

The effect of Human Security Law & International Criminal Court (ICC) or Regional Equivalents on Justice

Effect: None (ICC face formidable hurdles in achieving the outcome, especially in prosecuting sitting heads of state who can easily circumvent international justice)

Confidence in study findings: Low (two studies, low confidence)

Short summary

The International Criminal Court (ICC) is established to bring perpetrators of serious crimes to justice and is seen as having great potential. However, its effect on justice is portrayed as complex and often hindered, facing formidable hurdles due to factors like lacking state cooperation and the challenge of prosecuting sitting heads of state who can easily circumvent international justice. Regional bodies like the African Union can also counteract the ICC's work, sometimes prioritizing peace over justice, challenging optimistic accounts and suggesting its potential positive effects are conditional

Long summary

The intervention

The studies cover ICC's involvement in a country's situation, such as the conflict in northern Uganda or the post-election violence in Kenya. It is described as the international community intervening and proclaiming that perpetrators of international crimes would be held accountable. The intervention involves authorizing investigations and issuing arrest warrants which can change the context in which affected groups operate.

How is the intervention expected to work

The intended function of the ICC intervention rests on achieving justice and deterring future atrocities through the prosecution of individuals responsible for mass crimes. This process, involving the issuance of arrest warrants and subsequent trials, aims to foster accountability and alter the context in which conflicts occur.

A key aspect of this strategy is the expectation that the credible threat of arrest will pressure indicted leaders, considered potential "peace spoilers" (Birkeland, p.118) to comply with international demands or accept outcomes like exile, thereby contributing to the cessation of violence and the establishment of peace.

However, the efficacy of this approach is fundamentally dependent on the cooperation of states, which are essential for executing arrests, facilitating investigations, and providing necessary support to the Court. Beyond its judicial role, the ICC's intervention is also envisioned to be part of broader international efforts, where diplomatic negotiations and the potential leverage of bodies like the UN Security Council can be utilized to encourage both accountability and peaceful resolutions (Boehme, p.9). Ultimately, the expectation is that this multi-faceted intervention, combining legal pressure with international support, will effectively address mass atrocities and pave the way for lasting peace.

The evidence base

There are two qualitative studies assessing the effect of **Human Security Law & International Criminal Court (ICC) or Regional Equivalents on Justice**. The included studies are by T. K. Birkeland (2008). *Sanctioning of Individuals: The International Criminal Court, the United Nations Security Council, and the Case of Northern Uganda*. American University; and F. Boehme (2017). *Enabling Justice: State Cooperation with the International Criminal Court* (Doctoral dissertation, Syracuse University). All references are from these studies.

The evidence

- 1) Regional political dynamics, particularly those at the African Union (AU), can significantly shape state cooperation with the ICC. The AU can act as a venue for states to express criticism and engage in lobbying that can counteract the ICC's work, sometimes prioritizing peace over justice (Boehme, p.9-10)
- 2) The establishment of the ICC held significant promise for delivering justice for grave international crimes. However, the evidence suggests that its actual effect on justice is often complex, hindered, and falls short of its potential. A primary obstacle is the ICC's fundamental reliance on state cooperation for essential functions like arrests and evidence gathering. This dependence creates significant vulnerabilities, particularly when prosecuting powerful individuals such as sitting heads of state, who possess the means to evade international justice. Furthermore, the active opposition of regional bodies, notably the AU, which has criticized the ICC and advocated for non-cooperation, further complicates the Court's ability to achieve consistent justice outcomes.
- 3) Reactions to the ICC's pursuit of African leaders have spurred the development of regional criminal court proposals in Africa. These initiatives appear to be motivated by a desire to either substitute or operate alongside the ICC. While these regional efforts signal a desire for justice mechanisms within the continent, the provided sources do not offer specific details on the practical impact of existing or operational regional criminal courts on actual justice outcomes.

Confidence assessment

Overall confidence: Low Confidence Qualitative Study (It is unclear whether the study uses an established small n approach; the procedural steps for data analysis are not clearly defined; no triangulation done; sources of potential data bias are not discussed)