often leverage this principle to conduct superficial investigations into alleged war crimes, thereby shielding their nationals from international prosecution (Bakshi, 2024). This selective application of justice undermines the universality of international criminal law and erodes confidence in the ICC's impartiality.

3.3 Enforcement Challenges

Enforcement of judgments is arguably the most significant challenge faced by international tribunals. Unlike domestic courts, international war crimes tribunals lack an independent enforcement mechanism to execute arrest warrants and secure compliance with their rulings. The ICC, for instance, relies entirely on member states to arrest suspects, collect evidence, and execute judgments (Aksar, 2000).

The case of Joseph Kony, leader of the Lord's Resistance Army (LRA), exemplifies the ICC's enforcement challenges. Despite ICC arrest warrants issued in 2005, Kony remains at large due to the inability of regional states to arrest him. The reluctance of states to risk political and military resources to enforce ICC warrants highlights the practical limitations of the court's jurisdiction (Furphy, 2015).

Furthermore, the lack of a centralized international police force to enforce arrest warrants exacerbates this issue. The reliance on Interpol red notices, which are subject to the political will of member states, often proves ineffective, particularly when suspects find refuge in non-cooperating states. The failure to apprehend suspects not only denies justice to victims but also emboldens other perpetrators of war crimes.

3.4 Challenges of Universal Jurisdiction

The principle of universal jurisdiction allows national courts to prosecute war crimes regardless of where they were committed. While this principle theoretically strengthens the enforcement of international humanitarian law, its practical application has been limited. Many states are reluctant to exercise universal jurisdiction due to political and diplomatic repercussions (Bakshi, 2024).

For example, Spain's attempt to prosecute former Chilean dictator Augusto Pinochet under universal jurisdiction faced significant diplomatic resistance, ultimately resulting in Pinochet's release. The incident highlighted the political complexities of implementing universal jurisdiction effectively and consistently (Aksar, 2000).

3.5 Political Bias and the Security Council

The influence of the UN Security Council on international war crimes tribunals poses additional jurisdictional challenges. The Security Council's ability to refer cases to the ICC under Chapter VII of the UN Charter introduces a political dimension to the court's jurisdiction. The referral of Libya and Sudan to the ICC,

contrasted with the inaction on Syria despite documented war crimes, illustrates the selective exercise of jurisdiction influenced by geopolitical interests (Furphy, 2015).

Furthermore, the use of veto power by permanent members of the Security Council has often shielded allied states from prosecution. For instance, the U.S. has repeatedly used its veto to block resolutions that might have led to ICC investigations into alleged war crimes committed by Israel in Palestine (Aksar, 2000). This selective application of justice not only undermines the credibility of international tribunals but also perpetuates a culture of impunity for powerful states.

Jurisdictional challenges significantly undermine the effectiveness of international war crimes tribunals. The principles of state sovereignty, selective justice, and the lack of effective enforcement mechanisms are formidable obstacles to the pursuit of accountability for war crimes. Addressing these challenges requires substantial legal and institutional reforms, including enhanced enforcement mechanisms, greater independence from political influences, and a re-evaluation of the principle of complementarity to ensure that powerful states cannot evade accountability.

Strengthening international cooperation and establishing a more universally accepted jurisdictional framework are essential steps toward ensuring justice for victims of war crimes. Without such reforms, the credibility and effectiveness of international war crimes tribunals will remain in question, and the promise of justice for war crimes will continue to be undermined.

4. Recommendations

International war crimes tribunals face significant challenges that impede their effectiveness in prosecuting war crimes and ensuring justice for victims. These challenges include jurisdictional limitations imposed by state sovereignty, the perception of selective justice, and substantial enforcement barriers. To address these issues, comprehensive legal and institutional reforms are necessary. This section presents key recommendations aimed at enhancing the efficacy and credibility of international war crimes tribunals, particularly the International Criminal Court (ICC), the International Criminal Tribunal for the former Yugoslavia (ICTY), and the International Criminal Tribunal for Rwanda (ICTR).

4.1 Strengthening Enforcement Mechanisms

One of the most critical challenges facing international tribunals is the lack of independent enforcement mechanisms. Unlike domestic courts, international tribunals rely entirely on member states to execute arrest warrants and facilitate evidence collection. This reliance has significantly undermined the ability of these tribunals to administer justice effectively (Aksar, 2000).

To address this issue, it is recommended that the ICC be empowered with independent enforcement capabilities through a UN Security Council mandate. Establishing an international enforcement body, possibly under the auspices of the United Nations, could ensure the execution of arrest warrants without relying solely on member states' cooperation (Furphy, 2015). This body could function similarly to the UN peacekeeping forces, with a mandate to arrest individuals indicted by the ICC.

Additionally, the use of targeted sanctions against states that fail to cooperate with international tribunals could enhance compliance. Sanctions could include travel bans, asset freezes, and restrictions on international aid, thus creating a tangible cost for non-cooperation (Bakshi, 2024). The European Union's practice of linking financial aid to compliance with international human rights standards could serve as a model for incentivizing cooperation with war crimes tribunals.

4.2 Enhancing Impartiality and Addressing Selective Justice

The perception of selective justice remains a significant challenge to the legitimacy of international tribunals. The focus on prosecuting leaders from weaker states, while overlooking potential war crimes committed by powerful nations, has led to widespread criticism of these institutions (Aksar, 2000).

To counteract this perception, it is recommended that the ICC adopt transparent criteria for case selection based on the gravity of the crimes rather than the political profile of the accused. Establishing an independent oversight body to review the ICC's case selection process could also enhance impartiality and mitigate perceptions of bias (Furphy, 2015). This oversight body could comprise independent legal experts and representatives from civil society organizations to ensure a fair and transparent process.

Moreover, extending the ICC's jurisdiction to include crimes committed by non-state actors, including multinational corporations and private military contractors, could broaden the scope of accountability and address concerns about selective justice. This expansion would ensure that all actors involved in war crimes, regardless of their state affiliations, are subject to prosecution (Bakshi, 2024).

4.3 Revising the Principle of Complementarity

The principle of complementarity, which allows the ICC to intervene only when national jurisdictions are unwilling or unable to prosecute, has been criticized for enabling powerful states to shield their nationals from prosecution through superficial domestic investigations (Aksar, 2000). To address this issue, it is recommended that the Rome Statute be amended to allow the ICC to review national investigations more rigorously to determine their adequacy.

A revision of the complementarity principle could include establishing a threshold of credibility for domestic investigations. For instance, national proceedings that fail to adhere to basic standards of due process or that demonstrate clear political bias should be deemed inadequate, thereby triggering the ICC's jurisdiction.

(Furphy, 2015). This reform would prevent states from using domestic investigations as a pretext to avoid international scrutiny.

Additionally, empowering the ICC's Prosecutor to initiate investigations *proprio motu*, without requiring state referrals or Security Council approval, could significantly enhance the court's ability to act independently. This authority would enable the ICC to address war crimes impartially, irrespective of the political affiliations of the accused (Bakshi, 2024).

4.4 Establishing a Universal Jurisdiction Framework

The selective application of universal jurisdiction has been a significant challenge to prosecuting war crimes effectively. To standardize its application, it is recommended that the United Nations adopt a universal jurisdiction framework that obligates all member states to prosecute or extradite individuals accused of war crimes (Aksar, 2000).

Such a framework could be modeled on the Convention Against Torture, which mandates member states to prosecute or extradite individuals accused of torture. A universal jurisdiction treaty for war crimes would prevent perpetrators from exploiting jurisdictional loopholes and escaping justice by relocating to non-cooperating states (Furphy, 2015).

Furthermore, establishing an international extradition mechanism under the auspices of the ICC could facilitate the transfer of suspects between states. This mechanism would ensure that political considerations do not obstruct the prosecution of war crimes (Bakshi, 2024).

4.5 Enhancing State Cooperation through Incentives

To improve state cooperation with international war crimes tribunals, it is recommended that a system of incentives be established. Financial and diplomatic incentives, such as increased development aid and preferential trade agreements, could encourage states to comply with ICC requests for cooperation (Aksar, 2000).

Additionally, integrating compliance with international tribunal mandates into the criteria for membership in international organizations such as the World Trade Organization (WTO) and the International Monetary Fund (IMF) could further incentivize cooperation (Furphy, 2015). By linking international legitimacy and economic benefits to compliance with international criminal justice mechanisms, states may be more inclined to support the work of these tribunals.

4.6 Strengthening Victims' Participation and Protection

Ensuring justice for victims of war crimes is a fundamental objective of international tribunals. Strengthening victims' participation in the prosecutorial process can enhance the legitimacy of these tribunals. It is recommended that the ICC adopt more victim-centric approaches, including providing legal representation and psychological support to victims throughout the trial process (Bakshi, 2024). Additionally, establishing a victim compensation fund financed by the assets confiscated from convicted war criminals could provide tangible justice to victims (Aksar, 2000). This fund could be administered by an independent body to ensure that compensation reaches victims directly.

5. Conclusion

International war crimes tribunals have played a crucial role in establishing accountability for the most serious crimes under international law, including war crimes, genocide, and crimes against humanity. However, their effectiveness is significantly undermined by jurisdictional challenges, including state sovereignty, selective justice, and substantial enforcement limitations. The International Criminal Tribunal for the former Yugoslavia (ICTY), the International Criminal Tribunal for Rwanda (ICTR), and the International Criminal Court (ICC) have collectively advanced international humanitarian law, yet they continue to struggle with securing universal jurisdiction and ensuring impartial justice (Aksar, 2000).

The principle of state sovereignty has been a formidable obstacle to the prosecution of war crimes. Many states have resisted the jurisdiction of international tribunals, citing concerns over national sovereignty and political autonomy. The refusal of powerful nations to ratify the Rome Statute, coupled with their reluctance to cooperate with the ICC, significantly impairs the court's ability to function effectively (Furphy, 2015). For instance, the United States' refusal to ratify the Rome Statute and its enactment of the American Service-Members' Protection Act, which prohibits U.S. cooperation with the ICC, exemplify the challenges posed by sovereignty concerns (Bakshi, 2024). The perception of selective justice further complicates the legitimacy of international tribunals. The focus on prosecuting leaders from weaker states, while overlooking potential war crimes committed by powerful nations, has led to accusations of bias and neo-colonialism. The ICC's disproportionate focus on African leaders, despite evidence of war crimes in other regions, has eroded confidence in the court's impartiality (Aksar, 2000). Addressing this perception requires not only a more transparent case selection process but also the inclusion of crimes committed by powerful states and non-state actors within the ICC's prosecutorial agenda.

Enforcement challenges represent perhaps the most significant barrier to the effectiveness of international tribunals. The ICC's reliance on member states to execute arrest warrants and facilitate evidence collection has resulted in a substantial enforcement gap. Cases such as those of Omar al-Bashir and Joseph Kony highlight the ICC's inability to act independently of state cooperation (Furphy, 2015). Establishing an independent

enforcement mechanism, possibly under the mandate of the United Nations, could significantly mitigate this challenge.

The principle of complementarity under the Rome Statute, which allows the ICC to intervene only when national jurisdictions are unwilling or unable to prosecute, has also been a source of contention. While intended to respect state sovereignty, this principle has been exploited by some states to shield their nationals from prosecution through superficial domestic investigations (Bakshi, 2024). Revising this principle to allow the ICC greater discretion in determining the adequacy of domestic investigations could enhance the court's effectiveness.

To overcome these challenges, this paper has proposed several key reforms. Strengthening the ICC's enforcement mechanisms through a UN Security Council mandate could address the current enforcement limitations. Additionally, adopting transparent criteria for case selection based on the gravity of crimes, rather than the political profile of the accused, could mitigate perceptions of selective justice (Aksar, 2000). Revising the complementarity principle to establish a threshold of credibility for domestic investigations could prevent states from using national proceedings as a pretext to avoid international scrutiny (Furphy, 2015). Furthermore, establishing a universal jurisdiction framework under the auspices of the United Nations could ensure that all states are obligated to prosecute or extradite individuals accused of war crimes. This framework could be modeled on existing international conventions, such as the Convention Against Torture, which mandates prosecution or extradition for individuals accused of torture (Bakshi, 2024). Such a framework would prevent perpetrators from exploiting jurisdictional loopholes to evade justice.

In conclusion, addressing the jurisdictional challenges faced by international war crimes tribunals is essential for ensuring accountability for war crimes and upholding the principles of international justice. Comprehensive legal and institutional reforms, including enhanced enforcement mechanisms, greater independence from political influences, and a re-evaluation of the principle of complementarity, are imperative for strengthening the credibility and effectiveness of these tribunals. Without such reforms, the promise of justice for war crimes victims will remain unfulfilled, and the deterrent effect of international criminal justice will continue to be undermined.

The findings of this paper underscore the need for a more robust and universally accepted framework for prosecuting war crimes. By implementing the proposed reforms, the international community can move closer to realizing the vision of a world where accountability for the most serious crimes is not only a legal principle but a practical reality.

6. Way Forward

The pursuit of accountability for war crimes through international tribunals faces significant challenges, including jurisdictional limitations, enforcement gaps, and the perception of selective justice. Addressing these challenges requires a comprehensive strategy that integrates institutional reforms, enhanced international cooperation, and legal innovations. This section outlines a way forward, focusing on strengthening the International Criminal Court (ICC), promoting universal jurisdiction, enhancing state cooperation, and ensuring victim-centered justice.

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