JURISDICTIONAL CHALLENGES OF CYBERCRIMES AND THE ROLE OF THE INTERNATIONAL CRIMINAL COURT

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PURPOSE (INTRODUCTION)

Cybercrime is illegal activity involving computers, the internet, or network devices (Smyth, Curran, & McKelvey, 2019). It covers a wide array of criminal activities conducted using digital technology, and it can be broadly classified into cyber-dependent and cyber-enabled crimes. According to the UK National Cyber Security Strategy, cyber-dependent crimes are those that can only be committed through Information and Communications Technology (ICT) devices, which serve as both the tool and the target of the crime, such as malware development for financial gain and hacking to steal or destroy data. On the other hand, cyber-enabled crimes are traditional offenses that can be amplified in scope by utilizing ICT, including fraud and data theft (Wong, 2018). Similarly, the Royal Canadian Mounted Police (RCMP) categorizes cybercrime into two types: technology-as-target and technology-as-instrument. Technology-as-target involves crimes that necessitate the use of digital devices, such as unauthorized computer access and denial-of-service attacks, while technology-as-instrument involves crimes where the internet and digital technologies facilitate the offense, including online scams and identity theft (Clough, 2015).

The European Union identifies cybercrime as comprising internet-specific crimes like phishing, online fraud, and illegal online content such as child sexual abuse material and incitement to racial hatred (Phillips et al., 2022). In Uzbekistan, Article 3 state that cybercrime is defined under the cybersecurity law as cumulative offenses conducted in cyberspace using software and technical means for the purpose of obtaining, altering, destroying, or breaching information systems and resources. The USA Department of Justice further broadens the scope, defining computer crime as any criminal law violation that requires knowledge of computer technology for perpetration, investigation, or prosecution (Bazelon et al., 2006). In China, article 286 of the Criminal Law state that whoever violates state regulations by deleting, altering, adding, or interfering with computer information systems, causing abnormal operations and grave consequences, shall be sentenced to up to five years of imprisonment or criminal detention; if the consequences are particularly serious, the sentence shall be no less than five years of imprisonment (Calderoni et al., 2022). Anyone who deliberately creates and propagates computer viruses or other programs that sabotage the normal operation of computer systems, causing grave consequences, shall be punished similarly (Ronggong & Lijia, 2020).

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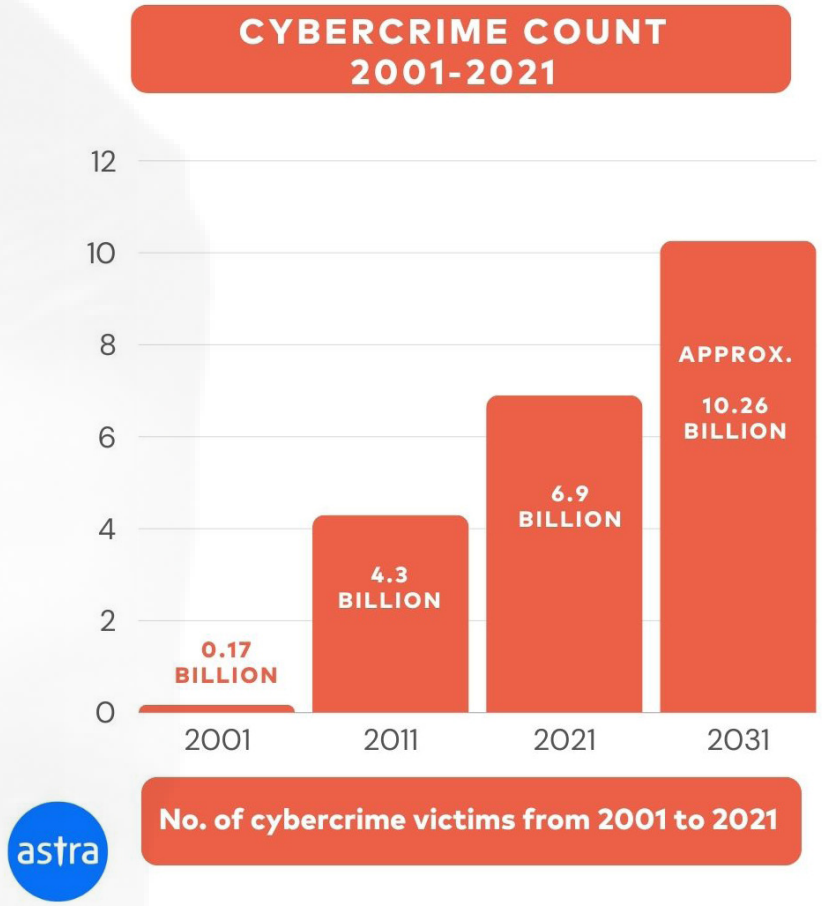

Figure 1.

The figure 1 shows the alarming increase in the number of cybercrime victims globally over a span of 20 years, from 2001 to 2021, with a projected estimate for 2031. In 2001, the number of cybercrime victims stood at approximately 0.17 billion. This number grew significantly to 4.3 billion by 2011, indicating a substantial rise in cybercrime activities during that decade. The trend continued, and by 2021, the number of victims had reached 6.9 billion worldwide. Alarmingly, the chart projects that if the current trajectory persists, the number of cybercrime victims could escalate to an approximate 10.26 billion by 2031. According to the 2022 annual report published by the Internet Crime Complaint Center (IC3), the United States reported the highest number of victims of internet-facilitated criminal activity among countries worldwide. The tally of victims from the United States stood at an alarming 479,181 cases. Following closely behind was the United Kingdom, which documented 284,291 victims of such crimes during the same year. Canada ranked third among the most afflicted nations, with 5,517 cases of citizens falling prey to internet-facilitated criminal offenses as per the IC3 report.

Various actors engage in cybercrime, including individual hackers, organized crime groups, corrupt company employees, and foreign intelligence operatives (Galeotti, 2023). Presently, financially motivated organized criminal networks, often comprising members from diverse countries, are the primary perpetrators of cybercrime. Unlike traditional organized crime groups, these networks do not necessarily have a hierarchical structure; instead, they operate in a decentralized manner, with members remaining relatively anonymous and independent (Di Nicola, 2022). When these criminals plan a cyberattack, they utilize the network to acquire the necessary resources and expertise for the operation. These networks span across borders, with members from numerous countries. Most cyberattacks

are believed to originate from regions such as America, China, Europe, and Russia, while organized criminal networks are emerging in South-East Asia. Cyber criminals often target users from countries with weaker governmental institutions or less stringent rule of law, as well as those where cybercrime contributes significantly to economic growth (Khadam et al., 2023). Furthermore, wrongdoer exploit international law enforcement boundaries, making it challenging to investigate and prosecute their crimes effectively (Mayans-Hermida & Holá, 2023).

Jurisdiction is the legal authority granted to a legal entity to administer justice. It encompasses the authority of a court or official organization to make decisions and judgments (Hovell, 2018). There are several types of jurisdictions, including exclusive jurisdiction, appellate court jurisdiction, original jurisdiction, subject matter jurisdiction, concurrent jurisdiction, personal jurisdiction, criminal jurisdiction, and advisory jurisdiction. In international law, jurisdiction refers to a state's power to affect persons, property, and circumstances within its territory (Kamminga, 2020). This includes the ability to prescribe laws applicable to individuals or conduct (jurisdiction to prescribe) and the ability to subject persons or things to court processes (jurisdiction to adjudicate). State jurisdiction in international law is rooted in the principle of sovereign equality, which grants each state the exclusive right to exercise jurisdiction based on principles such as territoriality, protective principle, nationality/active personality, passive personality, and universality (Roth, 2011).

The International Criminal Court (ICC) addresses the gravest crimes, including genocide, war crimes, crimes against humanity, and aggression, aiming to end impunity and prevent such atrocities (Rome statute, 1998; Palarczyk, 2023). With 31 cases and 46 arrest warrants issued, the ICC has seen 21 detainees and 17 suspects at large, with charges dropped against seven deceased individuals. The ICC is now considering expanding its mandate to include cybercrimes that violate the Rome Statute, recognizing the significant impact of cyber warfare on human lives (Sarkar & Shukla, 2023). Prosecutor Karim Khan emphasizes that the digital front lines can cause damage and suffering akin to what the ICC founders intended to prevent, highlighting this in Foreign Policy magazine (Onn, 2023). Through its efforts, the ICC continues its global mission of holding perpetrators accountable and preventing future crimes.

This research problem explores the ICC's evolving jurisdiction to include cyber activities that may constitute core international crimes. Article 8(2)(b)(ii) of the Rome Statute criminalizes attacks on civilian objects without reference to the means used, indicating that cyber-attacks on civilian infrastructure could lead to criminal liability. Despite the consensus among scholars and experts, including those behind the Tallinn Manual and the 2021 Report on the Application of the Rome Statute of the ICC to cyber warfare, significant challenges remain. The ICC is mandated, as affirmed by the preamble to the Rome Statute, to prosecute only "the most serious crimes of concern to the international community as a whole," and must declare a case inadmissible if it lacks sufficient gravity (Article 17(1)(d)). Furthermore, attributing cyber activities to specific perpetrators is notoriously difficult. Addressing these challenges is crucial for ensuring that the ICC can effectively respond to the emerging threat of cybercrimes, thereby maintaining its role in upholding international justice in the digital age. The study examines the potential role of the ICC in expanding its mandate to include cybercrimes that violate the Rome Statute.

The rapid advancement of technology and the increasing dependency on digital infrastructure have led to a significant rise in cybercrimes globally (Chen et al., 2023). The literature on cybercrimes reveals a multifaceted problem that challenges traditional notions of jurisdiction and international law. This review critically analyzes existing studies to identify gaps, inconsistencies, and areas that require further exploration. Lee et al. (2023) and Iftikhar (2024) have extensively discussed the various forms of cybercrime, including hacking, identity theft, and cyber-terrorism. These works highlight the diverse and evolving nature of cybercrimes, but they also indicate a need for more comprehensive definition to

better understand and combat these crimes (Peters & Jordan, 2020). The transnational nature of cybercrimes poses significant jurisdictional challenges. Curtis and Oxburgh (2022) argue that cybercrimes often involve perpetrators and victims in different countries, complicating law enforcement efforts.

Similarly, Perloff-Giles (2018) emphasizes the difficulty in applying traditional territorial jurisdiction to crimes committed in cyberspace. Existing international frameworks, such as the Budapest Convention on Cybercrime, provide a foundation for cooperation. However, they have limitations of immunity of state official and state cooperation (Liu, 2024). As noted by Clough (2023), not all countries are signatories, leading to gaps in global cooperation. The literature points to the need for more inclusive and binding international agreements. The potential role of the ICC in prosecuting cybercrimes has been explored by several scholars. For instance, Schjolberg and Ghernaouti-Helie (2011) discusses the possibility of the ICC expanding its mandate to include cybercrimes that meet the criteria of the Rome Statute (AllahRakha, 2024). However, this proposition raises questions about the ICC's capacity and jurisdiction, which are yet to be fully addressed in the literature (Sadat, 2024).

Studies by Arnell and Faturoti (2022) provide insights into various national approaches to cybercrime prosecution. It reveals significant disparities in legal frameworks and enforcement capabilities, underscoring the need for harmonization and international standards. Research by Osei Mensah, Mensah, and Opoku (2023); Lancry and Rahim, (2023) focuses on the experiences and challenges faced by cybercrime victims. This highlights the psychological and financial impacts of cybercrimes, pointing to the need for better victim support systems. The dynamic nature of cybercrimes necessitates continuous technological and legal adaptations. Whalen (2022) and AllahRakha (2024) argue for the need to update legal definitions and frameworks regularly to keep pace with technological advancements. This view is supported by Walter (2024), who emphasizes the importance of adaptive and flexible legal mechanisms.

Safitra, Lubis, and Fakhrurroja (2023) discuss various policy and regulatory responses to cybercrime. These works highlight the importance of comprehensive cybersecurity policies that incorporate preventive measures, legal responses, and international cooperation. Evidence collection in cybercrime cases presents unique challenges, as discussed by AllahRakha (2024) and Casino (2022). The volatility and ephemerality of digital evidence require specialized skills and tools, which are not uniformly available across jurisdictions. The intersection of cybercrime enforcement and privacy rights is a critical area of concern. Studies by Power, Heavin, and O'Connor (2021); Dhirani et al. (2023) explore the ethical implications of surveillance and data collection, highlighting the need to balance security and privacy.

Theoretical frameworks for understanding cybercrimes have been developed by Curry (2023); Leukfeldt and Yar, (2016); Palmieri, Shortland, and McGarry, 2021), who apply criminological theories to the digital context. These theoretical perspectives provide valuable insights but also indicate the need for further development to address new types of cybercrimes. The importance of global cooperation and capacity building is emphasized in studies by Peters and Jordan (2020); Homburger (2019). These works advocate for increased international collaboration and resource sharing to combat cybercrimes effectively (Daniel, 2023). Recent legislative innovations, such as the EU's Cybersecurity Act, General Data Protection Regulation (GDPR), and The Network and Information Systems Directive (NIS Directive) have implications for cybercrime enforcement. As discussed by Kuner (2012) and Bygrave (2014), such regulations can enhance cybersecurity, data protection and legal measures but also create new compliance challenges for international cybercrime investigations.

Zaid and Garai, (2024); Wu, Peng, and Lemke, (2023); Park and Park, (2024) identify emerging trends in cybercrime and propose future research directions. They call for interdisciplinary approaches that integrate legal, technological, and social perspectives to develop more effective responses to cybercrimes. The literature reveals a complex and evolving landscape of cybercrimes that challenges tradi-

tional legal frameworks for investigation and jurisdictional enforcement. While significant progress has been made in understanding and addressing cybercrimes, there remain critical gaps and inconsistencies. The potential role of the ICC in prosecuting cybercrimes presents a promising but controversial avenue for future policy development.

The existing literature provides valuable insights into the jurisdictional challenges of cybercrimes and the role of the ICC in addressing them. However, a notable gap in the literature is the lack of comprehensive analysis regarding the feasibility and implications of expanding the ICC's mandate to include cybercrimes. While scholars have discussed the jurisdictional challenges, international legal frameworks, and challenges of victim, evidence collection and adaptation of technological. There is a dearth of empirical studies or case analyses that examine how such an expansion would practically impact the ICC's operations, jurisdictional principles, and relationship with national legal systems. There is limited research on the perspectives of ICC member states and other stakeholders regarding the proposal to include cybercrimes under the Rome Statute. Addressing this gap is important for understanding the practical implications of expanding the ICC's jurisdiction and for informing policy decisions regarding international responses to cybercrimes.

The questions of this research as under

> **Q-1:** Expanding the ICC's jurisdiction to incorporate cybercrimes will enhance its capacity to prosecute international crimes committed through digital means. How this expansion aligns with the Rome Statute's core principles?
>
> **Q-2:** The inclusion of cybercrimes within the ICC's mandate will face significant jurisdictional challenges, particularly in attributing cyber activities to specific perpetrators due to the anonymity and transnational nature of cyberspace. What types of cases will the ICC investigate and prosecute, and on what grounds will these cases be based?
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> **Q-3:** The feasibility and practical implementation of prosecuting cybercrimes at the ICC will depend on developing robust international legal frameworks and cooperation mechanisms. What international legal mechanisms will the ICC adopt to enforcement of sentence of cybercrimes?

This study focuses on examining the potential expansion of the ICC jurisdiction to include cybercrimes. It delves into the jurisdictional challenges, practical implementation, and the development of robust international legal frameworks to address these crimes. However, the study is delimited by several factors. Primarily, it considers the legal and procedural aspects without a detailed technical analysis of cybercrime detection and attribution methods. The research does not explore the intricacies of domestic cybercrime laws. The study is constrained by its reliance on Rome Statute legal framework. The rapidly evolving nature of cybercrimes and technological advancements means that the findings might become outdated as new threats and methods of cybercrime emerge. The study assumes cooperation and willingness among ICC member states to adapt their legal systems to accommodate the prosecution of cybercrimes, which may not reflect the real-world political and legal complexities.

The potential contributions and implications of this research are manifold, highlighting its academic, practical, and societal relevance. Academically, this study fills a critical gap in the existing literature by providing a comprehensive analysis of the feasibility and implications of expanding the ICC's mandate to include cybercrimes. Practically, it can inform the development of policies and strategies to enhance the ICC's capacity to address cybercrimes, thereby strengthening the global legal response to digital threats. From a societal perspective, the study underscores the growing importance of addressing cybercrimes in an interconnected world. As cybercrimes increasingly impact individuals, organi-

zations, and nations, ensuring that these crimes are met with appropriate legal responses is crucial for maintaining public trust in digital technologies and international justice systems.

METHODOLOGY

This study adopts a qualitative research design, chosen for its dynamic nature, allowing the researcher to engage with respondents in real-time, facilitating in-depth conversations on the subject (Tenny, Brannan, & Brannan, 2022). This approach is particularly well-suited for exploring complex issues such as cybercrime jurisdiction and the role of the International Criminal Court (ICC). The target population comprises a wide range of published research papers related to cybercrimes, jurisdiction, and international law. A sampling strategy was employed, utilizing databases such as Westlaw, Legal Information Institute, Casetext, Oxford Reports on International Law and Oxford Reports on International Human Rights Law, Lexis, Google Scholar, HeinOnline, and ProQuest. Initially, 4835 manuscripts were identified, which were then filtered to include only English papers published since 2015 except fewer that are legal and theoretical framework, resulting in a final set of 1065 references for further evaluation.

The data collection process involved using a specific set of keywords to access relevant research papers, books, and monographs related to cybercrimes and jurisdiction. These keywords included "Cybercrime," "Jurisdiction," "International Criminal Court," "Cross-border crimes," "Territoriality principle," "Cyber jurisdiction," "Cyber law enforcement," "International cooperation," "Sovereignty," "Extradition," "Digital evidence," "Cybersecurity," "Digital rights," "Transnational crime," "International criminal law," "Cybercrime Investigation," and "Cybercrime Prosecution." This approach ensured that the collected data covered a wide range of topics relevant to the study. A manual screening process was then conducted to exclude overly technical papers and irrelevant sources, resulting in a final set of 107 references from reputable publications.

As this study adopts a doctrinal research approach. Doctrinal legal research methodology focuses on analyzing the text of the law rather than its practical application, providing a detailed analysis of legal rules found in primary sources (Bhat, 2020). The validity and reliability of the research methods were ensured through the use of reputable databases and publications, the exclusion of papers with insufficient data, and a manual screening process to filter relevant sources. The data analysis process involved identifying key themes, patterns, and insights from the collected data. This qualitative analysis focused on examining the content of the research papers to uncover recurring topics, arguments, and perspectives. Themes such as the evolving nature of cybercrimes, the challenges of attributing cyber activities to specific perpetrators, and the implications of cyber-attack on international law were identified. Patterns in the data included the increasing prevalence of cybercrimes globally, the use of digital technologies by criminal networks, and the need for international cooperation to combat cybercrimes effectively. Insights from the data analysis highlighted the complexity of jurisdictional issues in cyberspace, the importance of updating legal frameworks to address technological advancements, and the potential role of the ICC in prosecuting cybercrimes.

The findings contribute to a deeper understanding of the challenges posed by cybercrimes and the ways in which international law and institutions can respond to these challenges. This study adhered to strict ethical standards to ensure the integrity of the research process and the protection of individuals and entities involved. All data obtained from legal cases, law enforcement agencies, or other sources were handled with the utmost care and in compliance with relevant data protection regulations. Ethical guidelines from the Committee on Publication Ethics (COPE) and legal boundaries were strictly respected, particularly when dealing with sensitive information or evidence related to ongoing investiga-

tions or legal proceedings. The study ensured that research outcomes were not used in any manner that could potentially harm or exploit participants or the communities affected by cybercrimes.

One limitation of this study is the potential bias in the selection of research papers, as only English papers published since 2015 were included. This may have excluded valuable insights from non-English papers and those published before 2015. Another limitation is the reliance on existing literature, which may not capture the most current developments in cybercrimes and jurisdictional challenges. The exclusion of papers with insufficient data may have also limited the scope of the study, potentially overlooking important perspectives or arguments. The research design assumes that the selected research papers provide a comprehensive and reliable source of information on cybercrimes, jurisdictional challenges, and the role of the ICC. It also assumes that the keywords used in the data collection process accurately captured relevant literature on the subject.

FINDINGS (RESULTS & DISCUSSION)

Jurisdictions

The ICC is established as a permanent institution with the authority to prosecute individuals for the most serious international crimes as specified in its Statute (Rome Statute). It functions in a complementary role to national criminal jurisdictions, meaning it supports but does not replace them. The ICC has international legal personality and the legal capacity necessary to carry out its functions and objectives (Šturma, 2019). It can operate within the territories of State Parties and, through special agreements, in other states. The ICC's relationship with the United Nations will be formalized through an agreement approved by the Assembly of States Parties and signed by the President of the Court on its behalf (Sterio, 2020).

The Preamble of the Rome Statute highlights the unity of all peoples through shared heritage and expresses concern over the potential fragility of this mosaic. It acknowledges the devastating atrocities suffered by millions in the 20th century, which deeply shock humanity's conscience. The serious crimes are recognized as threats to global peace, security, and well-being (Heller, 2017). The Preamble affirms that the most serious crimes should not go unpunished and stresses the importance of national and international measures for effective prosecution. It emphasizes the duty of states to exercise criminal jurisdiction over international crimes and reaffirms the principles of the United Nations Charter, particularly the prohibition against the use of force. The Preamble asserts that the Statute does not authorize state intervention in armed conflicts or internal affairs. It resolves to establish an independent, permanent International Criminal Court, complementary to national jurisdictions, to uphold international justice for present and future generations (Ambos, 2022).

The Court's jurisdiction is confined to the most serious crimes of international concern, specifically: genocide, crimes against humanity, war crimes, and the crime of aggression (Dubey, 2021). The Elements of Crimes guide the Court in interpreting and applying articles 6, 7, 8, and 8 bis of the Rome Statute. These elements are adopted by a two-thirds majority of the Assembly of States Parties. Amendments to the Elements of Crimes can be proposed by any State Party, a majority of the judges, or the Prosecutor, and require a two-thirds majority for adoption. Both the Elements of Crimes and any amendments must align with the Statute. The ICC may exercise jurisdiction if the crime occurred on the territory of a state party, or if the accused is a national of a state party (Galand, 2019).

States not party to the statute may accept the ICC's jurisdiction for a specific crime. The ICC can exercise its jurisdiction if a situation involving such crimes is referred to the Prosecutor by a state party, the UN Security Council under Chapter VII of the UN Charter, or if the Prosecutor initiates an investigation (Akande & Tzanakopoulos, 2018). A State Party can refer a situation to the ICC Prosecutor if it believes that one or more crimes within the ICC's jurisdiction have been committed. The referral asks the Prosecutor to investigate the situation to determine if specific individuals should be charged with these crimes. The referral should include details about the situation and any available supporting documentation. The principle of ne bis in idem, meaning "not twice for the same," is enshrined to prevent double jeopardy (Nuridzhanian, 2024). It states that a person cannot be tried by the ICC for crimes they have already been convicted or acquitted of by the ICC or another court. Similarly, if a person has been tried by another court for conduct that also falls under the jurisdiction of the ICC. They cannot be tried again by the ICC unless the previous proceedings were intended to protect the person from liability or were conducted unfairly (Galand, 2019).

The Court ensures its jurisdiction and may determine the admissibility of a case based on challenges brought by the accused, a State with jurisdiction over the case, or a State required to accept jurisdiction. The Prosecutor may also seek a ruling on jurisdiction or admissibility, with input allowed from those who referred the situation and victims (Sekulow & Ash, 2020). Challenges to admissibility or jurisdiction may only be made once and must occur before or at the trial's start, although exceptions can be granted. Such challenges are first reviewed by the Pre-Trial Chamber and then by the Trial Chamber after charges are confirmed, with appeal to the Appeals Chamber possible (Guilfoyle, 2019). The Prosecutor must suspend an investigation if a State challenges admissibility, but certain investigative steps can be pursued pending the Court's ruling. A challenge does not invalidate prior actions of the Prosecutor or Court, and the Prosecutor can request a review of an inadmissibility decision if new facts arise. If the Prosecutor defers an investigation, they may request information from the relevant State, which must be kept confidential unless the Prosecutor decides to proceed with the investigation (Urs, 2024).

The Rome Statute, in Article 6, defines "genocide" as acts committed with the intent to destroy a national, ethnical, racial, or religious group, in whole or in part. These acts include killing, causing serious harm, inflicting destructive conditions, preventing births, and forcibly transferring children. In the case of The Prosecutor v. Omar Hassan Ahmad Al Bashir, the ICC has charged the Sudanese President with multiple counts of genocide, crimes against humanity, and war crimes allegedly committed in Darfur between 2003 and 2008. The specific charges include murder, rape, targeting civilians, pillaging, and three counts of genocide. Despite arrest warrants issued in 2009 and 2010, Al Bashir remains at large, preventing the ICC from proceeding to trial until he is apprehended and transferred to The Hague. The case is currently in the Pre-Trial stage (Schabas, 2016).

Table 1. *Crimes Related to Genocide*

Category of Crime	**Description of Crimes** (Data source is Article 6 of the Rome Statute)
Genocide	Killing members of the group Causing serious bodily harm to members of the group Causing serious 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

Crimes against humanity cover a range of acts committed as part of widespread or systematic attacks on civilian populations with knowledge of the attack. These acts include murder, extermination, enslavement, deportation, imprisonment, torture, sexual violence, persecution, enforced disappearance, apartheid, and other inhumane acts causing severe suffering or injury (Mimiko, Olaseeni, & Oluwadayisi, 2016). The definition of these crimes includes specific interpretations, such as "extermination" involving the deprivation of food and medicine, "enslavement" as exercising ownership over a person, and "forced pregnancy" intended to affect ethnic composition. "Attack directed against any civilian population" involves multiple such acts under a state or organizational policy. The Statute also clarifies that "gender" refers strictly to male and female within the societal context, without any broader implications (Rodenhäuser, 2018).

Table 2. *Crimes Against Humanity*

Category of Crime	**Description of Crimes** (Data source is Article 7 of the Rome Statute)
Crimes against Humanity	Murder
	Extermination
	Enslavement
	Deportation or forcible transfer of population
	Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law
	Torture
	Rape
	Sexual slavery
	Enforced prostitution
	Forced pregnancy
	Enforced sterilization
	Other forms of sexual violence of comparable gravity
	Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender, or other universally recognized impermissible grounds
	Enforced disappearance of persons
	The crime of apartheid
	Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health

The Court's jurisdiction over war crimes, emphasizing those committed as part of a plan or on a large scale. War crimes include severe breaches of the Geneva Conventions (12 August 1949), such as willful killing, torture, unlawful deportation, and taking hostages. It addresses violations in international conflicts, like attacks on civilians, humanitarian missions, and protected buildings. Non-international conflicts are also covered, listing crimes like murder, mutilation, rape, and forced displacement (Ramezani Ghavam Abadi, 2020). The provisions exclude internal disturbances, such as riots, focusing instead on prolonged conflicts involving government forces and organized armed groups (Article 8-2-d). The regulations do not hinder a government's duty to maintain law and order or protect the state's unity and territorial integrity. It ensures that while addressing war crimes, the sovereignty and stability of states are respected (Tsilonis, 2024).

Table 3. *Delineate the War Crimes*

Category of Crime	**Description of Crimes** (Data source is Article 8 of the Rome Statute)
War Crimes	Wilful killing Torture or inhuman treatment, including biological experiments Wilfully causing great suffering, or serious injury to body or health Extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly Compelling a prisoner of war or other protected person to serve in the forces of a hostile Power Wilfully depriving a prisoner of war or other protected person of the rights of fair and regular trial Unlawful deportation or transfer or unlawful confinement Taking of hostages Intentionally directing attacks against the civilian population Intentionally directing attacks against civilian objects Intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission Intentionally launching an attack knowing it will cause incidental loss of life or injury to civilians or damage to civilian objects Attacking or bombarding towns, villages, dwellings or buildings which are undefended and not military objectives Killing or wounding a combatant who has surrendered Making improper use of a flag of truce, flag or military insignia and uniform of the enemy or United Nations distinctive emblems Transferring parts of the Occupying Power's own civilian population into the territory it occupies Intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals Subjecting persons in power of an adverse party to physical mutilation or medical or scientific experiments not justified by their medical needs Killing or wounding treacherously individuals belonging to the hostile nation or army Declaring that no quarter will be given Destroying or seizing the enemy's property not justified by military necessity Compelling nationals of the hostile party to participate in operations of war against their own country Pillaging a town or place, even when taken by assault Employing poison or poisoned weapons Employing asphyxiating, poisonous or other gases, and all analogous liquids, materials or devices Employing bullets which expand or flatten easily in the human body Employing weapons, projectiles and material and methods of warfare which cause superfluous injury or unnecessary suffering Committing outrages upon personal dignity, including humiliating and degrading treatment Committing rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence also constituting a grave breach of the Geneva Conventions Utilizing the presence of a civilian or other protected person to render certain points, areas or military forces immune from military operations Intentionally directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions Intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival Conscripting or enlisting children under the age of fifteen years into the national armed forces or using them to participate actively in hostilities Employing weapons which use microbial or other biological agents, or toxins Employing weapons that cause injury by fragments which escape detection by X-rays Employing laser weapons specifically designed to cause permanent blindness

A crime of aggression involves the planning, preparation, initiation, or execution of an act of aggression by a person in a position to control or direct a State's political or military actions. An act of aggression is defined as the use of armed force by a State against the sovereignty, territorial integrity,

or political independence of another State, or in a manner inconsistent with the UN Charter. Examples include invasion or attack, bombardment, blockade, attacking another State's armed forces, using armed forces in another State without proper agreement, allowing one's territory to be used for aggression, and sending armed groups to carry out aggressive acts (Galand, 2019).

Table 4. *Describes the Crime of Aggression*

Category of Crime	**Description of Crimes** (Data source is Article 8 *bis* of the Rome Statute)
Crime of Aggression	The invasion or attack by the armed forces of a State of the territory of another State
	Military occupation resulting from such invasion or attack
	Annexation by the use of force of the territory of another State or part thereof
	Bombardment by the armed forces of a State against the territory of another State
	The blockade of the ports or coasts of a State by the armed forces of another State
	An attack by the armed forces of a State on the land, sea or air forces, or marine and air fleets of another State
	The use of armed forces of one State within the territory of another State in contravention of the conditions provided in the agreement
	The action of a State in allowing its territory to be used by another State for perpetrating an act of aggression against a third State
	The sending by or on behalf of a State of armed bands, groups, irregulars or mercenaries, to carry out acts of armed force against another State

A case may be deemed inadmissible if it is already being investigated or prosecuted by a state with jurisdiction, unless that state is unwilling or unable to genuinely carry out the proceedings. Similarly, if a state with jurisdiction has decided not to prosecute, the case may be considered inadmissible unless this decision stems from the state's unwillingness or inability to genuinely prosecute. If the person in question has already been tried for the same conduct and a trial by the Court is not permitted, the case may be deemed inadmissible. Finally, a case may be considered not of sufficient gravity to warrant further action by the Court (Krzan, 2021). The determination of unwillingness or inability in a specific case is based on principles of due process and may involve factors such as proceedings being undertaken to shield the person from criminal responsibility, unjustified delays, or lack of impartiality in the proceedings (Birnbaum, 2021). If a state's judicial system has substantially collapsed or is unavailable, rendering the state unable to obtain the accused or necessary evidence, the case may also be deemed inadmissible.

When the ICC receives a referral indicating a reasonable basis for an investigation, or when the Prosecutor decides to initiate an investigation, the Prosecutor must notify all relevant states. These states can then inform the Court if they are already investigating or have investigated individuals for crimes that fall under the ICC's jurisdiction (Bådagård & Klamberg, 2017). The Prosecutor may defer to a state's investigation unless the Pre-Trial Chamber authorizes otherwise. This deferral can be reviewed if there are significant changes or if the state is unwilling or unable to genuinely conduct the investigation. Both the state and the Prosecutor can appeal decisions regarding deferral. The Prosecutor can request updates on the state's investigations and may seek authorization for investigative steps to preserve evidence. States can challenge rulings and the admissibility of a case based on new facts or circumstances (Danilenko, 2000).

The ICC is empowered to exercise jurisdiction over the crime of aggression, subject to specific conditions. For such jurisdiction to apply, at least 30 States Parties must ratify or accept the relevant amendments, and the Court must decide to proceed with jurisdiction after January 1, 2017, by a majority vote. A State Party can exclude the Court's jurisdiction over aggression by declaring so, but it can also

withdraw this declaration within three years. If the Prosecutor wishes to investigate a crime of aggression, they must first confirm whether the Security Council has determined an act of aggression by the State in question (McDougall, 2021). If the Security Council fails to make such a determination within six months, the Prosecutor may proceed with the investigation, provided the Pre-Trial Division authorizes it and the Security Council does not intervene. Any determination of aggression by an external body does not impact the Court's own findings. It's important to note that this article does not affect the Court's jurisdiction over other crimes (Reisinger Coracini & Wrange, 2016).

INVESTIGATION AND PROSECUTION

The Prosecutor of the ICC has the authority to start investigations based on information about crimes falling under the Court's jurisdiction. The Prosecutor evaluates the information's seriousness and may request more information from various sources (Pereira, 2020). If the Prosecutor finds a reasonable basis to proceed, a request for investigation authorization is submitted to the Pre-Trial Chamber, allowing victims to provide input. The Chamber, after review, can authorize the investigation, with subsequent decisions on jurisdiction and admissibility left to the Court. Refusal to authorize does not prevent future requests based on new evidence. If the Prosecutor determines the information insufficient, they can inform the providers but may reconsider with new facts. Additionally, investigations or prosecutions can be delayed if the UN Security Council requests so (Kotecha, 2020).

The Prosecutor must conduct investigations thoroughly to uncover all relevant facts and evidence, considering both incriminating and exonerating circumstances equally. They are tasked with ensuring effective investigations and prosecutions while respecting the interests and circumstances of victims and witnesses, including their age, gender, and health. The Prosecutor must also respect the rights of individuals as outlined in the Statute (Article 55). They have the authority to conduct investigations on a State's territory either through specified procedures or with authorization from the Pre-Trial Chamber. The Prosecutor can collect and examine evidence, question individuals involved, seek cooperation from States and organizations, enter into agreements to facilitate cooperation, maintain confidentiality of certain information, and take necessary measures to protect information, individuals, and evidence (Chigowe, 2022).

During an investigation under the Rome Statute, individuals have several rights. They cannot be forced to incriminate themselves or confess guilt, and they must not face coercion, torture, or other cruel treatment. If questioned in a language they do not fully understand, they have the right to a competent interpreter at no cost. They also cannot be arbitrarily arrested or detained, and their liberty cannot be deprived except under lawful grounds and procedures. If there are grounds to believe a person has committed a crime within the Court's jurisdiction and they are about to be questioned, they must be informed of these grounds and their rights. These rights include being informed of the suspicion of a crime, the right to remain silent, the right to legal assistance, and the right to have counsel present during questioning unless voluntarily waived (Appel, 2018).

The Pre-Trial Chamber's role is to safeguard the integrity and efficiency of proceedings when the Prosecutor identifies a unique opportunity to gather crucial evidence or testimony that may become unavailable for trial later on. Upon being informed by the Prosecutor, the Chamber can take various measures to protect the rights of the defense, including recommending procedures, appointing experts, or even assigning counsel for the defense (Dieckmann & O'Leary, 2017). If the Prosecutor fails to request such measures but the Chamber deems them essential for the defense, it can consult with

the Prosecutor and, if necessary, take action on its own initiative. Any evidence collected or preserved under these measures will be evaluated at trial (Funk, 2015).

The Prosecutor identifies a unique investigative opportunity that may not be available later for a trial. Upon the Prosecutor's notification, the Pre-Trial Chamber can take various measures to ensure the efficiency and integrity of proceedings, including protecting the rights of the defense. These measures may involve making recommendations, appointing experts, recording proceedings, and allowing counsel for the defense to participate (Clooney & Webb, 2021). If the Chamber believes measures are necessary to preserve evidence essential for the defense and the Prosecutor has not sought them, it can consult with the Prosecutor and, if justified, take measures independently. Any evidence collected or preserved is subject to admissibility rules at trial, with the Trial Chamber determining its weight (Donat-Cattin & Greer, 2021).

The Pre-Trial Chamber can issue a warrant of arrest if, upon the Prosecutor's application, it finds reasonable grounds to believe that a person has committed a crime within the Court's jurisdiction and that their arrest is necessary for trial, to prevent obstruction of justice, or to stop the commission of further related crimes. The application must include the person's name, the alleged crimes, a concise statement of facts, evidence supporting the allegations, and reasons for the arrest necessity (Gavrilă, 2023). Alternatively, the Prosecutor can request a summons for the person to appear if sufficient to ensure their presence. The custodial State, upon receiving a request for arrest and surrender, must promptly arrest the person and ensure their rights are respected, with the person having the right to apply for interim release pending surrender. The Pre-Trial Chamber can make recommendations on interim release requests, and once ordered to surrender, the person must be delivered to the Court without delay (Hall & Ryngaert, 2015).

The procedure for confirming charges before a trial, a hearing held by the Pre-Trial Chamber, attended by the Prosecutor, the accused, and their counsel. The Chamber may hold a hearing in the absence of the accused if waived right to be present or fled or cannot found, ensuring representation by counsel if necessary. Prior to the hearing, the accused must receive a copy of the charges and be informed of the evidence (Schabas, 2020). The Prosecutor can continue investigating and may amend or withdraw charges before the hearing, notifying the accused accordingly. During the hearing, the Prosecutor must present sufficient evidence for each charge, which the accused can challenge or object to. Based on the hearing, the Pre-Trial Chamber decides whether there is enough evidence to confirm the charges for trial or not, potentially adjourning for further evidence or investigation. If charges are not confirmed, the Prosecutor can request confirmation with additional evidence. After confirmation, the case moves to a Trial Chamber for further proceedings (McDermott, 2016).

The trial process mandates that the accused must be present in court. If the accused disrupts the trial, the Trial Chamber can remove them, ensuring they can still observe and communicate with their counsel via technology. This removal is a last resort, used only when other options fail and for the shortest time necessary. The presumption of innocence is emphasized, requiring the Prosecutor to prove guilt beyond a reasonable doubt (Gaskins, 2020). The rights of the accused include a public and fair hearing, prompt and detailed information on charges, adequate time for defense preparation, the right to be present and choose legal assistance, examination of witnesses, and access to interpreters, and protection against self-incrimination. The Prosecutor must disclose any evidence that may prove the accused's innocence or mitigate guilt. The Court ensures these provisions are upheld to maintain fairness and justice (Karnavas, 2018).

The Court prioritizes the protection of victims and witnesses, ensuring their safety, well-being, dignity, and privacy. Measures are taken considering factors such as age, gender, health, and the nature of the

crime, especially in cases involving sexual or gender violence or violence against children. The protections must not compromise the rights of the accused or a fair trial (Yang, 2023). The Court may hold private sessions or use special means to protect victims and witnesses, particularly in cases of sexual violence or involving children. Victims can present their views through legal representatives, and the Victims and Witnesses Unit provides advice on protective measures. The Prosecutor may withhold evidence that could endanger a witness, offering a summary instead, ensuring fairness to the accused (Jacovides, 2023). States can request measures for the protection of their officials and sensitive information.

The rules of evidence stipulate that witnesses must commit to truthfulness before testifying. Testimony is usually given in person, though video, audio, or written testimonies may be allowed under certain conditions, provided they do not infringe on the rights of the accused. Parties can submit relevant evidence, and the Court can request any evidence deemed necessary for truth determination (Richmond, 2021). The Court evaluates evidence based on its relevance, probative value, and potential prejudice to a fair trial, respecting confidentiality privileges. It takes judicial notice of widely known facts without requiring proof. Evidence obtained through rights violations is inadmissible if it undermines its reliability or the integrity of proceedings. The Court does not adjudicate the application of national law when assessing the relevance or admissibility of evidence collected by a State (Fallah, 2020).

The decision-making process of the Trial Chamber requires the presence of all judges throughout the trial, with the possibility of alternate judges if needed. Decisions are based solely on evidence and proceedings presented during the trial, adhering strictly to the charges. Judges strive for unanimity, but decisions may be made by majority if necessary, with deliberations kept confidential. The decision must be written, fully reasoned, and delivered in open court, including majority and minority views if there is no unanimity (Guilfoyle, 2019). Upon conviction, the Trial Chamber determines the sentence, considering trial evidence and relevant submissions. It may hold additional hearings for further evidence or submissions regarding sentencing if requested by the Prosecutor or the accused. Any additional representations under article 75 are also heard. The sentence is publicly pronounced, preferably in the accused's presence (Manley, Tehrani, & Rasiah, 2023).

The Prosecutor can appeal based on procedural errors, factual errors, or legal errors. Similarly, the convicted person, or the Prosecutor on their behalf, can appeal on these grounds, as well as any factor affecting the fairness or reliability of the decision (Hodgson, 2023). Sentences may be appealed if they are disproportionate to the crime. During the appeal process, a convicted person typically remains in custody unless the Trial Chamber orders otherwise, but must be released if their custody time exceeds the imposed sentence, unless the Prosecutor is also appealing (Courtney & Kaoutzanis, 2015). In cases of acquittal, the accused is released immediately, with possible exceptions for exceptional circumstances such as flight risk or the seriousness of the offense. Execution of decisions or sentences is suspended during the appeal period (Manley, 2016).

Table 5.. *Annotate the ICC Cases*

C. No.	Accused	Warrant/ summons (Initial Order)	Category of Crimes	State of defendant	State of Proceedings	Situation Name
1	Alfred Yekatom and Patrice-Edouard Ngaïssona	Warrant of arrest 2018	Crimes against humanity War crimes	In ICC custody	Trial	Central African Republic II

2	William Samoei Ruto and Joshua Arap Sang	Summons to appear 2012	Crimes against Humanity	Case closed 2016	Closed Terminate charges	Kenya
3	Mahamat Said Abdel Kani	Warrant of arrest 2019	Crimes against humanity War Crimes	In ICC custody	Trial	Central African Republic II
4	Joseph Kony	Warrant of arrest 2005	Crime Against humanity War crimes	At large	Pre-trial Pending the accused's arrest	Uganda
5	Dominic Ongwen	Warrant of arrest	Crime Against humanity War crimes	In ICC custody	Guilty sentenced	Uganda
6	Bosco Ntaganda	Warrant of arrest	Crimes against humanity War Crimes	In ICC custody	Guilty sentenced	Democratic Republic of the Congo
7	Mathieu Ngudjolo Chui	Warrant of arrest	Crimes against humanity War Crimes	Closed	Acquitted 2012	Democratic Republic of the Congo
8	Francis Kirimi Muthaura and Mohammed Hussein Ali	Summons to appear	Crimes against humanity	Closed	Charges withdraw due to insufficient evidence 2011	Kenya
9	Sylvestre Mudacumura	Warrant of arrest	War crimes	At large	Pre-trial Pending the accused's arrest	Democratic Republic of the Congo
10	Callixte Mbarushimana	Warrant of arrest	Crimes against humanity War Crimes	Case closed and released from ICC custody	Closed Declined to conform the charges	Democratic Republic of the Congo
11	Bemba, Mangenda and Kilolo	Warrant of arrest	Offence against the administration of justice	Case closed convicted	Convicted 2018	Central African Republic
12	Thomas Lubanga	Warrant of arrest	War crimes	Convicted	Sentence 2012	Democratic Republic of the Congo
13	Henry Kiprono Kosgey	Summons to appear	Crimes against humanity	Case closed 2012	Decline to confirm the charges	Kenya
14	Uhuru Muigai Kenyatta	Summons to appear	Crimes against humanity	Case closed	Charges withdrawn due to insufficient evidence	Kenya
15	Germain Katanga	Warrant of arrest	Crimes against humanity War crimes	Case closed By Convict	Sentence 2007	Democratic Republic of the Congo
16	Saleh Mohammed Jerbo Jamus	Summons to appear	War crimes	Case closed his passing 2013	Trial	Darfur, Sudan
17	Abdallah Banda	Summons to appear	War crimes	At large	Trial Pending the accused's arrest	Darfur, Sudan

18	Abdel Raheem Muhammad Hussein	Warrant of arrest	Crimes against humanity War crimes	At large	Pre-trial Pending the accused's arrest	Darfur, Sudan
19	Ahmad Harun	Warrant of arrest 2007	Crimes against humanity War crimes	At large	Pre-trial Pending the accused's arrest	Darfur, Sudan
20	Paul Gicheru and Philip Kipkoech Bett	Warrant of arrest 2015 Paul surrended 2020	Offence against the administration of justice	Case closed	Closed Terminating proceeding against Paul Gicheru his passing	Kenya
21	Simone Gbagbo	Warrant of arrest 2012	Crimes against humanity	Case closed	Closed Charge vacated	Côte d'Ivoire
22	Gbagbo and Blé Goudé	Warrant of arrest 2015	Crimes against humanity	Case closed	Closed Acquitted	Côte d'Ivoire
23	Saif Al-Islam Gaddafi	Warrant of arrest 2011	Crimes against humanity	At large	Pre-trial Pending the accused's arrest	Libya
24	Muammar Gaddafi and Abdullah Al-Senussi	Warrant of arrest 2011	Crimes against humanity	At large	Terminate due to death of Muammar Gaddafi Charge declared inadmissible against Abdullah Al-Senussi	Libya
25	Philip Kipkoech Bett	Warrant of arrest 2015	Offence against the administration of justice	At large	Pre-trial Pending the suspect's arrest	Kenya
26	Walter Osap Barasa	Warrant of arrest 2013	Offence against the administration of justice	At large	Pre-trial Pending the suspect's arrest	Kenya
27	Ali Muhammad Ali Abd-Al-Rahman	Warrant of arrest 2020	Crimes against humanity War crimes	In ICC custody	Trial	Darfur, Sudan
28	Al-Werfalli	Warrant of arrest 2017	War crimes	Case closed	Closed Due to accused death	Libya
29	Al-Tuhamy Mohamed Khaled	Warrant of arrest 2017	Crimes against humanity War crimes	Case closed	Closed Due to accused death	Libya
30	Ahmad Al Faqi Al Mahdi	Warrant of arrest	War crimes	Case closed convicted	Sentence Accused makes an admission of guilt at trial opening	Mali
31	Omar Hassan Ahmad Al Bashir	Warrant of arrest 2009	Crimes against humanity Genocide War crimes	At large	Pre-trial Pending the suspect's arrest	Darfur, Sudan

32	Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud	Warrant of arrest 2018	Crimes against humanity War crimes	In ICC custody	Trial	Mali
33	Abu Garda Bahr Idri	Summons to appear	War crimes	Case closed	Pre-trial Charges not confirm	Darfur, Sudan

INTERNATIONAL COOPERATION AND ENFORCEMENT

The Court has the authority to request cooperation from States Parties, transmitting requests via diplomatic or designated channels. Requests may also be sent through Interpol or regional organizations when suitable. Requests and supporting documents must be translated into the official language of the requested State or a working language of the Court. The requested State must keep requests confidential unless disclosure is necessary for execution (Hillebrecht & Straus, 2017). The Court can take measures to protect the safety and well-being of victims, witnesses, and their families. Non-party States can be invited to assist on an ad hoc basis, and failure to cooperate by any State may be reported to the Assembly of States Parties or the Security Council (Cormier, 2020). The Court may request information and assistance from intergovernmental organizations. If a State Party fails to comply with cooperation requests, the Court may refer the matter to the Assembly of States Parties or the Security Council.

In cases of urgency, the ICC can request the provisional arrest of a person before receiving the formal request for surrender and supporting documents. The request must include the person's description and probable location, a brief description of the alleged crimes with dates and locations if possible, and confirmation of an arrest warrant or conviction judgment against the person. If the requested state does not receive the surrender request and documents within specified time limits, the person can be released, but they may still consent to surrender earlier if allowed by the requested state's law. If released, the person can still be arrested and surrendered later if the request and documents are provided afterward (Klamberg, 2017).

The Court may request the arrest and surrender of individuals, which States Parties must comply with under their national laws. If a person challenges surrender based on the principle of ne bis in idem, the State must consult the Court to verify admissibility before proceeding. States must also authorize the transit of surrendered individuals through their territories, with specific conditions for air transport (Melander, Alfredsson, & Holmström, 2021). In cases of competing requests for extradition, priority is given to the Court's request if the case is deemed admissible. States must consider factors such as request dates, the interests of the requesting State, and the gravity of the conduct when deciding between surrendering to the Court or extraditing to another State. If the Court finds a case inadmissible, the requested State must inform the Court if subsequent extradition is refused (du Plessis, 2017).

States are obligated to provide various forms of assistance, such as identifying persons or locations, taking evidence, questioning individuals, serving documents, and protecting victims and witnesses. The ICC can also assure witnesses or experts that they won't be prosecuted for past actions (Kaluzhna & Shunevych, 2022). If a requested form of assistance is prohibited by a State's laws, consultations should be held to find alternative solutions. Requests for assistance must be executed according to the requested State's laws and procedures, and the ICC may directly execute requests in certain circumstances (Fraser & McGonigle Leyh, 2020). Additionally, maintaining confidentiality is important, except when it is necessary for the investigation and proceedings.

The enforcement of sentences of imprisonment by the ICC involves a process where a State, chosen from a list of willing States, is designated to carry out the sentence. The designated State must promptly confirm its acceptance of this designation (Vojta, 2018). The State of enforcement must notify the Court of any circumstances that could affect the terms of imprisonment, with at least 45 days' notice (Schabas, 2020). If the Court does not agree with these circumstances, it will proceed according to its rules. When choosing a State for enforcement, the Court considers principles of equitable distribution of responsibility, international standards for prisoner treatment, and the views of the sentenced person, their nationality, and other relevant factors. If no State is designated, the sentence is served in a facility provided by the host State, with costs covered by the Court (Aston, 2016).

The transfer of a sentenced person to another state or their application for transfer, with the sentence of imprisonment being binding and unmodifiable by states parties (Van der Wilt, 2016). The Court has sole authority over appeals and revisions. Enforcement of imprisonment must comply with international standards, and conditions must be consistent with those for similar offenders in the state of enforcement. Supervision of enforcement lies with the Court, ensuring compliance with international standards (Abu-Hagras, 2017). After completion of the sentence, a person may be transferred to another state, with costs borne by the Court if no state does so. The state of enforcement can extradite or surrender the person upon completion. States must enforce fines and forfeitures ordered by the Court, recovering the value if unable to comply, and transferring the proceeds to the Court (Birkett, 2019).

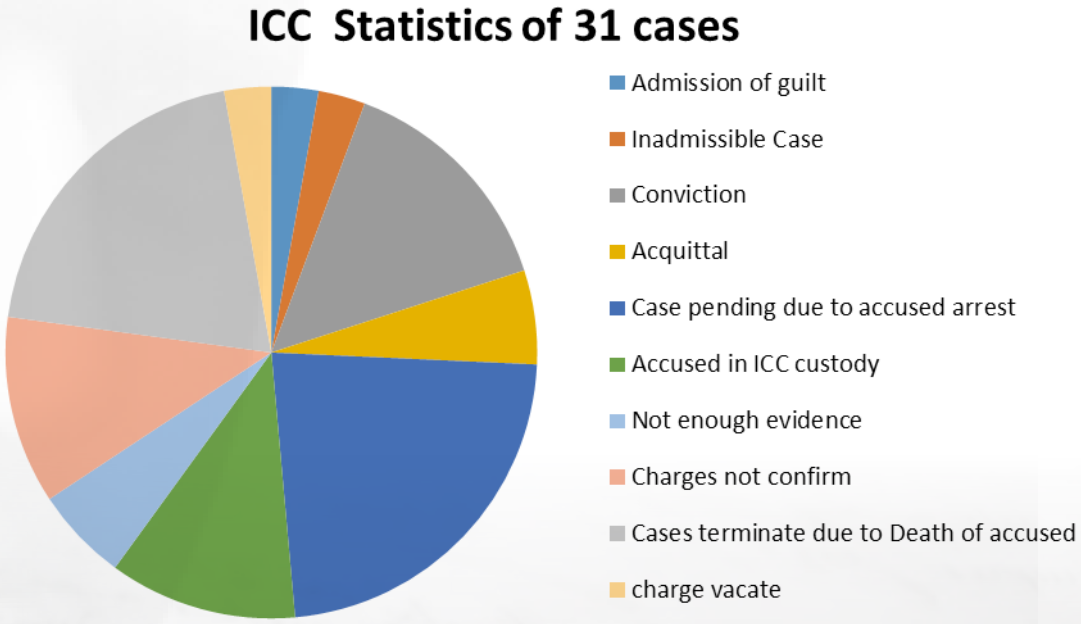

Figure 2. *Graphical Indication of ICC Cases – Current Situation*

The pie chart above visualizes the status of cases handled by the International Criminal Court (ICC). Out of 31 total cases, convictions account for 16.1%, while acquittals represent 6.5%. Cases pending due to the accused's arrest form the largest category at 25.8%, highlighting ongoing challenges in apprehending suspects. Cases terminated due to the death of the accused make up 22.6%, reflecting the impact of such occurrences on judicial proceedings. Additionally, charges not confirmed (12.9%), cases with insufficient evidence (6.5%), and those where charges were vacated or deemed inadmissible (each 3.2%) underline the complexities of legal processes at the ICC. A small percentage (3.2%) involves an admission of guilt, illustrating the rarity of such outcomes. This distribution underscores

the multifaceted nature of international justice and the varying resolutions of cases under the Rome Statute, which established the ICC.

ORIGINALITY/VALUE (CONCLUSION)

This research provides a novel and comprehensive analysis of the jurisdictional challenges faced by the ICC in prosecuting cybercrimes, contributing to the understanding of the Court's role in addressing these offenses in the digital age. The ICC is established as a permanent institution with the authority to prosecute individuals for the most egregious international crimes, as outlined in the Rome Statute. It serves as a complementary entity to national criminal jurisdictions. The ICC is authorized to operate on the territories of State Parties and, by special arrangement, on the territories of non-State Parties. Elements of Crimes mentioned in the Tables 1, 2, 3, and 4 of the Statute, and any amendments to these elements can be proposed by State Parties, the judges, or the Prosecutor and require a two-thirds majority vote by the Assembly of States Parties for adoption. A State joining the Statute accepts the Court's jurisdiction over genocide and other serious crimes.

A State Party can refer cases to the Prosecutor if it suspects that crimes within the Court's jurisdiction have been committed, requesting an investigation to determine whether specific individuals should be charged. The Prosecutor is tasked with assessing the seriousness of the information received and may seek additional information from various reliable sources, including States, the United Nations, and other organizations. Should the Prosecutor find a reasonable basis for an investigation, they must seek authorization from the Pre-Trial Chamber, presenting any collected evidence. Victims also have the right to present their views to the Pre-Trial Chamber, following the established Rules of Procedure and Evidence.

The Court must deem a case inadmissible if it is already being investigated or prosecuted by a State with jurisdiction unless that State is unwilling or unable to conduct genuine proceedings. Similarly, if a State with jurisdiction has investigated but decided not to prosecute, the Court cannot take over unless this decision stemmed from the State's unwillingness or inability to prosecute genuinely. A case is also inadmissible if the person has already been tried for the same conduct or if the case lacks sufficient gravity. Challenges to admissibility or jurisdiction can be made by an accused person, a State with jurisdiction, or a State required accepting jurisdiction under the Statute.

The principle of ne bis in idem ensures that no person is tried twice for the same conduct. Specifically, a person cannot be tried by the ICC for conduct that led to a conviction or acquittal by the Court, nor can they be tried by another court for the same crime if already tried by the ICC. Furthermore, if a person has been tried by another court for conduct proscribed under the Statute, they cannot be tried again by the ICC unless the previous trial was intended to shield the individual from responsibility or was not conducted impartially, failing to adhere to international due process standards.

The ICC Prosecutor is mandated to initiate an investigation if there is sufficient information suggesting a crime within the Court's jurisdiction has been committed, unless there is no reasonable basis to proceed. The decision to investigate considers the crime's gravity, the interests of victims, and the interests of justice. If the Prosecutor determines an investigation is not warranted solely based on these interests, they must inform the Pre-Trial Chamber. Upon concluding an investigation, if the Prosecutor finds insufficient legal or factual grounds to prosecute, or if prosecution is deemed not in the interests of justice considering factors like the perpetrator's age or role, the Pre-Trial Chamber and relevant referring entities must be notified. The Pre-Trial Chamber can review decisions not to

proceed, either upon request or on its initiative, particularly if decisions are based on the interests of justice. The Prosecutor can also reconsider decisions based on new facts or information.

From 2002 to 2024, the ICC has handled 31 cases, as illustrated in Table 5. This highlights the relatively limited number of cases brought before the ICC over more than two decades. In contrast, data from Figure 1 reveals that in 2021 alone, there were 6.9 billion crimes committed globally. This staggering number of crimes suggests that the ICC's capacity to investigate and prosecute is significantly constrained, particularly in the face of the sheer volume of global criminal activity. Given this data, it becomes evident that the ICC, with its current resources and mandate, is not equipped to handle the investigation and prosecution of widespread cybercrimes, which often involve complex, transnational elements and require substantial investigative resources. The vast discrepancy between the number of global crimes and the ICC's caseload underscores the limitations faced by the Court in addressing the full scope of international criminal activity.

The principle of complementarity prioritizes states over the ICC in prosecuting cases within their jurisdiction, as outlined in Articles 17 and 53 of the Rome Statute. This principle renders cases inadmissible before the ICC if a state with jurisdiction is already investigating them. The ICC's capacity to handle cybercrime cases is limited, as evidenced by the fact that 25.8% of cases are pending due to the accused's arrest. The ICC relies heavily on state cooperation for the participation of the accused. Consequently, states, when supportive of the ICC, are better positioned to try cybercrime cases themselves, possessing greater resources for investigation and prosecution. This cooperation highlights the importance of state involvement in effectively addressing cybercrime, leveraging their resources and judicial capabilities.

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