

International Criminal Court (ICC): An Analysis of its Successes and Failures and Challenges Faced by the ICC Tribunals for War Crimes

Minhas Majeed Khan,* and Abbas Majeed Khan Marwat**

Abstract

This paper evaluates the need for the establishment of International Criminal Court that was to be governed by the Rome Statute. The fundamental aim to establish the court at the end of Cold War was to help end impunity for the perpetrator of the most heinous crimes, such as, matters of genocide, crimes against humanity and war crimes. However, since its establishment, the tribunal established by the ICC is facing various challenges to deal with war crimes and in prosecuting individuals who have committed war crimes. The paper deliberates upon the successes and failures of the ICC and particularly highlights the war crimes committed in Darfur and Uganda. The examples of Sudan and Uganda have been discussed in detail and in doing so, an attempt has been made to assess whether this leading judicial body has been able to achieve its goal of deterring individuals from committing crimes and other brutalities or not. Towards the end of the study, recommendations are put forward for an unbiased and effective functioning of the court.

Keywords: International justice, War Crimes, Genocide, Human rights, Rome Statute, Human trafficking, Sudan, Uganda.

Introduction

The International Criminal Court (ICC) was established as a consequence of the Rome Statute in 1998 with a purpose of prosecution of persons who committed war crimes, crimes against humanity and genocide. The proceedings of the court, being the

* Dr. Minhas Majeed Khan, Assistant Professor, Department of I.R, University of Peshawar. Currently she is a Visiting Senior Fellow with the Institute of Strategic Studies, Islamabad for her Postdoctoral Research.

** Abbas Majeed Khan Marwat is a serving Police Officer and has done LLM at Lancaster University, UK, as a Chevening Scholar. He is posted as SSP, Peshawar.

first permanent international criminal court with its headquarter in The Hague, Netherlands can take place anywhere in the world. Before the establishment of ICC, criminal courts were functioning on adhoc basis. According to Luis Moreno-Ocampo,¹ the first chief and first Prosecutor of the ICC and an Argentinean lawyer, the Rome Statute guarantees that everybody has access to international justice and also ensures that victims get justice and criminal are punished for the criminal acts.

More than a decade has passed that this judicial body has been established with the main aim to prosecute individuals involved in heinous criminal acts. There are arguments about the effectiveness of the court; however, its success or failure can be evaluated by its track record of how successfully it has brought to justice those individuals who were responsible for the brutal acts. The ICC Statutes was promulgated on July 1, 2002 when it was ratified by sixty states as required by them. At present, the number of countries, which are state party to the Rome Statute of the International Criminal Court, is 122. This indicates that still seventy-one countries that are members of the United Nations, out of a total of 193 countries, are not a state party to the ICC.

The international body, the United Nations, also affirms the consensus among nations for the establishment of the court for prosecuting and punishing individual who are involved or responsible for genocide. According to Kofi Annan, former Secretary-General of the General Assembly, at the close of the World War II, many thought that the horrors and the atrocities committed during the War, could never happen again. It is very unfortunate to see the repetition of those atrocities in Cambodia, Bosnia and Herzegovina and Rwanda and that become reason for the support and consensus among nations to respond in the form of formation of the court.²

Under those circumstances, at the end of World War II, various groups floated the idea of an international criminal court. The Allied Powers were quick in their reaction after finding the crimes committed by their opponents, the Axis Powers. Consequently, the establishment of 'Agreement for the Prosecution and Punishment of the Major War Criminals of the European Axis' and the 'Charter of the International Military Tribunal (IMT took place.³

The difference between the two courts is that the International Court of Justice (ICJ) at Hague took up only cases between states while ignoring the crimes committed by persons. Hence, there was an absence of a legal platform for the punishment

of persons who committed the atrocious acts of genocide, war crimes and crimes against humanity and blatantly defied human rights. This has been witnessed in a number of cases over the last fifty years where the guilty persons have not been held responsible for these outrageous acts.

In addition, the International Criminal Court has filled many gaps and shortcomings present in the international legal system. The court gave hopes to many that the perpetrators would of war crimes or genocide may be brought to justice. The important aspect of the court is that it acts as a deterrent and increases the possibility of preventing as well as bringing a conflict to an end. As we discussed earlier that before the existence of the ICC, two adhoc international criminal tribunals were formed not only to end the violence but also to deal with and punish the persons involved in heinous criminal activities. However, those adhoc tribunals raised suspicions among various quarters about the absence of such tribunal in some other parts of the world for atrocities committed. The formation of a permanent body like ICC would have a positive impact and, therefore, there will be no doubt about its impartiality and effectiveness.⁴

Moreover, it will be more time consuming to setup of an adhoc tribunal which overall will have negative consequences beside the manifold increase in terms of the cost of investigation. Another disadvantage is that the Adhoc tribunals are limited in terms of time and place. There is unanimity among most of the nations on the issue of perpetrators involved in heinous crimes and bringing them to justice before the national bodies. However, it is observed that in some instances, these state bodies are often reluctant or incapable to act because of the lack of political will to prosecute their own citizens or in other cases the bodies may have collapsed. The ICC intends to deter and prevent such widespread abuse of human rights. The persons involved in criminal acts will find no accomplice once there is assurance of zero tolerance by the international community.⁵

The Successes of International Criminal Court

As discussed in the above paragraphs that the ICC is the forerunner in its commitment to justice for the victims and punishment for the criminals. There was some reason to be positive due to the functioning of the tribunals in the past. For example, in the decades of 1990s the tribunals of Rwanda and Yugoslavia set models for delivering justice. These cases proved what was impossible to imagine; that is to say – a former head of state

standing for trial until that time. As a result, this improved the outlook that a trans-nationally legal system could be established. These tribunals were credited to have convicted several criminals for crimes against humanity, war crimes and genocide.⁶

The reason to launch ICC is not only to penalize persons who have committed acts like genocide, crimes against humanity and war crimes but also to act as a deterrent to stop such crimes to take place in prospect. These factors will help in assessing the success of the court. Another argument presented by Birju Kotecha⁷ is that if the functioning of ICC is perceived in terms of statistical data based on trials and convictions, the ICC's calculable accomplishment is somewhat inconsistent. At present, there has been only eight investigations and six arrests so far. Furthermore, one trial has been completed with a conviction, though it is also subject to appeal. On the other hand, the counter argument by the former prosecutor Moreno - Ocampo is that the success of the court is clear from lack of international trials since it is due to enforcing domestic jurisdictions.⁸

Having said that, it is a fact that the ICC has laid the basis for an effective and successful judicial body. It is worth mentioning that despite the objections by some states, the Rome Statute was passed and the treaty was ratified which showed the willingness act against the individuals involved in such heinous acts. There is manifold increase in favour of and support for the ICC, particularly among the smaller nations of the world. Another important point is that, in order to increase its effectiveness on the global level, the court had to be complimentary and supplementary to the national courts, that as a result, will enable the states to prosecute the individuals on their own as well. In cases if a state is not able to or does not want to prosecute the perpetrators of heinous acts, the ICC serves as the last resort. Moreover, the court also checks and ensures the impartiality as well as any interference or any kind of delay on the part of the government, if a state is willing to take up a case. Since the ICC provides the means for the states in prosecuting their own criminals, it is considered as one of its successes.⁹

It is also pertinent to mention that the ICC through its institutional mechanism has ensured the states' cooperation with its criminal prosecution.¹⁰ The formation of ICC after 1 July 2002, its jurisdiction extends over all potential criminal cases that have occurred.¹¹

A new development in enhancing the role of ICC was the inclusion of terrorism to list of crimes and to reach upon a

consensus in defining terrorism in a review conference in 2009. The task of adding terrorism to the scope of ICC has yet to shape since the amendment for the inclusion of terrorism has yet to be finalised. With all its merits the court is yet to gain accomplishment in the actual prosecuting or sentencing of offenders. That does not undermine the role of the court as the structure has been laid down with flexibility to the need of the changing world that should ensure its success in the days to come.¹²

The Kampala Conference in 2010 was an encouraging initiative for the state parties as it showed the adaptability and flexibility of the state parties to the changing transnational scenario.¹³ During the conference, the UN Security Resolution 3314 was debated in detail. In the parameters of this resolution, aggression was included in a list of potential crimes that is within the jurisdiction of the ICC.¹⁴ It is expected that the recommendations of this conference are to be implemented in letter and spirit and can take effect as a treaty on January 1, 2017. The addition of aggression to the crimes has facilitated in extending ICC's jurisdiction and at the same time guaranteeing global peace.¹⁵

The failures of ICC

Though the ICC was a real glimmer of hope for numerous countries facing conflicts as it came into being after enough groundwork through the Rome statute. Nevertheless, it is seen by many states as a failure. The first reason for their disappointment was the inactivity of ICC till 2009 when it opened its first case. The first chief prosecutor, Luis Moreno-Ocampo who got recognition by revealing the corruption of Argentine in the Trial of the Juntas, but he has been generally critiqued for his continuous failure which has added to the reluctance of the states.

The ICC under the guidance of the adhoc tribunals, which were established previously, developed the concept of accountability. The claim to jurisdiction over human rights has been mandated to the Security Council. For the smooth functioning of ICC, plenty of resources have been allotted to it; unfortunately, it has failed to accomplish a high level of prosecution. In addition to this, there has also been a geographical disproportion in its prosecution. It has been observed that the court is particular about taking action against the violator of Human rights in Africa. Although, there is gross human rights violation on almost all continents, the emphasis of ICC's investigations is has remained

on Africa only. This has raised concerns in various quarters about the credibility of ICC and many term it as a tool of west. Also, there failure of ICC to level charges against those perpetrators having greater chances of being brought to trial is also criticised.¹⁶

In case of Omar al-Bashir, the President of Sudan, the ICC levelled charges against the incumbent head of state for committing crimes in Darfur. It is worth mentioning that President Bashir was able to evade the arrest and avoid prosecution due to a network of support behind him. He travelled to those countries, which are signatories of ICC, but the countries did not arrest a incumbent head of state.¹⁷ The inability of ICC to pressurize those states to arrest Omar has tarnished its standing. It is also important to note that there were at least ten other important human rights violators in Sudan who could have been easily apprehended and stood trial with a higher probability of conviction. This action would have sent a strong message to all other violators that the noose around their necks would get tightened any time.¹⁸

Similarly, taking a look at the example of Libya, it can be noted that the referrals against Gaddafi did more harm than good.¹⁹ The court has a mission to grant justice and it cannot be put into action without consideration of the limits as well as performance of the court. Therefore, the argument put forward by various quarters is that it is high time that ICC has to come up to the expectations and achieve the goal for which it has been established.

One of the stony reactions on the functioning of ICC is that it is focusing more on the crimes in African continent than on crimes committed by the armies of many Western countries in Middle East, Asia or Latin America. With regards to crime committed by individual, it is also to be noted that certain quarter in the Muslim as well as Western nations have raised their concerns about the prosecution of the US President George W. Bush along with Tony Blair after the incidents of 9/11 and their intervention in Afghanistan and Iraq. Therefore, it is an enormous task for the ICC to take action against the powerful individuals of the powerful states.

Challenges faced by the International Criminal Court for War Crimes

Like any other international body, ICC besides achieving success and in some case failures, has been facing certain challenges when dealing with war crimes. There are various spaces where the ICC has to recuperate and make its performance more effective. The ICC has been snowed under the problems of enforcement since its

inception. There have been attempts at rectifying this problem, however the efforts were futile. ICC will not be able to achieve its mission for dispensing justice for international crimes unless it develops mechanism to surmount the underlying problem of enforcement.²⁰

War Crimes in Darfur

In 2003, the conflict in Darfur in Sudan attracted the attention of international community when two rebel groups started fighting the government. The government was accused of being biased and oppressive to the non – Arab population. The non – Arab population reaction in the form of fighting back led to their ethnic cleansing by the government. In the conflict between the two, hundreds of thousands were killed. The situation in Darfur deteriorated and it was then referred by the Security Council to the ICC in March 2005 on the report of the International Commission of Inquiry on Darfur. The UN Security Council Resolution – 1564: 2004 had authorised this Commission.²¹

In April 2007, the former Minister of State for the Interior, Ahmed Haroun, and a Janjaweed leader, Ali Kushayb, were issued arrest warrants by ICC for crimes against humanity and war crimes.²² The Sudanese government strongly protested while claiming that the ICC had no jurisdiction over it.²³ Sudan is not a state party to the Rome Statute. Consequently, it claims it does not need to execute the arrest warrant.²⁴

The UNSC ordered a commission to investigate and report violation of human rights in Sudan's Darfur region in September 2004. The SC passed Resolution:1593 on March 31, 2005, which gave the ICC jurisdiction to probe and indict alleged crimes committed in the region after receiving the commission's report. This resolution bounds Sudan to cooperate with the ICC.²⁵ Subsequently, The ICC filed charges against Omar al-Bashir for committing war crimes and crimes against humanity on 14 July 2008.²⁶ The Prosecutor of the ICC claimed that Bashir had been the main architect of these atrocities.²⁷

The arrest warrant of Omar al-Bashir were issued by ICC for crimes against humanity and war crimes allegedly committed in Darfur on the fourth day of March in the year 2009.²⁸ The ICC has reiterated its stance that Sudan should conform to the arrest warrant. As the first ever incumbent head of the state, Bashir was charged by the court,²⁹ however, there has been wide condemnation of the arrest warrant by the Arab League and African Union.³⁰

Moreover, Bashir has been travelling internationally. He made visits to Qatar and Egypt. Both of the countries declined to obey the order of arrest issued by the ICC. Bashir also visited Chad in 2010. Chad, which is an ICC state party, but Chad also refused to arrest Bashir.³¹ There has been a call from Amnesty International to intercept Bashir's plane during travel as a consequence of which Bashir's plane are always escorted by Sudanese jet fighters.³² However, Omar al Bashir has not been still apprehended and brought to justice. This has serious repercussions for the ICC as it is casting doubts over the credibility of its enforcement.

The internal situation inside Sudan has been dicey which has also made the execution of arrest warrants not possible. Therefore, it is unlikely that Sudan will give in. Furthermore, the timing of the arrest warrant was also very crucial as it was issued during the time when the war against terrorism was at its peak. This further gave room to Sudan for crying foul.³³ The lack of cooperation on Sudan's part is posing a serious challenge to ICC in Darfur. As elucidated before, some states were also unwilling to enforce ICC's decision.³⁴ The ICC will prove to be a redundant organisation if there is no enforcement of ICC's decisions. Since the ICC lacks an independent enforcement agency, it principally depends on two factors to effectively implement its decisions.³⁵

Primarily, all member states are duty-bound to take *de rigueur* steps to implement the decisions of ICC under the Rome Statute.³⁶ This will enable the ICC to use the resources of its member states in enforcing its decisions. In condition of the state party failing to enforce ICC's decision, ICC may refer the matter to its governing body, the Assembly of member states. It will not be out of place to mention that the support from member states to the ICC is contingent largely upon the image of ICC as a trustworthy and highly regarded institution.³⁷ The ICC can build and maintain this image by being legally sound and impartial. The ICC's lack of ability to take in account any of these objectives has ensued ineffectual trials. UN Security Council Resolution 1593 has often been cited as a failure of enforcement of ICC's decision due to its political nature. The support for ICC's work kept on decreasing with passing time in the region with the prospects for negotiated settlement increasing. The Western states preferred political and diplomatic processes over judicial prosecutions. As a consequence of which, the governments have been reluctant to move forward on implementation of the due arrest warrants of the ICC.³⁸

The Security Council has also failed to force the member states of the UN to put into effect the ICC's prosecutions. What to

speak of pressing member states, when in June 2012 Ahmed Haroun, who became the Governor of the South Kordofan of Sudan, was assisted and provided a helicopter ride by the UN to attend a meeting to resolve a local conflict within his region.³⁹ The Governor is also issued arrest warrant by the ICC for war crimes and crimes against humanity in Darfur along with Bashir.

The lack of support for the ICC is due to political expediency.⁴⁰ On the other hand, because of politicisation of the referral, the ICC has been on a weak footing. This is tarnishing ICC's image that is harmful for the very reason that it was created.

War Crimes in Uganda

The individual responsible behind the war crimes was Joseph K. Kony, the leader of a guerrilla group Lord's Resistance Army (LRA) in Uganda that led to ICC action against war crimes there. The ICC has initiated investigations into the war crimes and crimes against humanity against the LRA insurgency that has been going on since 1987.⁴¹

According to a British Broadcasting report, the LRA is accused of numerous violations of human rights.⁴² The Government of Uganda referred the matter to the ICC in December 2003. Consequently, arrest warrants were issued for Joseph Kony, Raska Lukwiya, Okot Odhiambo, Dominic Ongwen, and Vincent Otti.⁴³ Joseph Kony is the commander and chairman of the LRA while Vincent Otti is the vice chairman and second-in-command of the LRA. Moreover, Raska Lukwiya is also a high-ranking commander of LRA whereas Okot Odhiambo is the deputy army commander. Dominic Ongwen is the commander of the Sinai Brigade of the mentioned group.⁴⁴

According to Hovil,⁴⁵ the method of investigation of ICC was also mired in controversy. Various quarters were of the view that the ICC started investigations at an unfavourable time. Furthermore, the investigation was not comprehensive and did not show the true picture. It also did not take into account the views of the victims. Moreover, this approach was seen to have jeopardised the link between the citizens and the state in war-affected areas.⁴⁶

The ICC got involved in the matter as the Ugandan Government had referred the matter to it. Since the investigation was initiated at the behest of the government, it was widely regarded as unpopular with the ICC being seen as a tool of government. Moreover, the investigation was being conducted lopsidedly and the assets of the states were widely used. There was also a high level of secrecy being maintained about the offices of

ICC in Uganda. Uganda also hosted a review conference of the ICC that further raised suspiciousness about the partiality of the ICC.

It is also to be noted that the government failed to protect its people from LRA, and later on initiated a counter insurgency program to deal with the rebels. This program aimed at relocating people to the protected villages it made. However, people argued it prevented them from reaching their land. People found outside the perimeters of the protected villages were seen as rebels and were killed. Seen in the context of human rights, this is also a grave violation of human rights to which the ICC turned a blind eye. The ICC was of the view that these acts were not grave enough to be tried under the statute which it operates. This was a partial approach by the ICC that was criticized by the locals from very start.⁴⁷

According to Tenove,⁴⁸ the ICC was envisioned to be a court of last resort. However, the Ugandan government referred the matter to the ICC on the first instance. Some experts argue that it was intended to label LRA as a terrorist organization so that their political demands are ignored. The ICC's involvement also hindered negotiations as it was in the middle of peace talks between the LRA and the Ugandan government when the arrest warrants were issued.⁴⁹ These are the challenges that the ICC has to address; yet ICC cannot be held responsible for these deficiencies.

According to Louise Parrot,⁵⁰ in order to maintain the dignity of the ICC, the prosecutorial discretion must be exercised cautiously. There should be a system of checks and balances that reviews it. If it is not exercised meticulously, the ICC will lose its dignity and will be seen as an institution that is driven by political motives. The ICC is passing through difficult times and it must ensure by all means that to grant justice and at the same time not jeopardising peace.

Conclusion

Despite the fact that the ICC is a prime judicial body that is ratified by 122 countries, it is still caught up in issues of universality and enforceability. It is also interesting to note that at present there are 71 countries that have not ratified the Rome Statute. These countries are shying away from ratifying it so that they do not fall under ICC's jurisdiction. This factor is causing a problem in administering justice across board, as the body will not have jurisdiction in the countries that have not ratified its statute.

Furthermore, the essence of justice is lost when it is not administered across board. All the cases currently being investigated by the ICC are for alleged commission of war crimes in Africa. International Criminal Law purports to give justice across board rather than selective justice. That is to say that the concentration of ICC's ongoing investigation is conspicuous in the African Continent that further cements the notion of partiality of the ICC.

As observed in the previous paragraphs, once a country becomes a state party to the ICC, it is incumbent upon the state to extend full cooperation to the Court. It is also to be noted that the ICC is dependent on the states, since it does not have an enforcing body of its own. However, it has been widely seen that despite being a state party, the states have failed to cooperate with the judicial body for one reason or other. Resultantly, this has a negative impact on the working of the court as it undermines its authority and impedes justice. Furthermore, the state parties must also help in executing the arrest warrant issued by the ICC. In this regard, in the year 2012, the state parties executed five of the eighteen arrest warrants issued. It shows the lack of cooperation from the state parties.

The Rome Statute envisages the participation of the victims in the court proceedings to deliver justice. This is aided by the Victims' contribution to impartial and efficient trials. In view of the fact that the International Criminal Justice System does not have a concept of jury, the victims are the only popular participants in the proceedings of the trial. This has been a stepping-stone towards delivering justice as the previous tribunals lacked such innovation. Another important development is that it also carries a significant importance under the statute of the ICC, as the court wants to sensitize itself with the gravity of situation by giving the victim the right to participate.

The Rome Statutes stipulates that the International Criminal Court is a court of last resort and it will intervene where national courts have failed to address international crimes. The Rome Statute comes into play when national courts fail to investigate crimes within its jurisdiction and, hence, prosecute their perpetrators. Nevertheless, it remains the primary responsibility of the state for prosecuting the perpetrator of these crimes. Generally speaking, there are occurrences when barbaric crimes are committed with impunity that does not fall in the scope of ICC's charter and the national courts do not take cognizance for multifarious reasons. All things considered, it is recommended that

the ICC statute should include reprehensible crimes like rape, sexual slavery, enforced prostitution, human trafficking and other forms of sexual violence as a distinct category of war crimes, given the fact that these crimes comprise grave breaches of laws and customs in an armed conflict.

It is suggested that the Office of the Prosecutor (OTP) must exercise its prosecutorial discretion prudently. Also, a system of checks and balances must be put in place to monitor it. In Addition to that, the OTP also encourages state referrals, even though, the Rome Statute stipulates that the ICC is the last resort. The ICC should also have a mechanism where it can also assess the actual reasons for state referrals. Given these points, the state referring violations on its own accord to the ICC should not be understood as comprehensive endorsement of international criminal justice. From time to time, some countries have referred cases in order to manipulate the judicial process for their own political reasons.

With this intention, a revamping and restructuring of the prosecutor's office is the need of the time. The success of ICC depends upon the successful prosecution and conviction of the individuals. However, looking at its performance, the Office of the Prosecutor has failed miserably in this regard. There needs to be critical assessment of the output of prosecutor's office. In support of this argument, there have been instances when, even the ICC judges have been critical of the prosecutor's office. Therefore, the prosecutor's office needs to have a team of dedicated, professional and competent individuals for successful prosecution and conviction of the individuals.

In a nut shell, What the ICC needs is to increase its deterrent potential in order to curb the serious crimes threatening the peace, security and well-being of individual and international community. As discussed above, there have been instances when the ICC has tried to deter the further commission of crimes, however, there is more to be done as it has not been successful in letter and spirit.

Notes and References

¹ Luis Moreno-Ocampo, “Keynote Address—Interdisciplinary Colloquium on Sexual Violence as International Crime: Interdisciplinary Approaches to Evidence”, *Law & Social Inquiry* 35, no. 4 (2010): 839-846.

² Kofi Anan, “What is purpose of establishing ICC?”. A speech presented at United Nations Diplomatic Conference of Plenipotentiaries on the establishment of an International Criminal Court. Italy, July, 1998.

³ Daniel Donovan, “International Criminal Court: Successes and failures of the past and goals for the future”. Available at: <http://www.internationalpolicydigest.org/2012/03/23/international-criminal-court-successes-and-failures-of-the-past-and-goals-for-the-future/>. (Accessed November 22, 2013).

⁴ United Nations Office of Legal Advisor (1998-1999), “Rome Statute of the International Criminal Court”. Available at: <http://legal.un.org/icc/general/overview.htm> (Accessed November 30, 2013)

⁵ Ibid

⁶ Richard Goldstone, David Tolbert, Hassan Jallow and Diane Orentlicher, Interview by Jennifer Trahan. Impact of the Yugoslav and Rwanda Tribunals: Lessons for the International Criminal Court, New York, November 30, 2009.

⁷ Birju Kotecha, “The ICC: What Counts as a success?”. Available at: <http://justiceinconflict.org/2013/09/13/the-icc-what-counts-as-a-success/>. (Accessed December 1, 2013)

⁸ Ibid.

⁹ Daniel Donovan, “International Criminal Court: Successes and failures of the past and goals for the future”, op. cit.

¹⁰ Beth A. Simmons and Allison Danner, “Credible commitments and the international criminal court”, *International Organization* 64, no. 02 (2010): 225-256.

¹¹ Rome Statute of the International Criminal Court, Article 12(2).

¹² Daniel Donovan, “International Criminal Court: Successes and failures of the past and goals for the future”, op. cit.

¹³ International Criminal Court, “ICC - Review Conference of the Rome Statute concludes in Kampala”, (2010).

¹⁴ Vijay Padbanaham, *From Rome to Kampala*, Council Special Report No.55 (New York: Council on Foreign Relations Press, 2010), 30.

¹⁵ Daniel Donovan, “International Criminal Court: Successes and failures of the past and goals for the future”, op. cit.

¹⁶ Ali Ezzatyar, “Fending off Failure: The International Criminal Court’s New Chief Prosecutor”, *The Moderate Voice* (June 27, 2012). Available at: <http://themoderatevoice.com/151042/fending-off-failure-the-international-criminal-courtsnew-chief-prosecutor/>.

¹⁷ Mohammed Nureldin Abdallah, “Kenyan court issues arrest order for Sudan's Bashir”. Available at:

<http://www.reuters.com/article/2011/11/28/us-kenya-bashir-icc-idUSTRE7AR0YA20111128>. (Accessed December 2, 2013).

¹⁸ Ali Ezzatyar, “Fending off Failure, op.cit.

¹⁹ Al Jazeera, “ICC issues Gaddafi arrest warrant”, (June 28, 2011).

²⁰ Maryam Jamshidi, “The enforcement gap: How the International Criminal Court failed in Darfur”. Available at:

http://www.aljazeera.com/indepth/opinion/2013/03/2013325_62714_599159.html (Accessed December 4, 2013).

²¹ UN Security Council Resolution 1564 (2004).

²² International Criminal Court, “Warrants of arrest for the Minister of State for Humanitarian Affairs of Sudan, and a leader of the Militia/Janjaweed”, (May 2, 2007).

²³ British Broadcasting Corporation, “Sudan defiant on Darfur suspects”, (February 27, 2007).

²⁴ Dapo Akande, “The Legal Nature of Security Council Referrals to the ICC and its Impact on Al Bashir's Immunities”, *Journal of International Criminal Justice* 7, no. 2 (2009): 333-352.

²⁵ British Broadcasting Corporation, “Sudan ICC charges concern Mbeki”, (July 27, 2008).

²⁶ International Criminal Court, “Al Bashir's warrant of arrest, ICC press conference-Youtube”, (March 2009).

²⁷ Mike Corder, “Omar al-Bashir charged by Hague for orchestrating Darfur genocide”. Available at: <http://www.csmonitor.com/From-the-news-wires/2010/0712/Omar-al-Bashir-charged-by-Hague-for-orchestrating-Darfur-genocide>. (Accessed December 5, 2013).

²⁸ International Criminal Court, “Al Bashir's warrant of arrest, ICC press conference-Youtube”, op.cit.

²⁹ British Broadcasting Corporation, “Arab leaders back 'wanted' Bashir”, (March 30, 2009).

³⁰ Ibid.

³¹ Xan Rice, “Chad refuses to arrest Omar al-Bashir on genocide charges”. Available at: <http://www.theguardian.com/world/2010/jul/22/chad-refuses-arrest-omar-al-bashir> (Accessed December 4, 2013).

³² Thomas Reuters Foundation. Available at: <http://www.trust.org/profile/?id=003D000001C4KJYIA3>. (Accessed December 4, 2013).

³³ Maryam Jamshidi, “The enforcement gap...”, op. cit.

³⁴ Göran Sluiter, “Obtaining Cooperation from Sudan—Where is the Law?.”, *Journal of International Criminal Justice* 6, no. 5 (2008): 871-884.

³⁵ Gwen P. Barnes, “International Criminal Court's Ineffective Enforcement Mechanisms: The Indictment of President Omar Al Bashir”, *The Fordham Int'l LJ* 34 (2010): 1584.

³⁶ Ibid.

³⁷ Ibid .

³⁸ Maryam Jamshidi, “The enforcement gap...”, op. cit.

³⁹ Cable News Network, “Can world court survive African Union's attack?”, (June 15, 2012).

⁴⁰ Michelle Nicols, “ICC complains of lack of cooperation, wants more U.N. support”. Available at: <http://www.reuters.com/article/2012/10/17/us-crime-un-icc-idUSBRE89G1M720121017>. (Accessed December 5, 2013).

⁴¹ Associated Press, “International Criminal Court gets Its first case”. (accessed December 15, 2013).

<http://www.globalpolicy.org/component/content/article/64/28451.html>.

⁴² British Broadcasting Corporation. "Profile: Uganda's LRA rebels" , (February 6, 2004).

⁴³ Ibid.

⁴⁴ The Hague Justice Portal, “Situation in Uganda”. Available at: <http://www.haguejusticeportal.net/index.php?id=6175>. (Accessed December 25, 2013).

⁴⁵ Lucy Hovil, “Challenging international justice: the initial years of the International Criminal Court’s intervention in Uganda”, *Stability: International Journal of Security and Development* 2, no. 1 (2013).

⁴⁶ Ibid.

⁴⁷ Ibid.

⁴⁸ Chris Tenove, “Uganda and the International Criminal Court: Debates and Developments”, *Africa Portal Backgrounder* 60 (2013).

⁴⁹ Ibid.

⁵⁰ Louise Parrott, “The role of the International Criminal Court in Uganda: Ensuring that the pursuit of justice does not come at the price of peace”, *Australian Journal of Peace Studies* 1, no. 1 (2006).