

St. Cloud State University

## The Repository at St. Cloud State

---

Culminating Projects in Criminal Justice

Department of Criminal Justice

---

6-2021

### The Examination of the Role and Challenges of the International Criminal Court in the Enforcement of laws regarding Crimes against Humanity and Genocide in Africa

reine andrea kouakou  
*St Cloud State University*

Follow this and additional works at: [https://repository.stcloudstate.edu/cjs\\_etds](https://repository.stcloudstate.edu/cjs_etds)

---

#### Recommended Citation

kouakou, reine andrea, "The Examination of the Role and Challenges of the International Criminal Court in the Enforcement of laws regarding Crimes against Humanity and Genocide in Africa" (2021). *Culminating Projects in Criminal Justice*. 14.

[https://repository.stcloudstate.edu/cjs\\_etds/14](https://repository.stcloudstate.edu/cjs_etds/14)

This Thesis is brought to you for free and open access by the Department of Criminal Justice at The Repository at St. Cloud State. It has been accepted for inclusion in Culminating Projects in Criminal Justice by an authorized administrator of The Repository at St. Cloud State. For more information, please contact [tdsteman@stcloudstate.edu](mailto:tdsteman@stcloudstate.edu).

**The examination of the role and challenges of the International Criminal Court in the  
enforcement of laws regarding crimes against humanity and genocide in Africa**

by

Reine Andrea Maryline Kouakou

A Thesis

Submitted to the Graduate Faculty of

St. Cloud State University

in Partial Fulfillment of the Requirements

for the Degree of

Master of Science

in Criminal Justice

June, 2021

Thesis Committee:

Dick Andzenge, Chairperson

Lee Gilbertson

Ettien Koffi

### **Abstract**

The goal of this study is to have a better understanding of the dynamics of the International Criminal Court, the challenges faced by this court in Africa, and the different assessments made by scholars related to the Court. This study responds to these two research questions: What are the challenges faced by the International Criminal Court specifically regarding Africa? Do the challenges outweigh the advantages of this court? The study is a qualitative exploratory research that is based on an inductive content analysis which explores the different perspectives on the International Criminal Court.

The target population for this study is all 21st Century literature (research articles and reports, government documents, and appropriate Internet resources) that address the 12 cases in Africa, and which present the critics' assessments (i.e., oppose, support, and neutral) of the International Criminal Court and its role in Africa. I use a data collection instrument and a filing system to code and categorize the different materials to identify textual similarities.

The findings show three classes and seventeen categories. Indeed, the first class "Support" has nine categories while the second class "Oppose" has five categories. The third and final class, "Neutral" has three categories. This research reveals that most of the authors (eighteen) included in my sample support the court while seventeen have a neutral attitude toward the International Criminal Court. Also, fifteen authors do not support the court.

*Keywords:* international criminal court, deterrence, challenges, crimes against humanity, genocide

### **Acknowledgement**

I would like to thank the members of the thesis committee, Drs. Dick Andzenge, Lee Gilbertson from the Criminal Justice Department, and Ettien Koffi from the English Department. Thank you for your guidance and knowledge, your useful comments, remarks, and engagement through the learning process of this master's thesis.

## Table of Contents

Chapter	Page
1. INTRODUCTION AND PROBLEM STATEMENT .....	8
Introduction.....	8
Problem Statement .....	8
Research Statements and Questions.....	12
Purpose of the Study .....	13
2. LITERATURE REVIEW .....	15
International Tribunals.....	15
International Military Tribunal of Nuremberg.....	15
International Military Tribunal for the Far East or Tokyo.....	20
International Criminal Tribunal for the former Yugoslavia .....	23
International Criminal Tribunal for Rwanda .....	27
International Residual Mechanism for Criminal Tribunals .....	30
ICC Cases.....	31
Georgia.....	32
Ukraine.....	32
Palestine .....	33
Honduras .....	34
Republic of Korea.....	35
Registered Vessels of Comoros, Greece, and Cambodia.....	35
Venezuela I .....	36

Chapter	Page
Venezuela II.....	37
Colombia.....	38
Bolivia.....	38
Republic of the Philippines.....	39
Iraq/UK.....	40
Bangladesh/Myanmar.....	40
Afghanistan.....	41
Democratic Republic of the Congo.....	42
Uganda.....	43
Darfur/Sudan.....	43
Central African Republic.....	44
Kenya.....	45
Libya.....	46
Cote d'Ivoire.....	47
Mali.....	47
Central African Republic II.....	48
Burundi.....	49
Nigeria.....	49
Guinea.....	50
Gabon.....	50
3. RESEARCH METHOD.....	52
Research Method and Delimiters.....	52

Chapter	Page
Research Populations & Sampling.....	52
Conceptualization .....	53
International Criminal Court.....	53
Genocide .....	53
Crimes against Humanity.....	54
Operationalization.....	55
Data Collection, Processing & Analysis.....	55
Recording Sheet .....	55
Filing System .....	56
4. ANALYSIS & FINDINGS .....	57
Class 1: Support .....	57
Category 1: Promotes anti-impunity.....	58
Category 2: Promotes deterrence .....	58
Category 3: Promotes domestic prosecutions .....	59
Category 4: Provides hope for victims and civilians .....	60
Category 5: Promotes respect for victims' rights .....	61
Category 6: Provides accountability .....	61
Category 7: Provides international justice and peace .....	62
Category 8: Is not biased.....	63
Category 9: Is not targeting only Africans.....	65
Class 2: Oppose.....	66
Category 1: Is selective.....	66

Chapter	Page
Category 2: Is targeting only Africans.....	68
Category 3: Is instrumentalized by states .....	68
Category 4: Is instrumentalized by UNSC.....	69
Category 5: Is endangering peace and reconciliation .....	70
Class 3: Neutral.....	70
Category 1: Divided opinions among African states .....	71
Category 2: Selectivity of States' support and cooperation.....	72
Category 3: Is not promoting deterrence .....	73
Study Summary.....	74
<b>5. LIMITATIONS, CONCLUSIONS AND RECOMMENDATIONS .....</b>	<b>76</b>
Limitations .....	76
Conclusions of the Study .....	76
Recommendations.....	76
References.....	82
Appendices.....	100
Appendix A: Data Collection Instrument .....	100
Appendix B: Filing System: Support.....	102
Appendix C: Filing System: Oppose .....	107
Appendix D: Neutral.....	110
Appendix E: Filing System Sorted on Recording Sheet Number.....	113
Appendix F: Filing System Sorted on Year of Original Publication .....	115

## **Chapter 1: INTRODUCTION AND PROBLEM STATEMENT**

### **Introduction**

International relations have for centuries been punctuated and dominated by conflicts. Crimes are being committed all over the world. These crimes constitute violations of human rights. It is noteworthy that the emergence of modern civilizations has resulted in the focus on the protection of human rights and human dignity. Lasting peace can only be achieved and consolidated if the perpetrators of human rights violations such as genocide, crimes against humanity, and torture can be held accountable to justice for their wrongdoing.

### **Problem Statement**

Human rights are protected by international legal instruments. But these rights can be the subject of violations through international crimes. International crimes may include genocide, war crimes, crimes against humanity, torture, and crime of aggression. These crimes that shock the international community are punished by domestic or international tribunals. Indeed, States have the right and the obligation to punish those responsible for crimes committed on their territory, or if the criminal or the victim is one of their citizens. To do so, states must ratify international legal instruments and transpose them into their domestic law.

Nevertheless, sometimes, governments do not punish those responsible for crimes against humanity and genocide for various reasons. Indeed, in many countries especially in Africa, individuals who have the responsibility to enforce the law put themselves and those who support them above the law and use it unfairly against their opponents, which is abuse of power (Tiemessen, 2016). Additionally, some states may not be able to enforce these crimes due to the consequences of conflict such as the destruction of judicial infrastructures.

The international community may intervene to protect human rights and punish people who commit these crimes. In fact, more than sixty million people, in particular civilians died during World War II (Browne-Marshall, 2011). The Nazis were responsible for the death of Jews, and other minorities such as gypsies, homosexuals, and ethnic Slavs. Therefore, at the end of World War II, the four principal allies, the United States, Great Britain, Soviet Union, and France set up an International Military Tribunal in the German city of Nuremberg to punish crimes committed by the Nazis (Joyner, 2005). This tribunal had jurisdiction to adjudicate crimes against humanity, war crimes, and crimes against peace (Joyner, 2005). The Nuremberg trial lasted eleven months. The outcome of the trial was that many Nazis were convicted and punished.

In 1946, Japanese defendants accused of war crimes during the World War II had been tried by the International Military Tribunal for the Far East, which was established by a Charter issued by U.S. Army General Douglas MacArthur. It is noteworthy that these tribunals remain an important part of international criminal law. Indeed, they established limits to state sovereignty and established the principle of individual responsibility (Browne-Marshall, 2011). Despite their important part, some critics argued that these tribunals have been “victors justice” because the victorious Allies were the judges, and the defendants were citizens of the countries that lost the war (Scott, 2004). Some of these criticisms have made some people uneasy about tribunals after conflicts.

The commission of war crimes committed during 1991-1993 in the former Yugoslavia prompted the United Nations Security Council (UNSC) to create an ad hoc tribunal, the International Criminal Tribunal for the Former Yugoslavia (ICTY) (Scott, 2004). This tribunal

was created through the Resolution 808 and could prosecute individuals for genocide, crimes against humanity, grave breaches of the Geneva Conventions, and violations of the laws and customs of war. This tribunal was the first international tribunal since the Nuremberg and Tokyo tribunals. Besides, the death of eight hundred thousand to one million Tutsis and “moderate” Hutus in Rwanda during April-June 1994 led the United Nations Security Council again to establish the International Criminal Tribunal for Rwanda (ICTR) to prosecute perpetrators of genocide, crimes against humanity, and violations of Article 3 common to the Geneva Conventions and of Additional Protocol II through Resolution 955 of November 8, 1994.

It is noteworthy that the case law of these two tribunals, the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda contribute to a better understanding of the definition of international crimes such as genocide, crimes against humanity, war crimes, and sexual violence. Also, they shape the contours of modes of liability, especially the joint-enterprise and command responsibility (Robinson & Macneil, 2016). Despite their benefits, these two tribunals are not permanent courts and have been created as a response to some conflicts. Therefore, their jurisdiction is limited to a territory and a special time.

One of the primary objectives of the United Nations (UN) is to secure the universal respect for human rights throughout the world. Also, the temporary nature of these international criminal tribunals and the gravity of the international crimes led to the establishment of the International Criminal Court (ICC) that is a permanent court. The International Criminal Court was created by the Rome Statute on July 17, 1998. Its aim is to bring to justice individuals responsible for “the most serious crimes of international concern” when states are unable or not

willing to do so (Joyner, 2005, p.156). These serious crimes may include genocide, crimes against humanity, war crimes, and crime of aggression. According to the Rome Statute of the International Criminal Court (2021u), crime of aggression refers to “the planning, preparation, initiation or execution, by a person in a position effectively to exercise control over or to direct the political or military action of a State, of an act of aggression which, by its character, gravity and scale, constitutes a manifest violation of the Charter of the United Nations”. Acts of aggression can include, among others, invasion, military occupation, and annexation using force, blockade by the ports or coasts.

This court is an independent international organization, which does not belong to the United Nations system. Its headquarters are in The Hague, the Netherlands. There are three ways of bringing cases to the court: by a state party referral, by the court’s prosecutor (*proprio motu*) or by the United Nations Security Council referral. Besides, it is noteworthy that the court may have a positive impact on justice and peace (Gegout, 2013). Indeed, the court may have a deterrent effect. The ICC’s jurisdiction increases the risk of prosecution for those who committed crimes over which the court has jurisdiction, and this can deter some individuals from committing crimes (Jo & Simmons, 2016). Also, its investigations and indictments also encourage member states to improve their capacity to reduce, detect, and prosecute international crimes (Jo & Simmons, 2016).

Despite these benefits, the International Criminal Court may face some problems that can undermine its benefits. Some critics argue that the International Criminal Court is instrumentalized at the international level and at the national level (Gegout, 2013; Tiemessen,

2016) and it may face challenges of credibility. Others argue that the Court is a selective justice regime focused on Africa (Ezennia, 2016).

That is why the topic for this study is the Examination of the role and challenges of the International Criminal Court in the enforcement of law regarding crimes against humanity and genocide in Africa.

### **Research Statements and Questions**

International criminal tribunals are temporary, created following a specific conflict and have limited jurisdiction with identified situation and time. On the contrary, the International Criminal Court is permanent in time with global jurisdiction and a broader scope. As I said above, the International Criminal Court is a court that despite its important contribution faces some challenges.

Therefore, this study explores the following research questions:

- What are the challenges faced by the International Criminal Court specifically regarding Africa?
- Do the challenges outweigh the advantages of this court?

My goal for this research is to review the creation of the International Criminal Court, explore its benefits, and challenges in the enforcement of laws related to crimes against humanity and genocide. This work is of great interest because it allows to have a better understanding of the functioning of the International Criminal Court and to describe the major problems encountered by this court in its mission.

### **Purpose of the Study**

A global decision made based on abstract notions of laws which are themselves based on values and practices that differ from one country to another often cannot correctly predict interpretations and application of those decisions. Though they were intended, this study assumes that there may be challenges in the administration of the court that may have been overlooked. Even if all aspects of this global court were considered in its conception, the interpretation and application of those aspects may be understood or interpreted differently by participants from different criminal justice systems, societies, or cultural contexts.

The creation of this court appears to replace various tribunals that have been established over the years to look at human rights abuses and other crimes relating to different conflicts. However, those tribunals have limited jurisdiction defined by particular conflicts and particular social, cultural, economic and political contexts. As a standing court, both the structure and administration of this court attempt to or anticipate a structural, operational, and sustained characteristics that may or not apply equally well to all subjects and all situations.

Based on the above, this study is an attempt to understand and to explore specific expectations and challenges of this court. This is not an evaluation but rather an exploratory study focusing on the goals of the court, the challenges of administering it, observations of scholars who have studied it and citizens of countries who benefited or not benefited from it and others who have cared to offer insights.

The goal of this study is to have a better understanding of the dynamics of this court. It is hoped that those who read the report of this study will best understand its mission and challenges. It is hoped further that individuals in the position to improve the working of this global institution might find this study helpful.

## **Chapter 2: LITERATURE REVIEW**

There are many and different efforts to discuss and to critique global efforts to provide justice in situations that have appealed powerfully to conscience of people in many countries. This is more evident when such events evoke outrage and even anger because or as a result of crimes such as genocide and other forms of degradation and human suffering. Such global sentiments result in collective efforts by regional governments and sometimes the United Nations to address the observed problem by judicial efforts to hold culprits accountable and to find relief or compensation for victims.

This review of literature examines current, historical, and intellectual responses or analyses of such global efforts. Understandably some of the responses expose moral, political, cultural, and sometimes religious sentiments. Some of the responses influence ongoing efforts while some of them influence future national, regional or global reactions to ongoing or new situations.

This review helps as I identify specific observations and critiques of the current focus, the International Criminal Court. Moreover, this review focuses not only on published works or research on past tribunals and international efforts to address human rights abuses by government officials or individuals in power but also on the International Criminal Court cases outside and inside Africa.

### **International Tribunals**

#### **International Military Tribunal of Nuremberg**

According to Eubank (1973), after the World War I, Germany was blamed for the war and destruction it brought. Indeed, under the terms of the Treaty of Versailles that concluded the

World War I in 1919, Germany lost territories in Europe and its colonies. Also, Eubank (1973) says that the German's army was reduced to 100,000 men and officers and the navy was limited. Marsico (2015) posits that in addition to the loss of territories, Germany was also ordered to pay roughly \$33 billion in reparation to other countries for the damage they had suffered. Moreover in 1933, Adolf Hitler became the Chancellor of Germany. Langley (2017) declares that for Hitler, the Jews betrayed Germany by pushing government leaders to sign the Treaty of Versailles. Marsico (2015) observes that World War II was a global war that lasted from 1939 to 1945 and involved more than 60 countries and killed around 60 million people. This war involved the Allies (France, United States, Great Britain, Soviet Union) and the Axis (Italy, Germany, and Japan). Furthermore, Marsico (2015) states that Adolf Hitler, leader of the Nazi Party violated the Treaty of Versailles by rearming Germany and signed the Tripartite Act with Italy and Japan on September 27, 1940, to further his ambitions of world domination. According to Langley (2017), World War II began in Europe on September 1, 1939, with the invasion of Poland by Germany led by Hitler and subsequent declarations of war on Germany by the United Kingdom and France on September 3rd. Also, the war between the Soviet Union and Germany began on June 22, 1941, with the German invasion of the Soviet Union. Besides, Langley (2017) says that the war in the Pacific began on December 7, 1941, when Japan attacked the American naval base at Pearl Harbor and other American, Dutch, and British military installations throughout Asia. Langley (2017) declares that the bombing killed 2,403 Americans and damaged 21 ships and 347 aircraft. This attack by Japan compelled the United States to enter the war. Therefore, Langley (2017) states that on December 8, 1941, the United States declared war on

Japan and four days later declared war on Germany, joining Great Britain, France, and the Soviet Union to form the Allied forces.

According to Langley (2017), on August 6, 1945, the United States dropped atomic bombs on Hiroshima and three days later Nagasaki. On May 7, 1945, Germany surrendered to the Allies. Also, after the bombing of its two cities, Japan surrendered to the Allies on August 14, 1945, ending World War II. Equally important is the fact that Marsico (2015) states that shortly after Adolf Hitler came to power as chancellor of Germany in 1933, he and his Nazi government began implementing policies designed to persecute German-Jewish people and other perceived enemies of the Nazi state. In fact, according to Destexhe (1995), Hitler and the Nazis believe that the Jews were the source of all Germany's ills. Hitler and his Nazi government established concentration camps. These concentration camps were created in 1933 under the Nazi regime to detain their enemies for forced labor.

But, Marsico (2015) says that later, these concentration camps became the site of the mass killing of Jews. Indeed, as we said above Hitler blamed the Jews. In her book, Marsico (2015) reports the statement of Hitler, "We shall regain our health only by eliminating the Jews" (p.34). Therefore, according to Marsico (2015), Nazis imprisoned Jews, Roman Catholics, people with disabilities, homosexuals, and those who do not share Nazi ideologies. Also, in 1942, Hitler ordered the killing of Jewish prisoners in these concentration camps, often using poisonous gas. Marsico (2015) declares that the genocide of Jews is called the Holocaust.

Following World War II, on August 8, 1945, the four major Allied powers therefore signed the 1945 London Agreement, which established the International Military Tribunal of Nuremberg that was the first international criminal tribunal to prosecute war criminals.

According to Weiss and Daws (2018), the London Charter of the International Military Tribunal of Nuremberg called for the just and prompt trial and punishment of the major war criminals of the European Axis. Also, the Charter of the International Military Tribunal of Nuremberg was annexed to the 1945 London Agreement and outlined the tribunal's constitution, functions, and jurisdiction.

The tribunal was composed of judges from the United States, France, Great Britain, and the Soviet Union. Furthermore, Weiss and Daws (2018) say that the Nuremberg Charter provided that the Nuremberg tribunal had jurisdiction to adjudicate crimes against peace, war crimes, and crimes against humanity. Also, according to Office of The Historian (n.d), the tribunal was given the authority to find any individual guilty of the commission of the crimes cited above and to declare any group or organization to be criminal. Moreover, the Nuremberg Trial lasted from November 1945 to October 1946. Office of The Historian (n.d) declares that the prosecutors indicted 24 Nazi leaders but 22 were tried because one of the accused committed suicide while in custody and the other stood down due to illness.

It is noteworthy that Nazi leader Adolf Hitler was not indicted because he had committed suicide in April 1945, in the final days before Germany's surrender. According to The Avalon Project (2008), the tribunal also indicted Nazi organizations, including The Leadership Corps of the Nazi Party; The Gestapo; The S.D.; The S.S.; The S.A.; The Reich Cabinet, and The General Staff and High Command of the German Armed Forces. Furthermore, on October 1, 1946, the tribunal announced its verdicts. Three of the 22 defendants were acquitted; nineteen were found guilty. Also, History (2019a) declares that three were sentenced to life in prison, four to prison terms from ten to 20 years, and 12 to death. In addition to these convictions, The Avalon Project

(2008) states that the Nuremberg Tribunal also concluded that three of the seven indicted Nazi organizations were “criminal organizations” under the terms of the Charter: the Leadership Corps of the Nazi party; Gestapo and SD, and SS unit.

According to Schabas (2012), some critics said that the Nuremberg trial constituted ‘victors’ justice’. Indeed, the first issue related to the Nuremberg trial is related to the respect of due process rights. Schabas (2012) argues that there is a lingering sense that due process rights generally recognized as minimum guarantees were not fully respected. The second issue concerns the selectivity of the tribunal. In fact, only Nazi perpetrators have been tried even though, there was much evidence that some of the crimes over which the tribunal had jurisdiction had also been perpetrated by the Allied powers. For example, Schabas (2012) declares that “war crimes and other atrocities perpetrated by the victors, ranging from the Katyn’ massacre to the dreadful bombings of cities in Germany and Japan, including the nuclear destruction of Hiroshima and Nagasaki, and the more quotidian breaches of international law associated with brutal armed combat such as murdering prisoners or the issuance of orders not to take them, remained unpunished to this day” (p.74).

Despite these critics, I think that the Nuremberg tribunal represents an enormous achievement in international law. It is the first international tribunal where those who violate human rights and international law were held responsible for their crimes. Also, the tribunal of Nuremberg is an important part of international criminal law because it establishes limits to state sovereignty and government officials’ immunity. Indeed, Head of States and government officials have long enjoyed a special status characterized by immunities.

However, this immunity for political leaders is no longer absolute. In fact, the immunity

of Head of States at the international level is denied by the Charter of the tribunal of Nuremberg through the article 7 when international crimes such as war crimes, crimes against humanity, and crimes against peace are committed. Therefore, political leaders are no longer protected by their immunities and must therefore be responsible for their actions. As a result, anyone who has committed acts constituting crimes against humanity, war crimes, and crimes against peace may be held criminally responsible.

Moreover, the Charter of the Tribunal and the tribunal rulings recognize some principles of international law that were later affirmed in a resolution by the United Nations General Assembly Resolution 95(1) on December 11, 1946. For example, Principle II states that criminal liability exists under international law even if domestic law does not punish an act which is an international crime. Also, Principle III affirms the denial of immunity for individuals who acted as Head of State or Government officials.

### **International Military for the Far East or Tokyo**

Langley (2017) states that Japan had few natural resources such as oil and metal ores. Therefore, according to Marsico (2015), it wanted to colonize countries that could provide these resources. Moreover, Langley (2017) declares that in 1931, Japanese government officials not only decided to invade Manchuria in northeastern China, a region rich in iron and coal, but also to sign the Tripartite Act with Germany and Italy on September 27, 1940. Also, Langley (2017) observes that Japan seized the cities of Beijing and Shanghai, starting the Second-Sino Japanese War. According to Facing History and Ourselves (2018), in these two cities, Chinese civilians and prisoners of war were killed in a savage campaign of rape, torture, and mass murder by Japanese forces.

Also, Facing History and Ourselves (2018) in an article says that similar acts were committed by Japanese forces in other areas of China and during their wartime occupation of Manila in the Philippines. Besides, Natarajan (2011) argues that Japan was accused by the Allied leaders of murdering civilians torturing prisoners and utilizing the bubonic plague against Chinese cities during World War II. It is noteworthy that according to Facing History and Ourselves (2018), at their final wartime conference, held in July 1945 at Potsdam, Germany, Allied leaders agreed on a policy for post-war Japan and stated their intention to hold the Japanese responsible for war crimes, including inhuman treatment of Allied prisoners.

Moreover, Langley (2017) says that the United States stopped the trade with Japan to punish it for its aggressive actions toward China. Therefore, according to Langley (2017), Japanese government officials decided to bomb Pearl Harbor, a US naval base in Hawaii on December 7, 1941. The next day, the US congress declared war on Japan on December 8, 1941. Also, Langley (2017) asserts that Germany and Italy declared war on the United States on December 11 to support Japan.

Langley (2017) posits that following the Potsdam conference by the Allies from July 17-August 2, 1945, and the refusal of Japan to surrender on its terms, the United States dropped the first atomic bombs on the Japanese cities of Hiroshima, on August 6, 1945, and Nagasaki, on August 9. After the United States dropped two atomic bombs on Japan in August 1945, the Emperor of Japan issued a statement of unconditional surrender. Besides, according to the Charter of the International Military Tribunal for the Far East (United Nations, 1946), the Soviet Union, the United Kingdom and the United States agreed to a basic structure for the occupation of Japan and General MacArthur, as Supreme Commander of the Allied Powers, was granted

authority to “implement the Term of Surrender which requires the meting out of stern justice to war criminals...”. Therefore, Minear (1971) states that on January 19, 1946, acting pursuant to this authority, General MacArthur issued a decree and established the Tokyo charter that called for the “just and prompt trial and punishment of the major war criminals in the Far East” (p. 21).

According to the Charter of the tribunal (United Nations, 1946), it had jurisdiction over crimes against peace, conventional war crimes, and crimes against humanity. The Tokyo war crimes trial took place from May 1946 to November 1948. In fact, Minear (1971) observes that twenty-eight high-ranking political and military leaders were indicted. It is noteworthy that according to Minear (1971), all defendants pleaded guilty except one defendant who had been dismissed from the court to undergo psychiatric treatment. Furthermore, Minear (1971) asserts that on November 4, 1948, the defendants had been found guilty. Also, Minear (1971) declares that seven were sentenced to death by hanging, sixteen to life imprisonment, two to lesser terms, two had died during the trials and one had been found insane.

As the International Military Tribunal of Nuremberg, the International Military Tribunal for the Far East is considered as unfair. According to Schabas (2012), during the Tadic trial, the International Criminal Tribunal for the former Yugoslavia said: [t]he Nuremberg and Tokyo trials have been characterized as ‘victor’s justice’ because only the vanquished were charged with violations of international humanitarian law and the defendants were prosecuted and punished for crimes expressly defined in an instrument adopted by the victors at the conclusion of the war. Therefore, the International Tribunal is distinct from its closest precedents (p.76).

Despite these critics, it should be noted that the Tribunal for the Far East has had a profound impact on international criminal jurisprudence. Thanks to this tribunal, all individuals can see their responsibility engaged before international tribunals.

### **International Military for the former Yugoslavia**

According to the International Criminal Tribunal for the former Yugoslavia (2021), the former Yugoslavia was made up of six republics: Bosnia and Herzegovina, Croatia, Macedonia, Montenegro, Serbia, and Slovenia. According to Agence France Presse (AFP) (2017), following the death of its leader Josip Broz Tito in 1980, the Yugoslav federation found itself in crisis with bickering between ethnic groups and surging nationalist sentiments. Moreover, the International Criminal Tribunal for the former Yugoslavia (2021) said that in 1991, Slovenia and Croatia blamed Serbia of unjustly dominating Yugoslavia's government, military, and finances while Serbia in turn accused the two republics of Slovenia and Croatia of separatism. Slovenia and Croatia republics started advocating a greater decentralization of Yugoslavia's government. Therefore, according to the Agence France Press (2017), on June 25, 1991, the parliaments of Slovenia and Croatia declared independence. Besides, the International Criminal Tribunal for the former Yugoslavia (2021) observed that in March 1992, in a referendum boycotted by Bosnian Serbs, more than 60 percent of Bosnian citizens voted for independence. But, in April 1992, war broke out between Bosnia's Muslims and Croats, who were on one side, and Bosnian Serbs on the other side.

Moreover, according to the International Criminal Tribunal for the former Yugoslavia (2021), led by Radovan Karadzic and armed by the JNA, the Serbs declared that territories under their control are Serb republics in Bosnia and Herzegovina. Soon after, Bosnian Croats soon

followed, rejecting the authority of the Bosnian government, and declaring their own republic with the backing of Croatia. Equally important is the fact that Destexhe (1995) assumes that every party involved in the conflict has committed war crimes, but the Serbs committed these crimes on a far greater scale than the Bosnians or Croatians. It is noteworthy that Browne-Marshall (2011) declares that the conflict led to the deaths of hundreds of thousands of people and the displacement of millions.

Besides, Agence France Press (2017) states that Bosnian Serb troops immediately started a siege of the Bosnian capital of Sarajevo which would last 44 months. According to Agence France Press (2017), in August 1992, the first images of skeletal prisoners in camps showed to the world the campaign of ethnic cleansing by Serb forces. Furthermore, the International Criminal Tribunal for the former Yugoslavia declared that on July 1995, Bosnian Serb forces took over the UN-protected "safe area" of Srebrenica in eastern Bosnia and massacred up to 8,000 Muslim men and boys. Mojzes (2011) argues that the massacre was carried out under the supreme command of General Mladic who was present when military and paramilitaries from Republika Srpska and Serbia killed 8,000 Bosnians.

Moreover, the Chapter VII of the Charter of the United Nations (United Nations, 1945) allows the Security Council to "determine the existence of any threat to the peace, breach of the peace, or act of aggression" and to make recommendations or to use non-military and military action to maintain or restore international peace and security. Measures not involving the use of armed force may include sanctions and the creation of international criminal tribunals. Therefore, the United Nations Security Council created the International Criminal Tribunal for the former Yugoslavia based on chapter VII of the United Nations Charter in 1993.

Indeed, according to the United Nations Security Council Resolution 808 (United Nations, 1993) of February 22, 1993, violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991 were a threat to peace and international security. Besides, Weiss and Daws (2018) argue that the tribunal's goal was to try those responsible for such violations and had jurisdiction to try grave breaches of the Geneva Conventions, violations of the laws and customs of war, genocide, and crimes against humanity committed on the territory of former Yugoslavia since 1991. It is noteworthy that Mojzes (2011) asserts that the tribunal has tried major political and military leaders such as Radislav Krstic, Ratko Mladic, Slobodan Milosevic, and Tihomir Blaskic.

The tribunal faced some difficulties when it operated. Indeed, according to Mojzes (2011), states influenced the work of the tribunal through their allies on the UN Security Council. In fact, Mojzes (2011) posits that according to the tribunal's former chief prosecutor Carla Del Ponte, before the arrest of Mladic and Karadzic, Russian government officials protected these two accused and threatened to cut off the tribunal's funding if the prosecutor still tries to indict them. Furthermore, states were not willing to cooperate. Therefore, Weiss and Daws (2018) argue that to intensify states' cooperation, the US has threatened to withhold financial assistance to both Serbia and Croatia. It is noteworthy that after these threats, most senior officials from Serbia and Croatia surrendered.

In addition to the lack of cooperation from states, Mojzes (2011) says that the tribunal was accused of being partial. Indeed, according to Mojzes (2011), even though the former chief prosecutor Carla Del Ponte received requests that she should investigate charges which NATO (North Atlantic Treaty Organization) attacked civilian targets and committed war crimes against

Serbia in 1999, she did not investigate NATO because it would be difficult to her to investigate the local Balkan war crimes without NATO members' cooperation.

Another failure of the tribunal is the fact that victims of international crimes could not receive reparation. According to the statute of the tribunal, reparations must be sought before national courts. Therefore, according to the tribunal, the Registrar of the International Criminal Tribunal for the former Yugoslavia transmits to the competent authorities of the States concerned the judgment by which the accused is found guilty of a crime which has caused damage to a victim. The victim must then take legal action before the national court to obtain compensation.

Despite its flaws, I think that the trials at the International Criminal Tribunal for the former Yugoslavia proved that nobody is above the law. Indeed, some high-level perpetrators were tried and convicted by the ICTY such as Radislav Krstic and Tihomic Blaskic. Also, the tribunal indicted and tried the former President of Yugoslavia and Serbia, Slobodan Milosevic. Even though, he died before the end of the trial, his trial was significant because he was the first Head of state to face charges of genocide, crimes against humanity, graves breaches of the Geneva Conventions, and violations of the laws and customs of war for Kosovo, Croatia, and Bosnia. Moreover, through its rulings, the tribunal established that genocide had taken place in Srebrenica. Indeed, through the conviction of General Radislav Krstic and Bosnian Serb army leaders Vujadin Popovic and Ljubisa Beara for genocide, the tribunal established that genocide had been committed at Srebrenica. Also, the tribunal developed the contours of the definition of crimes against humanity. Indeed, in the Tadic case, judges ruled that crimes against humanity were not limited to an armed conflict. This decision reflects the contemporary legal and social context.

## **International Criminal Tribunal for Rwanda**

According to History (2019b), Rwanda became a Belgium trusteeship under the League of Nations mandate after World War I, along with neighboring Burundi. History (2019b) states that Rwanda's population was constituted of Hutu, Tutsi, and Twa. According to Destexhe (1995), during Rwanda's colonial period, Belgians favored the minority Tutsis over the Hutus, this led to tensions between these two groups. Furthermore, Destexhe (1995) states that a Hutu revolution in 1959 forced many Tutsis to flee the country and 20, 000 Tutsis have been killed.

History (2019b) argues that by early 1961, victorious Hutus had forced Rwanda's Tutsi monarch into exile and declared the country a republic. Even though, Belgium officially granted independence to Rwanda in July 1962, ethnically violence continued in the years following independence. Moreover, Destexhe (1995) declares that in 1973, Major General Juvenal Habyarimana who was a moderate Hutu became the President of Rwanda and founded a new political party, the National Revolutionary Movement for Development (NRMD). Also, Destexhe (1995) says that in addition to this party, a political party, the Coalition for the Defence of the Republic (CDR) was also created. Furthermore, Destexhe (1995) states that with the complicity of the army and government officials, those two political groups created militias (the Interhamawe and Impuzamugambi) and manipulated the media to carry out the genocide (Destexhe, 1995).

Moreover, History (2019b) declares that in 1990, when forces of the Rwandese Patriotic Front (RPF), consisting mostly of Tutsi refugees, invaded Rwanda from Uganda, government officials accused Tutsi residents of being RPF accomplices and arrested hundreds of them. Therefore, Destexhe (1995) posits that between 1990 and 1993, government officials directed

massacres of the Tutsi such as the massacre of 300 Tutsis in the region of Bugesera. Besides, Wilson (2011) states that despite the signature of the Arusha agreements in Tanzania by Habyarimana on August 4, 1993, that called for the creation of a transition government that would include the RPF, many Hutus believed that the President has betrayed them by signing these agreements. Also, according to Destexhe (1995), on April 6, 1994, a plane carrying Habyarimana and Burundi's president Cyprien Ntaryamira was shot down over the capital city of Kigali.

Reid (2019) argues that within an hour of the plane crash, the Presidential Guard, together with members of the Rwandan armed forces (FAR) and Hutu militia groups known as the Interahamwe ("Those Who Attack Together") and Impuzamugambi ("Those Who Have the Same Goal"), set up roadblocks and barricades and began slaughtering Tutsis and moderate Hutus with impunity. Furthermore, Destexhe (1995) states that the ethnic classification system of identity cards introduced by the Belgians enabled the Hutu regime to carry out the genocide of Tutsis. Also, according to Destexhe (1995), radio broadcasts especially Radio Mille Collines played an important role in the genocide when Radio Mille Collines announced "By 5 May, the country must be completely cleansed of Tutsis" (p.viii). According to Wilson (2011), about 10 percent of the total Rwandan population and 85 percent of the Tutsi population were murdered. On 18 July 1994, the RPF entered Kigali and a new government took power.

According to Crowe (2014), for three months, from April 1994 to June 1994, 500,000-800,000 Tutsi tribesmen and 50,000 Hutus were killed by Hutu genocidaires in Rwanda. So, through Resolution 955 (1994) of November 8, 1994, the United Nations Security Council (United Nations, 1994) ruled that acts of genocide and other serious violations of international

humanitarian law committed in Rwanda were a threat to international peace and security. Therefore, it created the International Criminal Tribunal for Rwanda to prosecute individuals responsible for such acts or violations. Moreover, Weiss and Daws (2018) say that this tribunal located in Arusha, Tanzania had the authority to prosecute and adjudicate charges of genocide, crimes against humanity, and breaches of Common Article 3 of the Geneva Conventions committed in the territory of Rwanda and in the territory of neighboring States between January 1, 1994, and December 31, 1994.

As the International Criminal Tribunal for the former Yugoslavia, Wilson (2011) says that the ICTR failed in some points. Indeed, according to the statute of the tribunal for Rwanda, victims can only participate in the proceedings as witnesses and must be sought reparation before Rwanda courts. Besides, according to Wilson (2011), even though, the tribunal has tried Hutu extremists for genocide, it did not try high-ranking RPF figures. Indeed, Wilson (2011) states that a 1994 investigation authorized by the United Nations High Commissioner for Refugees found evidence that RPF forces had killed “thirty thousand civilians in reprisals between May and December 1994” (p.31). Also, Wilson (2011) observes that Amnesty International estimated that between April and July 1994, RPF soldiers killed up to “sixty thousand Rwandan villagers” (p.44).

Despite the critics and its failures, the International Criminal Tribunal for Rwanda had an important impact on the development and application of international criminal law. Indeed, the tribunal’s rulings are an indisputable proof of the implementation of individual responsibility. For example, the conviction of Mr. Jean Kambanda, head of government to life imprisonment translated a strong and dissuasive message and a warning to political leaders. Furthermore,

alongside this historic trial, the International Criminal Tribunal for Rwanda issued another judgment which set a precedent in the implementation of individual criminal responsibility. In fact, Jean-Paul Akayesu case, the chamber concluded that rape was an integral part of the process of destruction particularly directed against Tutsi women and having specifically contributed to their annihilation.

In addition to these two trials, another trial in the Genocide Media Case has also left its mark on international case law. By sentencing Ferdinand Nahimana, Hassan Ngeze and Jean-Bosco Barayagwiza to prison for incitement to genocide, the tribunal has sent an important message regarding the use of the media as a weapon of mass destruction. Besides, this tribunal encouraged the growth of domestic legislations and prosecutions.

### **International Residual Mechanism for Criminal Tribunals**

According to Wilson (2011), the ad hoc tribunals were temporary tribunals that prosecuted only the most senior-level military and political leaders. Therefore, cases involving mid- and low-level perpetrators were transferred to domestic courts for prosecution. Besides, Weiss and Daws (2018) argue that to accelerate the completion strategy of the two international criminal tribunals, on December 22, 2010, the United Nations Security Council established a residual mechanism common to both tribunals that has the jurisdiction, rights, obligations, and essential functions of these two tribunals.

Furthermore, Weiss and Daws (2018) observe that the International Criminal Tribunal for Rwanda completed its mandate and closed on December 31, 2015, while the International Criminal Tribunal for the former Yugoslavia also completed its mandate and closed at the end of 2017. Moreover, Weiss and Daws (2018) say that related to the International Criminal Tribunal

for the former Yugoslavia, 161 people were indicted, nineteen defendants were acquitted, and thirty-two defendants were convicted while the International Criminal Tribunal for Rwanda indicted ninety-three people, sentenced sixty-one, and acquitted fourteen.

Moreover, according to the Statute of the Mechanism (International Residual Mechanism for Criminal Tribunals, 2010), the mechanism is responsible for the search and prosecution of the last fugitives; trials for contempt and false testimony; review trials; appeal procedures; monitoring of cases referred to national courts; protection of victims and witnesses; supervision of the execution of sentences handed down by the International criminal tribunals; assistance to national courts, and the conservation and management of archives. It is noteworthy that according to Soufi and Maurice (2015), the mechanism has concurrent jurisdiction with national courts for international crimes, but it has primacy of jurisdiction. It should be noted that the mechanism follows the same operating mode as the ad hoc tribunals.

In conclusion, the literature review of some international tribunals that have jurisdiction over crimes against humanity and genocide allows me to show that these tribunals have been created for a specific conflict and for a period. These tribunals are not permanent tribunals. The need for a permanent court led to the creation of the International Criminal Court in 1998. This court has jurisdiction over crimes against humanity, genocide, war crimes, and the crime of aggression. There have thus far been 30 cases before the Court, with some cases having more than one suspect.

### **ICC Cases**

The second part of the review is based on a brief review of the International Criminal Court's cases outside and inside Africa.

## **Georgia**

According to Human Rights Watch (2016a), Georgia is a state party that ratified the Rome Statute in 2003. The International Federation of Human Rights (FIDH) (2018a) posits that in January 2016, the Pre-Trial Chamber allowed the Prosecutor to open an investigation *proprio motu* in the situation in Georgia. Besides, according to the International Criminal Court (2021k), the alleged crimes committed in the context of an international armed conflict between July 1, and October 10, 2008, in and around South Ossetia include crimes against humanity and war crimes. The International Federation for Human Rights (2018a) asserts that these crimes have been allegedly committed by the three main parties to the conflict, the Georgian armed forces, the South Ossetian *de facto* forces, and the Russian armed forces. It is noteworthy that until today, the Prosecutor still investigates the Georgia case and have not requested yet arrest warrants for anyone.

## **Ukraine**

Corder (2020) asserts that Ukraine is not a Statute Party to the Rome Statute but has accepted its jurisdiction. Indeed, on April 17, 2014, the Government of Ukraine lodged a declaration under article 12(3) of the Statute accepting the jurisdiction of the Court over alleged crimes committed on its territory from November 21, 2013, to February 22, 2014. Therefore, according to the ICC Preliminary Examinations 2020 Report (International Criminal Court, 2020), the preliminary examination of the situation in Ukraine was announced on April 25, 2014. Also, Corder (2020) says that Ukraine extends the jurisdiction of the court to cover conflicts in Crimea and eastern Ukraine. That is why the Office of the Prosecutor in his 2020 Preliminary Examinations Report (International Criminal Court, 2020) says that the preliminary examination

of the situation in Ukraine include alleged crimes occurring after February 20, 2014, in Crimea and eastern Ukraine. According to Corder (2020), the preliminary examination is based on allegations of crimes starting with the brutal crackdown on pro-European Union protests in 2013-14, the Russian annexation of Crimea in 2014 and the drawn-out conflict in eastern Ukraine.

Reuters (2020a) posits that the Office of the Prosecutor completed its preliminary examination of the situation in Ukraine in December 2020 and concluded that there was a reasonable basis to believe that war crimes and crimes against humanity were committed. According to Reuters (2020a), the prosecutor says that she would seek permission to open a formal investigation into whether war crimes and crimes against humanity were committed during the Ukraine conflict.

## **Palestine**

According to the International Criminal Court (2021v), on January 1, 2015, the Government of Palestine through a declaration accepted the jurisdiction of the International Criminal Court (ICC) over alleged crimes committed in the occupied Palestinian territory, including East Jerusalem, since June 13, 2014. On January 2, 2015, the Government of Palestine ratified the Rome Statute. Moreover, on January 16, 2015, the Prosecutor announced the opening of a preliminary examination into the situation in Palestine to establish whether the criteria for opening an investigation are met. Also, Human Rights Watch (2021b) posits that in May 2018, Palestine had formally asked the ICC prosecution to initiate an investigation into allegations of serious crimes committed on its territory and affirmed its commitment to cooperate with the court. On December 20, 2019, Amnesty International (2019b) asserts that the Office of the

Prosecutor's concluded its preliminary examination into the situation in Palestine by saying that war crimes have been committed in the Occupied Palestinian Territories. However, Amnesty International (2019b) argues that before proceeding with an investigation, the Prosecutor has sought confirmation from the ICC's judges that the territory over which the Court may exercise its jurisdiction comprises the West Bank, including East Jerusalem, and the Gaza Strip.

Besides, International Federation for Human Rights (2021) declares that on February 5, 2021, Pre-Trial Chamber I decided that the Court's territorial jurisdiction in the situation in Palestine extends to the territories occupied by Israel since 1967, namely Gaza and the West Bank, including East Jerusalem. Therefore, on March 3<sup>rd</sup>, 2021, the Prosecutor announced the opening of her investigation into the Situation in Palestine. It is noteworthy that according to Amnesty International (2021), the alleged crimes refer to war crimes allegedly committed by Israel, including settlement-related activities, and crimes against humanity, such as persecution, deportation and transfer, as well as the crime of apartheid against Palestinian civilians in the West Bank, including East Jerusalem; crimes allegedly committed by Israel and Palestinian armed groups during the 2014 assault on Gaza and during the Great March of Return protests in 2018-19; and allegations against the Palestinian authorities in the West Bank of torture and support for attacks against Israeli citizens.

## **Honduras**

Honduras ratified the Rome Statute on July 1, 2002. According to the International Criminal Court (2021m), the OTP started the preliminary examination of the situation in Honduras on 18 November 2010. It is noteworthy that the preliminary examination focused on alleged crimes against humanity committed in the aftermath of the coup d'état of June 28, 2009,

and January 27. In a Statement made by the Prosecutor on the conclusion of the preliminary examination into the situation in Honduras, the Prosecutor (International Criminal Court, 2015) said that human rights violations perpetrated between June 28, 2009, and January 27, 2010, in Honduras do not constitute crimes against humanity within the meaning of the Statute, and thus do not fall within the scope of the crimes the ICC has the mandate to investigate.

### **Republic of Korea**

The Republic of Korea deposited its instrument of accession to the Rome Statute on November 13, 2002. According to the International Criminal Court press release (International Criminal Court, 2010), the Office of the Prosecutor has received communications alleging that North Korean forces committed war crimes in the territory of the Republic of Korea. Therefore, the Prosecutor of the ICC at this time, Luis Moreno-Ocampo has opened a preliminary examination on December 6, 2010, to evaluate if some incidents constitute war crimes under the jurisdiction of the Court. He assessed whether two incidents in the Yellow Sea constituted war crimes under the jurisdiction of the Court: the sinking of the RoK warship the Cheonan on March 26, 2010, and the shelling of the RoK island of Yeonpyeong on November 23, 2010. But, in a statement made on June 23, 2014, the Prosecutor (International Criminal Court, 2014a) concluded that the statutory requirements to seek authorization to initiate an investigation of the situation in the Republic of Korea had not been satisfied. Therefore, he concluded the preliminary examination. Nevertheless, the Prosecutor (International Criminal Court, 2014a) stressed that if any future acts are committed on the Korean peninsula that appear to fall under the court jurisdiction, he can conduct a preliminary examination.

### **Registered Vessels of Comoros, Greece and Cambodia**

The Union of the Comoros ratified the Rome Statute on August 18, 2006. On May 14, 2013, the authorities of the Union of the Comoros sent a referral to the Office of the Prosecutor, in relation to an alleged attack that killed 9 victims and severely injured dozens of people on May 31, 2010, allegedly by the Israeli Defence Forces on the Humanitarian Aid Flotilla bound for the Gaza strip. On May 14, 2013, the Prosecutor announced the opening of a preliminary examination on the referred situation, as is done as a matter of policy in instances of referrals from States parties. In a statement, the Prosecutor (International Criminal Court, 2014b) said that he decided to open a preliminary examination because there was a reasonable basis to believe that war crimes under the jurisdiction of the court were committed on one of the vessels, the Mavi Marmara, when Israeli Defense Forces intercepted the "Gaza Freedom Flotilla" on May 31, 2010. However, after carefully assessing all relevant considerations, he has concluded that these incidents would not be of "sufficient gravity" to justify further action by the ICC.

### **Venezuela I**

Venezuela ratified the Rome Statute on June 7, 2000. According to the International Criminal Court (2021x), on February 8, 2018, the Office of the Prosecutor announced the preliminary examination of the situation in Venezuela based on crimes allegedly committed by State security forces in the context of demonstrations and related political unrest since at least April 2017. Furthermore, International Federation for Human Rights (2018b) asserts that the ICC Prosecutor noted that the demonstrations led to excessive use of force by State security forces to disperse demonstrators and arrested and detained thousands of people and that many of those detained have been allegedly subjected to serious abuse and ill-treatment. It was also reported that some groups of protestors injured or killed some members of security forces.

Moreover, Human Rights Watch (2020c) argues that on December 14, 2020, the Office of the Prosecutor has concluded that there is a reasonable basis to believe that since at least April 2017, civilian authorities, members of the armed forces and pro-government individuals have committed acts of crimes against humanity. It is noteworthy that the Office of the Prosecutor in the 2020 Preliminary Examinations (International Criminal Court, 2020) asserts that the Office will conclude the preliminary examination to determine whether there is a reasonable basis to proceed during the first half of 2021.

## **Venezuela II**

Reuters (2020b) posits that Venezuela asked the prosecutor of the International Criminal Court on February 13, 2020, to investigate U.S. officials for what it called crimes against humanity resulting from sanctions imposed by Washington. The Office of the Prosecutor in the 2020 Preliminary Examinations (International Criminal Court, 2020) asserts that the referral made by Venezuela reveal that crimes against humanity have been committed in Venezuela because of the application of unilateral coercive measures imposed on Venezuela by the US Government for promoting a regime change. According to the referral, the consequences of these measures have contributed to significant increases in mortality in children and adults, and negatively affected a range of other human rights, including the right to food, to medical care and to education, thus causing, in turn, a migration phenomenon from the country.

It is noteworthy that Reuters (2020b) argues that the United States has sanctioned Venezuela because it recognizes opposition politician Juan Guaido as Venezuela's legitimate interim leader. Besides, in his Preliminary examinations report, the Prosecutor (International Criminal Court, 2020) said that the OTP will conclude its assessment of subject matter

jurisdiction in the first half of 2021 to determine whether there is a basis to proceed to an admissibility assessment.

## **Colombia**

Colombia ratified the Rome Statute on August 5, 2002. The International Criminal Court (2021f) asserts that the OTP has received numerous communications in relation to the situation in Colombia and decided to conduct preliminary examination in June 2004. According to the Coalition for the International Criminal Court (2021e), the ICC prosecutor opened a preliminary examination to assess whether to formally investigate alleged crimes against humanity and war crimes by government, rebel, and paramilitary forces, considering the progress of peace talks in Colombia. In its Preliminary examination report, the OTP (International Criminal Court, 2020) says that alleged crimes against humanity and war crimes have been committed in the context of the armed conflict between and among government forces, paramilitary armed groups and rebel armed groups since November 1, 2002. Also, the Coalition for the International Criminal Court (2021e) posits that these crimes had been committed by the Colombian army, guerrilla actors like FARC and the National Liberation Army, and paramilitary groups.

In its Preliminary examinations report, the OTP (International Criminal Court, 2020) argues that it has continued to assess the progress of domestic proceedings related to the commission of crimes that form the potential cases that would form the focus of its preliminary examination. Also, it will identify the indicators that would allow the Office to conclude whether it should either proceed to open an investigation or defer to national accountability processes as a consequence of relevant and genuine domestic proceedings.

## **Bolivia**

The Plurinational State of Bolivia deposited its instrument of ratification of the Rome Statute on June 27, 2002. U.S.News (2020) says that Bolivia referred to the chief prosecutor of the International Criminal Court the situation in Bolivia on September 4, 2020. Therefore, the Prosecutor decided to conduct a preliminary examination on September 9, 2020. U.S.News (2020) asserts that the preliminary examination was focused on alleged crimes against humanity committed by the former President Evo Morales and his supporters by setting up roadblocks aimed at preventing people from accessing vital health care during the coronavirus pandemic. Besides, in its Preliminary Examinations report, the OTP (International Criminal Court, 2020) posits that the Office will conclude its assessment of subject matter jurisdiction in the first half of 2021 to determine whether there is a basis to proceed to an admissibility assessment.

### **Republic of the Philippines**

According to the International Criminal Court (2021t), The Philippines ratified the Rome Statute on August 30, 2011. But the Coalition for the International Criminal Court (2021k) says that The Philippines withdrew from the Rome Statute on March 17, 2018, and the withdrawal became effective on March 17, 2019. Moreover, Amnesty International (2019c) asserts that in February 2018, the International Criminal Court launched a preliminary examination of the crimes allegedly committed by the Philippine government in the context of the war on drugs since at least July 1, 2016.

Human Rights Watch (2019d) declares that President Rodrigo Duterte has instigated the police and incited police-backed vigilantes to summarily execute suspected drug dealers and users. Also, Amnesty International (2019c) asserts that President Duterte has also suggested that the murder of people suspected of using and selling drugs, whether committed by police or

civilian actors, will go unpunished. Besides, the preliminary examination is at the admissibility stage that includes complementarity and gravity. It is noteworthy that the OTP (International Criminal Court, 2020) in its Preliminary examinations report declares that the Office will reach a decision on whether to seek authorization to open an investigation into the situation in the Philippines in the first half of 2021.

### **Iraq/UK**

The Coalition for the International Criminal Court (2021g) says that Iraq is not a state party to the Rome Statute, but the United Kingdom ratified the Rome Statute. That is why the Court has jurisdiction over alleged crimes committed by United Kingdom troops following the 2003 invasion of Iraq. Moreover, according to Amnesty International (2020a), on May 13, 2014, the Prosecutor launched a preliminary examination focused on alleged war crimes committed by UK nationals in the context of the Iraq conflict from 2003 to 2008. Human Rights Watch (2020b) declares that on December 9, 2020, the Prosecutor announced that her office will not pursue a formal investigation into alleged war crimes by United Kingdom nationals in the context of the Iraq conflict and occupation between 2003 and 2008. Indeed, Bowcott (2020) asserts that even though the Prosecutor found that the UK armed forces committed war crimes in Iraq in 2003 and that victims had been deprived of justice by the UK authorities, she concluded there was no proof that UK authorities had blocked any investigations or were unwilling to pursue them.

### **Bangladesh/Myanmar**

Myanmar did not ratify the Rome Statute but according to Human Rights Watch (2019c), the court has jurisdiction over crimes committed in Bangladesh, a state party that ratified the Rome Statute in 2010. The OTP (International Criminal Court, 2019) in its 2019 preliminary

examinations report declared that on September 18, 2018, the Prosecutor announced the opening of a preliminary examination. The preliminary examination focused on alleged deportation of the Rohingya people from Myanmar to Bangladesh committed by Myanmar nationals, as well as potentially other crimes under the Rome Statute. Also, International Federation for Human Rights (2019b) asserts that in addition to the crime of deportation, the crime of persecution on grounds of ethnicity and/or religion has also been committed. Additional crimes that may fall under the Court's jurisdiction may be identified during the Prosecutor's investigation. On July 4, 2019, the Prosecutor requested the Pre-trial Chamber to authorize an investigation on alleged crimes against humanity, such as deportation, other inhumane acts and persecution, committed against the civilian Rohingya population in Myanmar in the period since 9 October 2016.

Besides, the Coalition for the International Criminal Court (2021b) posits that on July 4, 2019, the Prosecutor requested the Pre-trial chamber to authorize an investigation on alleged crimes against humanity, such as deportation, other inhumane acts and persecution, committed against the civilian Rohingya population in Myanmar in the period since October 9, 2016. Therefore, UN News (2019) declares that on November 14, 2019, judges of the International Criminal Court authorized an investigation into alleged crimes against humanity, namely deportation, which have forced between 600,000 and one million Rohingya refugees out of Myanmar, into neighboring Bangladesh since 2016.

### **Afghanistan**

The International Criminal Court (2021a) asserts that Afghanistan deposited its instrument of accession to the Rome Statute on February 10, 2003. The prosecutor decided to conduct a preliminary examination of the situation in Afghanistan in 2007. The International

Criminal Court (2021a) declares that the preliminary examination focused on crimes against humanity and war crimes allegedly committed by members of Afghan and foreign government forces, including the CIA and American forces, and by anti-government forces such as the Taliban. According to the Coalition for the International Criminal Court (2021a), the prosecutor filed on November 20, 2017, a request to open an investigation before the judges of the Pre-Trial Chamber, which was rejected on April 12, 2019. Indeed, International Federation for Human Rights (2020) posits that the Pre-trial Chamber had found that the beginning of an investigation would not be in the interests of justice. Therefore, the prosecutor filed an appeal to challenge this decision of the Pre-trial chamber. Besides, International Federation for Human Rights (2020) declares that the Appeals Chamber found that the Pre-Trial Chamber's rejection of the investigation failed to consider the gravity of crimes and the interests of victims. Therefore, the Appeals Chamber of the Court unanimously decided to authorize an investigation into war crimes and crimes against humanity allegedly committed on the territory of Afghanistan.

### **Democratic Republic of the Congo**

The International Criminal Court (2021i) asserts that The Democratic Republic of the Congo (DRC) ratified the Rome Statute in April 2002 and in April 2004, the government referred the situation in its territory since July 1, 2002, to the ICC. Amnesty International (2004) posits that after conducting a preliminary examination, the prosecutor announced in June 2004 that the office will begin investigations of crimes against humanity and war crimes committed during the conflict in the Democratic Republic of Congo (DRC) specifically in eastern DRC, in the Ituri region and the North and South Kivu Provinces, since July 1, 2002.

Human Rights Watch (2020a) argues that the ICC's Office of the Prosecutor (OTP) has publicly brought cases against six individuals, all former rebel leaders such as Thomas Lubanga, Germain Katanga, Bosco Ntaganda, Callixte Mbarushimana, Sylvestre Mudacumura, and Mathieu Ngudjolo Chui. Moreover, according to the International Criminal Court (2021i), the Pre-Trial Chamber did not confirm the charges against Callixte Mbarushimana; Mathieu Ngudjolo Chui has been acquitted by the trial chamber, and Sylvestre Mudacumura is still at large. Apart from these three cases, the other cases resulted in important achievements, including the historic convictions of Thomas Lubanga, Germain Katanga, and Bosco Ntaganda for war crimes and crimes against humanity.

### **Uganda**

According to the International Criminal Court (2021w), in June 2002, Uganda ratified the Rome Statute. Mills (2012) says that on December 16, 2003, Uganda referred the situation in its territory. Moreover, the Prosecutor opened investigations on July 2004 based on alleged war crimes and crimes against humanity committed in the context of an armed conflict predominantly between the Lord's Resistance Army (LRA) and the national authorities, mainly in Northern Uganda, since July 1, 2002. Furthermore, Mills (2012) asserts that the investigation conducted by the Prosecutor resulted in the issuance of arrest warrants for Lord's Resistance Army leader Joseph Kony and four of his top lieutenants: Vincen Otti, Dominic Ongwen, Raska Lukwiya, Okot Odhiambo. The cases against Raska Lukwiya and Okot Odhiambo were terminated when their death was confirmed. The court sentenced Dominic Ongwen while Vincent Otti and Joseph Kony are still at large.

### **Darfur/Sudan**

Amnesty International (2020c) asserts that Sudan did not ratify the Rome Statute, but the court has jurisdiction over crimes committed in Sudan because of the referral of the United Nations Security Council of the situation in March 2005. Moreover, the Coalition for the International Criminal Court (2021m) said that the Prosecutor opened the investigations that were focused on allegations of genocide, war crimes and crimes against humanity committed in Darfur, Sudan, since July 1, 2002, by Sudanese officials, Janjaweed militia and rebel forces. Besides, the International Criminal Court (2021h) posits that the investigation has led to several cases against former President Omar Al-Bashir, Ahmad Harun, Abdallah Banda, Abu Garda, Abdel Raheem Muhammad Hussein, Ali Muhammad Ali Abd-Al-Rahman. It is noteworthy that according to the International Criminal Court (2021h), Omar Al-Bashir, Ahmad Harun, Abdallah Banda, and Abdel Raheem Muhammad Hussein are still at large while Ali Muhammad Ali Abd-Al-Rahman is in the court's custody and the opening of the confirmation of charges hearing is scheduled provisionally for May 24, 2021. The Pre-Trial Chamber did not confirm the charges against Abu Garda.

### **Central African Republic**

According to the International Criminal Court (2021c), Central African Republic ratified the Rome Statute on October 3, 2001, and referred the situation in its territory on December 2004 to the ICC. Moreover, Mills (2012) argues that in 2005, at the request of the government, the ICC launched an investigation in the Central African Republic, leading to the arrest and pre-trial detention of Jean-Pierre Bemba. Furthermore, Justice Initiative (2016) posits that the ICC's investigation in CAR I focused on alleged war crimes and crimes against humanity crimes allegedly committed during an armed conflict in the Central African Republic (CAR) between

October 26, 2002, and March 15, 2003. It is noteworthy that the Coalition for the International Criminal Court (2021d) argues that Jean-Pierre Bemba has been convicted and sentenced by the trial Chamber in 2016. But AlJazeera (2018) posits that in 2018, the Appeals Chamber of the Court reversed the conviction of Jean-Pierre Bemba and acquitted him for war crimes and crimes against humanity. Besides, the International Criminal Court (2021c) asserts that Jean-Pierre Bemba was also accused with four other suspects (Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido) of offenses against administration of justice committed in the context of his trial.

Furthermore, International Justice Resource Center (2016) says that the trial Chamber of the International Criminal Court (ICC) found Jean-Pierre Bemba Gombo and four others guilty of offenses against the administration of justice. According to the International Justice Resource Center (2016), the court found that that Bemba and the four other accused had bribed witnesses and presented false evidence to the Court in relation to Bemba's prosecution before the ICC for war crimes and crimes against humanity. Moreover, the International Criminal Court (2021c) argues that convictions and acquittals in relation to all five accused are now final and imprisonment sentences were served.

## **Kenya**

The International Criminal Court (2021n) posits that Kenya ratified the Rome Statute on March 15, 2005. Furthermore, Magliveras and Naldi (2013) posit that in March 2010, the Pre-Trial Chamber granted the Prosecutor's request to open an investigation proprio motu in the situation in Kenya, in relation to crimes against humanity within the jurisdiction of the Court committed between June 1, 2005, and November 26, 2009. The International Criminal Court

(2021n) asserts that ICC investigations have focused on alleged crimes against humanity committed in the context of post-election violence in Kenya in 2007/2008, in six of the eight Kenyan Provinces: Nairobi, North Rift Valley, Central Rift Valley, South Rift Valley, Nyanza Province and Western Province.

According to the Coalition for the International Criminal Court (2021h), the investigation led to 6 individuals suspected of committing crimes against humanity such as Henry Kosgey, Deputy President William Ruto, Joshua Sang, President Uhuru Kenyatta, Francis Muthaura, and Mohammed Hussein Ali. It is noteworthy that Human Rights Watch (2016b) declares that the charges against Ruto and Sang have been vacated by the court while the charges against President Kenyatta, Francis Muthaura, and Mohammed Hussein Ali have been withdrawn due to insufficient evidence.

Besides, Human Rights Watch (2016) asserts that the court issued arrest warrants against Paul Gicheru and Philip Kipkoech Bett on March 10, 2015, for offences against the administration of justice consisting of in corruptly influencing witnesses regarding cases from the situation in Kenya. Indeed, according to the International Criminal Court (2021n), Paul Gicheru is in ICC custody and the confirmation of charges is scheduled for 2021.

## **Libya**

Libya is not a state party to the Rome Statute. According to the International Criminal Court (2021o), the United Nations Security Council referred the Libya situation to the court in February 2011 and the Prosecutor opened an investigation in March 2011. Also, the Coalition for the International Criminal Court (2021i) posits that the investigation focused on alleged crimes against humanity and war crimes and led to arrest warrants against five suspects: Saif Al-Islam

Gaddafi, Muammar Gaddafi, Abdullah Al-Senussi, Al-Tuhamy Mohamed Khaled, and Mahmoud Mustafa Busayf Al-Werfalli. Furthermore, the International Criminal Court (2021o) says that the cases against Abdullah Al-Senussi and Muammar Gaddafi were terminated due to the death of Gaddafi and the inadmissibility of the case against Al-Senussi while Saif Al-Islam Gaddafi, Al-Tuhamy Mohamed Khaled, and Mahmoud Mustafa Busayf Al-Werfalli are still at large.

### **Cote d'Ivoire**

Cote d'Ivoire accepted the jurisdiction of the court in 2003 and ratified the Rome Statute on February 15, 2013. According to Corey-Bouley (2012), ICC Prosecutor opens proprio motu investigations after authorization of Pre-trial Chamber on October 3, 2011. The investigation led to two cases: Gbagbo and Ble Goude case and Simone Gbagbo. Besides, the Pre-trial chamber confirmed the charges against Gbagbo and Ble Goude but according to Amnesty International (2019a) and International Federation for Human Rights (2019a), on January 15, 2019, the trial Chamber I of the International Criminal Court (ICC) decided, by majority, to acquit former Ivorian president Laurent Gbagbo and his former minister Charles Blé Goudé from all charges of crimes against humanity.

Besides, according to the International Criminal Court (2021g), the court issued an arrest warrant against former first lady Simone Gbagbo on February 29, 2012. But Cote d'Ivoire's government officials refused to transfer the first lady in the Hague. Human Rights Watch (2019b) asserts that they tried her and acquitted her for charges war crimes and crimes against humanity in March 2017.

### **Mali**

According to the Coalition for the International Criminal Court (2021j), Mali ratified the Rome Statute on August 16, 2000, and referred the situation in its territory to the ICC in July 2012. Furthermore, the International Criminal Court (2021p) asserts that the Prosecutor opened an investigation in January 2013 based on allegations of war crimes committed in Mali since January 2012 mainly in three northern regions, Gao, Kidal and Timbuktu, with certain incidents in Bamako and Sévaré, in the south. The investigation led to two cases against Ahmad Al Faqi Al Mahdi and Al Hassan Ag. Moreover, Kersten (2016c) asserts that the court convicted and sentenced Al Mahdi as a co-perpetrator of the war crime consisting of intentionally directing attacks against religious and historic buildings in Timbuktu, Mali, in June and July 2012. Besides, according to Reuters (2019), the judges of the Pre-Trial Chamber confirmed the charges against Al Hassan Ag Abdoul Aziz and said there were substantial grounds to believe that he was responsible for crimes against humanity and war crimes, including sexual and gender-based persecution, rape, torture, sexual slavery, and the directing of attacks against religious and historical buildings.

## **Central African Republic II**

The government referred the situation to the court in May 2014 and the Prosecutor opened an investigation in September 2014. According to the International Criminal Court (2021e), the ICC's investigation focused on alleged war crimes and crimes against humanity committed in the context of a conflict since August 1, 2012, by both Muslim Séléka and Christian anti-balaka groups. According to Human Rights Watch (2021a), the investigation led to two cases: Yekatom and Ngaïssona case and Said case. Indeed, Human Rights Watch (2021a) and the International Criminal Court (2021d) assert that Patrice-Edouard Ngaïssona and Alfred

Yékatom who are the highest ranking anti-balaka leaders face charges of war crimes and crimes against humanity. The International Criminal Court (2021d) posits that the Pre-Trial Chamber confirmed the charges against Patrice-Edouard Ngaïssona and Alfred Yékatom and the opening of the trial is scheduled for February 16, 2021. Besides, Human Rights Watch (2021a) argues that Mahamat Said, the first Seleka rebel is in the court's custody and is accused of war crimes and crimes against humanity committed in Bangui in 2013. The opening of the confirmation of charges hearing was scheduled provisionally for October 5, 2021.

### **Burundi**

According to the International Criminal Court (2021b), Burundi ratified the Rome Statute on September 21, 2004. But BBC (2017) declares that Burundi withdrew from the Rome Statute, and the withdrawal took effect on October 27, 2017. The preliminary examination of the situation in Burundi was announced on April 25, 2016. Despite the withdrawal of Burundi, the Prosecutor opened an investigation proprio motu on October 25, 2017. Indeed, the Coalition for the International Criminal Court (2021c) asserts that in its decision authorizing an investigation, the Chamber found a reasonable basis to believe that State agents and groups implementing State policies, together with members of the "Imbonerakure allegedly committed crimes against humanity between April 26, 2015, and October 26, 2017. Besides, the Prosecutor is still investigating the situation.

### **Nigeria**

Nigeria ratified the Rome Statute on September 27, 2001. The International Criminal Court (2021q) asserts that the Prosecutor decided to conduct a preliminary examination of the situation in Nigeria on November 18, 2010. The prosecutor conducts the preliminary

examination based on alleged crimes committed during an armed conflict, largely between Nigerian security forces and the terrorist group Boko Haram.

According to Ochab (2020), on December 11, 2020, the Prosecutor announced the completion of her preliminary examination of the situation in Nigeria, having concluded that there was a reasonable basis to believe that war crimes and crimes against humanity were committed by members of Boko Haram and its splinter groups. It is noteworthy that Amnesty International (2020b) asserts that crimes against humanity and war crimes have also been committed by Nigerian security forces. Moreover, the International Criminal Court (2021q) declares that the next step in the judicial process is to request authorization from the Pre-Trial Chamber to open an investigation into the situation in Nigeria.

### **Guinea**

Guinea ratified the Rome Statute on July 14, 2003. According to the OTP preliminary examinations report of 2020 (International Criminal Court, 2020), the situation in Guinea has been under preliminary examination since October 14, 2009. The preliminary examination focused on alleged crimes against humanity committed in the context of the September 28, 2009, events at the Conakry stadium. It is noteworthy that in its preliminary examinations report, the OTP (International Criminal Court, 2020) declares that the preliminary examination is at the admissibility stage that includes both complementarity and gravity.

### **Gabon**

Gabon ratified the Rome Statute on September 20, 2000. According to the International Criminal Court (2021j), on September 21, 2016, the Government of the Gabonese Republic send a referral regarding alleged crimes that had been taking place in Gabon surrounding the

presidential election since May 2016 to the Prosecutor. Therefore, on September 29, 2016, the Prosecutor announced the opening of a preliminary examination into the situation in Gabon. Besides, Behles (2018), on September 21, 2018, the Prosecutor concluded that the information available did not provide a reasonable basis to believe that the acts allegedly committed in Gabon in the context of the 2016 post-election violence, either by members of the opposition or by the Gabonese security forces, constitute crimes against humanity and the crime of incitement to genocide and decided to close the preliminary examination.

## **Chapter 3: RESEARCH METHOD**

### **Research Method & Delimiters**

This is a qualitative exploratory research that sought to explore the different perspectives on the International Criminal Court. Indeed, according to Bachman and Schutt (2017), the goal of an exploratory research is to investigate social phenomena without expectations. Therefore, in this study, I explore and find out how the implementation of the court is being received or perceived by scholars. I do not describe the operations of the court, but I look at patterns of thoughts or responses related to the implementation of the court.

The research method I use is an inductive content analysis of the texts within 21st Century from 2002 to present that explore the assessments made by scholars (i.e., support, oppose, neutral) of the International Criminal Court and the role of the court in Africa. Besides, in this study I analyze the different materials to identify textual similarities. This is accomplished by consolidating codified text or words. Moreover, in this study, I extract words (i.e., texts) presented as part of said explanations, correlate them with other words of similar meaning into categories, and then organize these under classes. It is noteworthy that I do not analyze the materials that are related to the 14 situations under preliminary examinations or investigations outside Africa.

### **Research Populations & Sampling**

The target population for this study is all 21st Century literature (research articles and reports, government documents, and appropriate Internet resources) that address the 12 cases in Africa, and which present the critics' assessments (i.e., oppose, support, and neutral) of the International Criminal Court and its role in Africa. To establish a sampling frame (a.k.a, survey

population) I used search engines (JSTOR; Sage Journals; Taylor & Francis online; Project Muse; EBSCO Host Academic Search Premier, Cambridge University Press, and Google) to identify those textual materials available in either hardcopy or electronic formats. The sample population (n=40) for this study is those textual materials that have been selected using a nonprobability, purposive sampling technique. According to Bachman and Schutt (2017), nonprobability samples comprise elements within a population that do not have a known probability of being selected into the sample.

Furthermore, Bachman and Schutt (2017) assert that “a purposive sampling is a nonprobability sampling method in which elements are selected for a purpose, usually because of their unique position”. A nonrandom sample population is derived in the following manner. First, an available sample population is identified by those works that could be acquired in hardcopy or electronic mediums. Next, an actual or final sample population is determined by examining obtained texts related to the International Criminal Court in Africa.

## **Conceptualization**

### **International Criminal Court**

The International Criminal Court is an international and a permanent court that has been established under the Rome Statute on July 17, 1998. It is established in The Hague in the Netherlands. Moreover, the International Criminal Court investigates and, where warranted, tries individuals charged with the gravest crimes of concern to the international community: genocide, war crimes, crimes against humanity and the crime of aggression.

### **Genocide**

The crime of genocide is an international crime that first appeared in Resolution (96-1)

adopted on December 11, 1946, by the United Nations General Assembly. But the term genocide was used by Raphael Lemkin in 1944 in his book *Axis Rule in Occupied Europe* to refer to the systematic extermination of Jews by the Nazis. Resolution (96-1) of the UN General Assembly presents genocide as a crime which has inflicted great losses on humanity, and which is condemned by the international community. The Convention on the Prevention and Punishment of the Crime of Genocide adopted by the UN General Assembly on December 9, 1948, defined genocide as any of the following acts committed with the intent to destroy in whole or in part a national, ethnic, racial, or religious group. These acts include killing members of the group; causing serious bodily or mental harm to members of the group; deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; imposing measures intended to prevent births within the group; and forcibly transferring children of the group to another group. Furthermore, the International Criminal Court used the same definition in the Article 6 of the Rome Statute.

### **Crimes against humanity**

There are different definitions of crimes against humanity. Indeed, international tribunals such as the International Military Tribunal of Nuremberg, the International Criminal Tribunal for the former Yugoslavia, and the International Criminal Tribunal for Rwanda defined crimes against humanity differently. But I use the definition of crimes against humanity given by the Rome Statute of the International Criminal Court that is the most recent definition. The Rome Statute defines eleven acts constituting crimes against humanity when committed "as part of a widespread or systematic attack directed against any civilian population and with knowledge of the attack". These eleven acts include 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, or any other form of sexual violence of comparable gravity; persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court; 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.

### **Operationalization**

In this study, I refer to everything that is related to the International Criminal Court especially its involvement in Africa. I do not include other international tribunals.

### **Data Collection, Processing & Analysis**

#### **Recording Sheet**

I use a data collection instrument to collect the data. The data collection instrument is constructed to record criteria of selection and recovered texts, as well as citation and bibliography data. It includes a block for assigning a one-up serialization for in-house tracking (e.g., 1, 2, and so forth). It also contains blocks for recording the following information: year of publication, name(s) of author(s), short title, location, publisher, and recovered textual explanations (also recorded verbatim and annotated with the page number(s) where it was located). By recording the criteria of selection as found, one could refer back to them as guides

for further retrievals and to aid in sorting the filing system. An example of the data collection instrument used in this study is provided in Appendix A.

### **Filing System**

A spreadsheet format using computer software served as an excellent heuristic device to construct a filing system (3 examples may be found in Appendices B, C, and D). The columns comprise the categories while the rows are used to record the source of retrieved texts. After entering the source information in a blank cell on row one, each cell of column one is checked to determine whether any entries had already been made that were lexically similar. If such an entry is found, then an “X” is placed in the appropriate cell respective to the source column and row for that entry. If no entry is found, then a new entry is made in proximity to retrieved texts that reflected related underlying abstract concepts and an “X” is placed in the appropriate column/row cell.

## Chapter 4: ANALYSIS and FINDINGS

This study is designed to explore the different perspectives on the International Criminal Court. The research method used is an inductive content analysis of the texts within 21st Century from 2002 to present. Open coding and a filing system are used to accomplish this study's content analysis. In the end, the filing system has three classes with seventeen categories. They are: Class 1) Support: "Promotes anti-impunity", "Promotes deterrence", "Promotes domestic prosecutions", "Provides hope for victims and civilians", "Promotes respect for victims' rights", "Provides accountability", "Provides international justice and peace", "Is not biased", and "Is not targeting only Africa"; Class 2) Oppose: "Is selective", "Is targeting only Africa", "Is instrumentalized by states", "Is instrumentalized by UNSC", and "Is endangering peace and reconciliation"; Class 3) Neutral: "Divided opinions among African states", "Selectivity of States' support and cooperation", and "Is not promoting deterrence".

Readers are encouraged to utilize the filing system spreadsheets (Appendices B, C, and D) and sorted lists found in Appendices E (Filing System Citations Sorted on Recording Sheet Number) and F (Filing System Citations Sorted on Year of Original Publication). By examining the filing system spreadsheets and noting the recording sheet numbers associated with a particular thematic subject, a reader can cross-reference this with the sorted lists to identify the respective bibliographic entries for further, personal study.

### **Class 1: Support**

Eighteen (18) authors provided 35 comments that can be considered "Support" regarding the International Criminal Court. Those comments were analyzed and organized for lexical similarity (Ganeson, 2021). The comments were then examined more closely for semantic

similarity (i.e., actual meaning of the words and the comment) and 9 categories emerged: 1) Promotes anti-impunity, 2) Promotes deterrence, 3) Promotes domestic prosecutions, 4) Provides hope for victims and civilians, 5) Promotes respect for victims' rights, 6) Provides accountability, 7) Provides international justice and peace, 8) Is not biased, and 9) Is not targeting only Africans.

### **Category 1: Promotes Anti-Impunity**

My analysis found that, in the first category, 3 authors offered 4 comments. Category 1 ("Promotes anti-impunity") was evidenced by such remarks as, "By indicting heads of government, the ICC marks the end of impunity of leaders who do not take steps to protect their citizens, or actively do them harm" (Gegout, 2013, p.809); "But its willingness to prosecute has contributed to perceptions that impunity for egregious crimes against humanity is a diminishing option"(Jo & Simmons, 2016, p.470); "This study reiterates the importance of the anti-impunity norm of the ICC as an instrument of equity, especially when African leaders are involved" (Okpe, 2020, p.1); "The right to impunity goes directly against the anti-impunity principle of the ICC" (Okpe, 2020, p.4).

### **Category 2: Promotes Deterrence**

My analysis found that, in the second category, 6 authors offered 9 comments. Category 2 ("Promotes deterrence") was evidenced by such remarks as, "The creation of the ICC has not only provided justice for those affected by international crimes but has also served as a form of deterrence to others who may consider committing international offenses" (Okpe, 2020,p.11); "We have argued that the ICC contributes directly to prosecutorial deterrence by investigating and prosecuting international crimes on its own authority"(Jo and Simmons, 2016, p.469); "Indeed, ratifying states are much more likely than nonratifiers to do so" (Jo & Simmons, p.469);

“The ICC also deters because it mobilizes the international community as well as domestic civil society to demand justice” ( Jo & Simmons, p.469); “The ICC could have a deterrent effect and prevent future atrocities” (Gegout, 2013, p.809); “The ICC is viewed as contributing to deterrence in Côte d’ Ivoire, by promoting general deterrence through its investigations and prosecutions” (Malu, 2016, p.851); “I argue that governments from states that have ratified the Rome Statute commit lower levels of human rights abuses than governments from nonratifier leaders” (Appel, 2018, p.4); “I posit that the ICC can deter ratifiers from committing violations because it imposes costs on them throughout its involvement in a situation that include imprisonment, but also a variety of domestic and international audience costs” (Appel, 2018, p.4); “The results of the field study show that the ICC contributes to general deterrence in the three countries with varying results. It shows that the ICC contributes to general deterrence by challenging the culture of impunity, through its investigations and prosecutions, and by contributing to the promotion of accountability to the law” (Malu, 2019, p.214).

### **Category 3: Promotes Domestic Prosecutions**

My analysis found that, in the third category, 5 authors offered 5 comments. Category 3 (“Promotes domestic prosecutions”) was evidenced by such remarks as, “It also encourages member states to improve their capacity to reduce, detect, and prosecute such crimes domestically” ( Jo & Simmons, 2016, p.469); “For Kenya, the ICC case, together with the new constitution and a reformed electoral law, may be a factor in the process of strengthening the judiciary and may signal an end to ineffective commissions of inquiry. It could also potentially shake up the traditional belief that office automatically brings immunity from criminal investigation. (Hohn, 2014, pp.582-583); “We theorize that the launch of a formal ICC

investigation of a particular country is associated with a spike in domestic prosecutions for all human rights violations, and further, that this effect is larger than the impact of the target state's ratification of the Rome Statute or the Prosecutor's decision to begin a preliminary examination" (Dancy & Montal, 2017, p.694) ; "More attention should be paid to the ICC's potential as an active player on national justice. Under the concept of "positive complementarity" it can serve as part of a wide array of efforts to press and support national authorities to carry out genuine investigations and prosecutions" (Evenson et al., 2018, para.3); "There has been substantial progress in Guinea, in particular, where the OTP's engagement has been more intense than in other situations and where over time the OTP as an external point of pressure seems to have contributed to progress by national officials and the engagement of other key international actors on justice" (Human Rights Watch, 2018, p.6)

#### **Category 4: Provides Hope for Victims and Civilians**

My analysis found that, in the fourth category, 3 authors offered 3 comments. Category 4 ("Provides hope for victims and civilians") was evidenced by such remarks as, "The use of international criminal lawfare can be a practical and effective means of lessening the negative effects of conflict on civilians, with indictments and arrests removing criminal actors from the stage of war and therefore altering the trajectory of the war and influencing the actions of belligerents" (Fisher & Stefan, 2016, p.253) ; "Until such a time that African states establish independent, professional judiciaries, the ICC probably will remain a contested court of first instance and potentially the only hope for victims seeking justice for the worst crimes" (Cannon et al., 2016, p.25) ; "Thus, the mere existence of the Court, and its Statute, which articulates complex but innovative procedures, strengthens international criminal law and also represents

hope for victims of international crimes” ( Malu, 2019, p.11).

### **Category 5: Promotes Respect for Victims’ Rights**

My analysis found that, in the fifth category, 2 authors offered 2 comments. Category 5 (“Promotes respect for victims’ rights”) was evidenced by such remarks as, “The article argues that the ICC promotes respect for victims’ rights by enabling some victims to participate in its proceedings in The Hague, though the number of persons involved in the current proceeding at The Hague is minimal, and the impact may not tickle down to many victims of the conflicts in the country” (Malu, 2016, p.851) ; “In this context, Al Hassan’s trial is an important step in advancing the goals enshrined in the international system of women’s rights and in the adjudication of gender-based persecution” ( Epure, 2020, para.14).

### **Category 6: Provides Accountability**

My analysis found that, in the sixth category, 5 authors offered 6 comments. Category 5 (“Provides accountability”) was evidenced by such remarks as, “Justice must be served for every crime committed, and because the judicial institutions of the AU are still growing, the ICC is Africa’s final hope of holding its leaders responsible for offenses committed” (Okpe, 2020, p.12) ; “It was argued that the ICC influences accountability to the law, by challenging impunity which has also gingered the government to prosecute some of those who committed crimes in the country” (Malu, 2016, p.850) ; “The court represented a real opportunity for accountability for those who had for so long acted with impunity, justice for those that had for so long suffered without hope, and a deterrent safeguard against future abuses” (Austin & Thieme, 2016, p.346) ; “Having Mr. al-Mahdi convicted is a win for the ICC. But it must also lead to additional accountability for the crimes committed against the civilians of Mali on all sides” (Kersten,

2016c, para.8) ; “The conviction of Jean-Pierre Bemba for war crimes and crimes against humanity marked the first time the ICC issued a conviction for rape as a war crime and crime against humanity, as well as the first time the ICC “applied the principle of command or superior responsibility” (Kenney & Norris, 2018, p.33) ; “Bemba’s conviction was also significant in that he was a former vice president of the DRC and militia leader, and he was the only person arrested for war crimes in CAR during this period” (Kenney & Norris, 2018, p.33).

### **Category 7: Provides International Justice and Peace**

My analysis found that, in the seventh category, 5 authors offered 5 comments. Category 7 (“Provides international justice and peace”) was evidenced by such remarks as, “However, the ICC could contribute significantly to the promotion of international justice and peace, and have a major impact on the prevention of crime, since its prosecutions represent a clear threat to highly placed individuals who commit serious crimes” (Gegout, 2013, p.808); “For international criminal justice in Africa, the Kenya hearing is the first instance in which an international criminal court has started to investigate violence in a consolidated democracy rather than in connection with ongoing armed conflict” (Hohn, 2014, p.582); “Despite these criticisms, the ICC can potentially contribute positively towards conflict resolution and peacebuilding in Africa, and elsewhere” (Cannon et al., 2016, p.28) ; “The trial of Ahmad al-Faqi al-Mahdi at the International Criminal Court represents a number of firsts for global justice. It is the first time that the destruction of cultural sites has been prosecuted as a war crime at the ICC. It is the first time that an Islamic radical has been prosecuted at the ICC. And it is the first time that anyone facing judges in The Hague has pleaded guilty” (Kersten, 2016c, para.1); and “Through its work,

based on its complementarity policy, the ICC promotes a global standard of international justice” (Malu, 2019, p.11).

### **Category 8: Is Not Biased**

My analysis found that, in the eighth category, 13 authors offered 18 comments. Category 8 (“Is not biased”) was evidenced by such remarks as, “The majority of the cases initiated by the ICC were opened by national governments, a few were referred by the UNSC and only the Kenyan case was opened by the ICC” (Opke, 2020, p.10) ; “Kenyans who identify as witnesses or victims of violence in 2007 are much less likely to agree that the ICC is biased against Africa” (Dancy et al., 2019, p.2) ; “Evaluating the two key aspects of the postcolonial critique, the author concludes that the ICC is unfairly accused of practicing selective prosecution and also the critique that the ICC is a hegemonic tool of Western countries is not true as African countries played an essential role in its formation” (Schneider, 2020, p.90) ; “States in Africa are likely to be the frequent users of the ICC because of two main factors; namely a relatively higher prevalence of conflicts and serious human rights violations, and a general lack of credible legal systems to address them” (Schneider, 2020, p.98) ; “The characterization of the ICC as a tool of Western imperialism can be rejected insofar as that there was a strong involvement of African governments and civil society organizations in the drafting of the RS and the establishment of the ICC” (Schneider, 2020, p.99) ; “Except for Sudan’s Al-Bashir indictment and the investigation in Libya that came at the urging of the UNSC, and the Kenyan case which the ICC brought on its own, all other investigations including situations in Uganda, Congo and Mali have come at the urging, or encouragement, of African countries” (Cannon et al., 2016, p.15) ; “Although the ICC possesses weaknesses and flaws, including being politicized, it is a bit of a

stretch to argue that it is neocolonial and beholden to Western powers bearing in mind Africa's primary role in its establishment" (Cannon et al., 2016, p.28) ; "The claim that the ICC unfairly targets Africans is arguably the most untenable of the AU's arguments because as has already been indicated above, four of the nine African situations before the ICC arose out of member state party referrals while the Darfur situation was a SCRR referral" (Chigara & Nwankwo, p.264) ; "Despite the machinations of some in the African Union, the evidence does not support the claim that the ICC is racist or anti-African" (Austin & Thieme, 2016, p.348) ; "It seems somewhat disingenuous to complain of racial targeting when it is African governments themselves asking for the court to intervene" (Austin & Thieme, 2016, p.345) ; "The fact remains, however, that Africa has been the primary focus of the ICC, not because of race, but because Africa, at least during the early years of the court, was the area of the world most in need of intervention and judicial accountability, and the area of the world least able to prevent atrocities being committed with impunity because of the inadequacy of many African nations' judicial systems" (Austin & Thieme, 2016, p.348) ; "Many African states simply do not have solid judicial systems and therefore lack the capacity to act" (Vilmer, 2016, p.1329) ; "I continue to maintain that the Court is neither biased against Africa, neo-colonial, nor racist. Africa is not monolithic and many states continue to support the ICC and its mandate" (Kersten, 2016d, para.2) ; "It is time to tell those who complain that the Court is targeting Africa that the true position is that it is rather African victims who are accessing their Court in pursuit of justice" (Mue, 2016, para.8); "Finally, it is important to note a silver lining in the acquittal of Gbagbo, namely that it makes it more difficult to sustain the argument that the ICC "hunts" African statesmen. The expectation that the ICC seeks only to lock away despotic African leaders is

weakened when the likes of Kenyatta, Bemba, and Gbagbo are set free” (Kersten, 2019, States Parties and the ‘International Community, para.15); “Firstly, there is not a single situation in Africa where the ICC has intervened in which the Court should not have opened an official investigation. Each and every one warranted an ICC intervention” (Kersten, 2015a, The Africa-ICC Relationship – More and Less than Meets the Eye, para.13) ; “The Court is simply misunderstood and is, in fact, a court for not against Africa” (Kersten, 2016d, para.1) ; “The ICC involvement in some countries of Africa is justifiable on the grounds that the ICC is responding to the invitations of African countries to intervene and also to the unduly high number of violent conflicts in the continent” (Malu, 2019, p.88).

#### **Category 9: Is Not Targeting Only Africans**

My analysis found that, in the ninth category, 5 authors offered 5 comments. Category 9 (“Is not targeting only Africans”) was evidenced by such remarks as, “However, the ICC has conducted preliminary investigations throughout the world: Iraq, Venezuela and Colombia (2006); Afghanistan (2007); Georgia and Sri Lanka (2008); and Gaza, Honduras and South Korea (2010). These investigations have not led to any indictments for various reasons: crimes were insufficient in number, national justice systems were able to deal with the issue, investigations are ongoing and/or the ICC cannot legally address some crimes committed in a state non-party to the ICC Statute” (Gegout, 2013, p.808) ; “Moreover, the ICC is starting to redeem itself from its notable absence involvement in the affairs of Western states with the opening of investigations in Afghanistan and Georgia and of preliminary examinations in Iraq, over the past few years” (Schneider, 2020, p.98) ; “Complaints that the ICC unfairly targets African states are losing weight particularly as the OTP is also currently conducting preliminary

investigations into situations in Afghanistan, Georgia, Guinea, Colombia, Honduras, Korea, and Nigeria” (Chigara & Nwankwo, 2015, p.264) ; “It is also inaccurate to say that the court has solely focused on Africa. The ICC is considering several other situations around the globe to determine if those situations warrant formal investigations by the court. Such non-African examinations include Afghanistan, Colombia, Georgia, Honduras, Korea, Iraq, and the Ukraine” (Austin & Thieme, 2016, p.345) ; “First, the ICC has already shown an interest in other cases outside Africa: the Office of the Prosecutor is conducting preliminary examinations in Afghanistan, Colombia, Palestine, Ukraine, on the British military intervention in Iraq, on registered vessels of Greece and Cambodia, and it has opened an investigation regarding a situation in Georgia” (Vilmer, 2016, p.1332).

### **Class 2: Oppose**

Fifteen (15) authors provided 26 comments that can be considered “Oppose” regarding the International Criminal Court. Those comments were analyzed and organized for lexical similarity (Ganeson, 2021). The comments were then examined more closely for semantic similarity (i.e., actual meaning of the words and the comment) and 5 categories emerged: 1) Is selective, 2) Is targeting only Africa, 3) Is instrumentalized by States, 4) Is instrumentalized by UNSC, 5) Is endangering peace and reconciliation.

#### **Category 1: Is Selective**

My analysis found that, in the first category, 7 authors offered 11 comments. Category 1 (“Is selective”) was evidenced by such remarks as, “White said the lack of prosecution of forces supporting President Alassane Ouattara could hinder the country's reconciliation effort” (Clottey, 2013, p.2) ; “The only people implicated in proceedings at both the national and international

levels were members of Gbagbo's camp” (Corey- Boulet, 2012, p.71) ; “None of Ouattara's out-of-control followers, including members of the official armed forces under his control, have been charged or even credibly investigated” (Corey-Boulet, 2012, p.71) ; “The Court has targeted some individuals, but neglected others equally well known for their violence and crimes” (Gegout, 2013, p.807) ; “On the one hand, perpetrators of Rome Statute crimes in the selected situations are, probably, tried/punished by the ICC, and their victims given justice. On the other hand, perpetrators of the same crimes in the disregarded situations go free, and their victims are permanently denied justice where municipal tribunals are unable or unwilling to try the perpetrators” (Ezennia, 2016, p.477); “The OTP has also concluded preliminary examinations on the situations in Iraq, Palestine, and Venezuela, respectively. In its reports, however, it concluded that, although Rome Statute crimes were committed, these three situations were not ‘grave’ enough to merit formal investigations” (Ezennia, 2016, p.453) ; “For most conflict situations, the OTP has only pursued prosecutions of individuals on one side of the conflict” (Tiemessen, 2013, Case Selection: Defying Gravity?, para.6) ; “The crimes of ruling elites in these conflict situations are indeed grave but the OTP contends that crimes are not grave enough relative to their opponents’ crimes in order to justify indictments” (Tiemessen, 2013, Case selection: Defying gravity?, para.7) ; “The lack of justice for crimes by both sides to the conflict seriously compromises perceptions of the ICC’s independence and has undermined its credibility among affected communities in Uganda” (Human Rights Watch, 2011, p.26) ; “And while the government has largely been supportive of the ICC’s work, it is also of note that no charges of abuse have been brought against the DRC military or government officials, leading to questions about the impartiality of the court” ( Kenney & Norris, 2018, p.32) ; “To date, only charges

against Gbagbo and his inner circle have been brought, while none have been brought against his opponent, Alassane Ouattara, and his supporters” (Kenney & Norris, 2018, p.40).

### **Category 2: Is Targeting Only Africa**

My analysis found that, in the second category, 1 author offered 1 comment. Category 2 (“Is targeting only Africa”) was evidenced by such remarks as, “Syria also offers the strongest ammunition to critics of the ICC that too much attention has been focused on Africa and not enough elsewhere” (Kenney & Norris, 2018, p.46).

### **Category 3: Is Instrumentalized by States**

My analysis found that, in the third category, 4 authors offered 4 comments. Category 3 (“Is instrumentalized by States”) was evidenced by such remarks as, “States, while acting legally, use the ICC for political motives, and this can sometimes work against the principles of international criminal justice” (Gegout, 2013, p.804) ; “The Ugandan example demonstrates how a referring party both invited the icc to investigate alleged crimes committed in an ongoing conflict, therefore employing lawfare, and expected and received preferential treatment and a one-sided investigation of abuses committed” (Fisher & Stefan, 2016, p.245) ; “African elites arguably have viewed the ICC, at least partially, as a tool for use in undercutting domestic political competitors although without much foresight or forethought on how they themselves might end up in the dock” (Cannon et al., 2016, pp.9-10) ; “Specifically, States Parties have strategically referred their conflict situations to the ICC with the expectation that the referral will result in the removal of their rivals and sanction the impunity of ruling elites” (Tiemessen, 2016, p.409).

#### **Category 4: Is Instrumentalized by UNSC**

My analysis found that, in the fourth category, 6 authors offered 7 comments. Category 4 (“Is instrumentalized by UNSC”) was evidenced by such remarks as, “By operating above international law or pursuing budget policies that would seem to undermine it, major powers are setting an example of condescension toward the ICC that other countries choose to follow at their convenience” (Corey-Boulet, 2012, p.79) ; “It has been noted that the UNSC has been particularly passive and absent in giving support to the ICC after the referral of a specific situation” (Aloisi, 2013, p.154) ; “As the analysis above shows, the lack of commitment to ICC operations following referrals, the heavily politicized language of the UNSC Resolutions 1593 and 1970, and the "power politics" discourses surrounding talks of future referrals of situations to the ICC, severely compromises the pursuit of international justice”(Aloisi, 2013, p.167) ; “The Libyan example demonstrates how the UNSC, as a representative of the international community, can engage in lawfare by referring a situation to the Court, and at the same time both avoid referring another like situation because of the self-interest of members of the UNSC and also shielding particular actors from investigation” (Fisher & Stefan, 2016, p.249) ; “Surely, the referral and deferral powers of the UNSC lead to a politization of the ICC as the undemocratic nature of veto power dictates justice at the ICC by selecting who and when investigation and prosecution take place” (Schneider, 2020, p.96) ; “The article also argues that the ICC system is subject to external political influence and manipulation by the world’s powerful states against their less powerful counterparts” (Ezennia, 2016, p.450) ; “3 of the 5 permanent members of the Security Council are not members of the Rome Statute and yet they have the power under the Rome Statute to refer other states, including non-members, to the ICC as they have done with

Sudan and Libya. This is clearly problematic. The situation is exacerbated by the fact some members of the Security Council have used their veto power to prevent serious crimes taking place in countries such as Syria from being investigated by the ICC” (Mue, 2016, para.10).

### **Category 5: Is Endangering Peace and Reconciliation**

My analysis found that, in the fifth category, 3 authors offered 3 comments. Category 5 (“Is endangering peace and reconciliation”) was evidenced by such remarks as, “The impact of the involvement of the ICC in Côte d’ Ivoire on reconciliation is undermined by the perception that the court is pursuing partial or one-sided justice”(Malu, 2016, pp.851) ; “Despite these legitimate intentions and great expectations, there is little evidence of the efficacy of justice as a means to peace” (Tiemessen, 2016, p.409) ; “One of the most persistent criticisms of the ICC’s actions in Africa has been that by prosecuting participants in ongoing or recently settled conflicts, the Court risks prolonging violence or endangering fragile peace processes” (Arieff et al., 2011, p.28).

### **Class 3: Neutral**

Seventeen (17) authors provided 21 comments that can be considered “Neutral” regarding the International Criminal Court. Those comments were analyzed and organized for lexical similarity (Ganeson, 2021). The comments were then examined more closely for semantic similarity (i.e., actual meaning of the words and the comment) and 3 categories emerged: 1) Divided opinions among African states, 2) Selectivity of Africa’s support and cooperation, 3) Is not providing deterrence.

### **Category 1: Divided Opinions Among African States**

My analysis found that, in the first category, 5 authors offered 6 comments. Category 1 (“Divided opinions among African states”) was evidenced by such remarks as, “Turning back to the issues surrounding Bashir, even though the AU appeared to take a unanimous stance on the issuing of an arrest warrant, the summit further revealed deep fissures between African countries, led on the one side by South Africa, Ghana, and Botswana, and by Libya, Eritrea, Egypt and other non-party countries on the other” (Mills, 2012, p.436) ; “Pro ICC actors claim that AU countries have an obligation, per the Rome Statute and the AU Constitutive Act, to uphold the anti-impunity norm and, on these grounds, justify their reluctance to defer the investigation in Sudan and to exempt sitting Heads of State and Government from prosecution” (Iommi, 2020, p.119) ; “Simultaneously, the AU favors an interpretation of articles 27, 15, 16 and 98 that privileges peace, sovereignty, anti-colonialism and pan-African solidarity over the anti-impunity norm” (Iommi, 2020, p.119) ; “It has been pointed out that many African States are supportive of the current work of the ICC, and this is further evidenced by the number of self-referrals made by African States which evidently see the ICC as having a role to play in solving their problems” (Magliveras & Naldi, 2013, p.446) ; “Although the AU had authorized the development of a collective ICC withdrawal strategy from the Rome Statute, a majority of African states attending the annual Assembly of State Parties (ASP) meeting in New York in November 2016 stated their intention to remain members of the ICC” (Cannon et al., 2016, p.24) ; “And yet, the decision of South Africa and Burundi have polarized African states on the issue of the ICC and given credence of a significant divide between African states. While Namibia and The Gambia have

said they too would withdraw, far more states have openly expressed support for the ICC” (Kersten, 2016b, para.4).

### **Category 2: Selectivity of States’ Support and Cooperation**

My analysis found that, in the second category, 8 authors offered 10 comments. Category 2 (“Selectivity of Africa’s support and cooperation”) was evidenced by such remarks as, “The big question is whether Ouattara's government will cooperate and foster a process of balanced justice at home so that the courts are seen as even-handed at every level” (Corey-Boulet, 2012, p.79) ; “While the AU has had and may continue to have arguable points of law concerning the interpretation of the Rome Statute, its standpoint on withholding its Member States' co-operation from the ICC has been unreasonable, and has rather demonstrated *lèse-majesté* for a multilateral institution established to fight impunity” (Magliveras & Naldi, 2013, p.444) ; “States can hamper the work of the ICC when they decide not to cooperate with it when it has issued an arrest warrant” (Gegout, 2013, p.805) ; “In this article we have suggested that cooperation with the ICC is a function of states’ domestic and international interests” (Hillebrecht & Straus, 2017, p.185) ; “In general, state incumbents, meaning individual political elites who hold office at the time of their interactions with the ICC, cooperate most completely when the targets of investigation and indictment are their political or military opponents” (Hillebrecht & Straus, 2017, p.163) ; “By the same logic, state incumbents reject the Court’s authority most completely when members of a ruling coalition are the targets of the ICC” (Hillebrecht & Straus, 2017, p.163) ; “As much as the Court wishes otherwise, it will never receive full cooperation from states whose officials it investigates. Its role as a court of law may consequently suffer, as the ICC ultimately relies on state cooperation to gather evidence and enforce its arrest warrants” (Kersten, 2017, What

happens now for the ICC? para.11); “But as a general rule of thumb, state support for the ICC tends to be higher during ongoing conflicts than once war has concluded. During periods of active political violence, the potential post-conflict politics of a transitional state are unclear. Once a certain level of clarity on what a post-conflict transitional state will look like is achieved, support for ICC interventions tends to drop” (Kersten, 2014, It wants to, para.14); “Ultimately, African support and criticism of international criminal justice is selective” (Kersten, 2015b, Prosecuting African Heads of State, par.30) ; “Evidence indicates that state parties do not at all times cooperate with the Court. In fact, at times, some state parties seem to have undermined the work of the Court” (Malu, 2019, p.9).

### **Category 3: Is Not Promoting Deterrence**

My analysis found that, in the second category, 5 authors offered 5 comments. Category 3 (“Is not promoting deterrence”) was evidenced by such remarks as, “Indeed, rebels are harder to deter than governments” (Jo & Simmons, 2016, p.470) ; “It is also highly unlikely that the ICC intervention will end political conflict or represent a solution for electoral fraud”(Hohn, 2014, p.583) ; “Leaders from states that have not ratified the Rome Statute will be unlikely to expect the ICC to impose costs on them” (Appel, 2018, p.12) ; “Despite the legitimate intention of pairing justice with conflict resolution, the ICC has had little success in deterring and removing elite perpetrators of atrocities with its judicial interventions in Uganda, the DRC, Sudan, Libya, and Côte d’Ivoire given that wanting state cooperation has hampered arrests and most conflicts are ongoing despite the ICC” (Tiemessen, 2016, p.425) ; “The goal of deterrence has been particularly salient in the ICC’s investigations in Africa, which have focused on regions where atrocities are ongoing or have only recently ended. However, difficulties encountered in

enforcing ICC arrest warrants and the fact that the Court has yet to convict any suspects have led some to question whether the threat of ICC prosecution is credible” (Arieff et al., 2011, p.26).

### **Study Summary**

The International Criminal Court is a permanent court created to investigate and prosecute individuals who commit crimes against humanity, genocide, war crimes, and crime of aggression. This court like other ad hoc tribunals faces some challenges. Therefore, this study tries to answer the following research questions:

- What are the challenges faced by the International Criminal Court specifically regarding Africa?
- Do the challenges outweigh the advantages of this court?

This study is an exploratory study focusing on the goals of the court, the challenges of administering it, observations of scholars who have studied it and citizens of countries who benefited or not benefited from it and others who have cared to offer insights. Moreover, the research method used in this study is a content analysis that explore the assessments made by scholars (i.e., support, oppose, neutral) of the International Criminal Court and the role of the court in Africa. Also, content analysis requires coding and categorizing through a data collection instrument and a filling system. Besides, in this study I analyzed the different materials to identify textual similarities. This was accomplished by consolidating codified text or words.

The analysis of the different materials revealed three classes and seventeen categories. Indeed, the first class “Support” had nine categories while the second class “Oppose” had five categories. The third and final class, “Neutral” had three categories. The findings showed that eighteen (18) authors in the sample support the court. Indeed, for these authors, the International

Criminal Court has many benefits such as promoting anti-impunity, promoting deterrence, promoting domestic prosecutions, providing hope for victims and civilians, promoting respect for victims' rights, providing accountability, providing international justice and peace. Also, they qualify the court as a no-biased and anti-racist court.

On the contrary, fifteen (15) authors do not support the court by saying that the court is not only selective but also is instrumentalized by states and the United Nations Security Council. In addition to these statements, they assert that the court is targeting only Africa and is endangering peace and reconciliation. Moreover, seventeen (17) authors adopt a neutral attitude toward the court. For these authors, despite its weaknesses, the court has some benefits that cannot be neglected.

## **Chapter 5: LIMITATIONS, CONCLUSIONS, and RECOMMENDATIONS**

### **Limitations**

One limitation of this study is that it is only focused on the ICC's involvement in Africa. Therefore, the challenges I talked about in this study and the assessments made by scholars (i.e., support, oppose, neutral) of the International Criminal Court may not necessarily apply in other countries outside Africa. The second limitation is that I was not able to do surveys or make some interviews with people. Indeed, I was not able to talk to people directly to get their opinion and perspectives. I focused on what scholars have written. Therefore, I could miss some details that I could get if I talk to people directly. Also, I did not have access to people who have a strong opinion about the International Criminal Court and have not written it. I did not include the perspectives of those people in our study.

### **Conclusions of the Study**

One of my research questions was to determine if the challenges faced by the International Criminal Court outweigh its benefits. In this study, I found that 18 authors support the court, and seventeen authors adopt a neutral attitude toward the court. It is noteworthy that even though those seventeen authors adopt a neutral attitude toward the court, they said that despite the court's weaknesses, this court has some benefits that cannot be neglected. I can conclude that the challenges faced by the court do not outweigh its benefits.

### **Recommendations and Implications for future research**

In my opinion, the International Criminal Court is the only permanent international criminal court that has the ability to prosecute those who commit international crimes such as crimes against humanity, genocide, war crimes, and crime of aggression. This court can end

impunity for those individuals and ensure justice for victims of the crimes. Indeed, the International Criminal Court makes a significant contribution to the fight against human rights violations. This court has allowed international recognition of the primacy of human rights and a more compelling respect for human rights.

It should also be noted that the International Criminal Court has a considerable positive impact in Africa. In fact, it brings justice to the victims of crimes punished by the Court in the situations covered by its investigations. Thanks to its innovative system of victim participation, some victims have the opportunity to present their points of view and concerns before the Court and to have reparations for the damages they have had. Also, the Trust Fund for Victims is an unprecedented mechanism in international justice, which provides assistance to victims of crimes against humanity and the crime of genocide. This fund launches some projects in Central African Republic, Democratic Republic of the Congo, and Northern Uganda. For example, in 2020, the fund launched a project in Central African Republic to provide support and assistance to victims of crimes and their families in Bangui. This program gives access to food security and nutritional support, to psychological care; to housing for homeless victims; to education for dependents; to medical care for pathological diseases associated with HIV/Aids, and assistance with income-generating activities.

Moreover, through its case law, the court showed that some crimes such as the destruction of religious and historical buildings as a war crime and gender-based persecution as a crime against humanity deserve to be punished. Also, the judicial procedures against government officials, rebels, and jihadists reveal that not only that impunity is not acceptable but also that the court may have jurisdiction over everybody.

Established by the Rome Statute, the International Criminal Court has fulfilled, to some extent, the expectations for which it was created. However, there are still many challenges for the Court to achieve its full potential. Indeed, despite its contribution to the revalorization of human rights and the fight against impunity, the court is not perfect. This court faces many challenges such as its difficult relationship with some Africa states, the influence exercised by states and some permanent members of the United Nations Security Council, and the lack of cooperation from states parties.

To handle these difficulties, I suggest some solutions to improve this court that deserves to exist despite the issues it may encounter. These recommendations may improve the effectiveness and the efficiency of the court. Firstly, there should be a modification in the process of referrals of situations and cases to the Court. The United Nations Security Council's referrals may be replaced by the United Nations General Assembly's referrals. In that way, the three influential members of the Security Council, namely Russia, China, and the United States of America, will not have the final say in shaping the jurisdiction of the Court. All states members to the international community will have a stand and their opinion and vote will be adequately addressed. This recommendation requires an amendment to the Rome Statute to replace the United Nations Security Council's referrals with the United Nations General Assembly's referrals.

Secondly, it is necessary to increase the budget of the Office of the Prosecutor. The financial, human, and logistical resources of the Office of the Prosecutor should be strengthened so that it can carry out investigations in all countries. Thus, it will no longer be Africans alone who will be the subject of proceedings before the Court. Third, all countries especially China,

Russia, and the United States should ratify the Rome Statute so that the International Criminal Court can put an end to impunity, guarantee the right to reparation and constitute a real instrument of prevention and enforcement of laws regarding international crimes.

Fourth, states' cooperation is required for the fight against impunity. Indeed, States Parties must incorporate into their domestic legislation the provisions of the Rome Statute and modify their laws to respond to the court's requests for assistance. These requests for assistance may relate to the identification of a person, the place where he is, the location of his property, the questioning of persons under investigation or prosecution, the execution of searches and seizures, preservation of evidence, freezing or seizure of proceeds of crime, property, assets and instrumentalities that are related to international crimes. Fifth, in the absence of consensus, the permanent members of the United Nations Security Council should abstain from vetoing resolutions referring cases.

Sixth, African states should establish strong, effective judicial systems that would be able to still hold criminals accountable, reduce impunity for misconduct, and provide justice for victims. Seventh, the domestic judicial capacity of states that are unable to investigate or prosecute crimes themselves should be enhanced. Such a reinforcement of national jurisdiction requires an assistance from the ICC's Office of the Prosecutor. Indeed, the Office of the Prosecutor may encourage national proceedings by providing information, working with officials and experts from the countries in question. Eighthly, the Office of the Prosecutor should seek to complete more quickly the phases of its preliminary examinations in countries such as Colombia, Guinea, Nigeria, Ukraine, Republic of the Philippines, Venezuela I, Venezuela II, and Bolivia. The court should be more transparent and open about developments in preliminary examinations

taking place outside Africa. Ninth, the court should seek to investigate more cases outside Africa.

Finally, to improve the relation between Africa and the International Criminal Court, African states should establish Courts like the Extraordinary African Chambers. The Extraordinary African Chambers within the Courts of Senegal have been created to prosecute international crimes committed in Chad between 7 June 1982 and 1 December 1990. The Extraordinary African Chambers (ACE) is a tribunal created in 2013 by an agreement between the African Union (AU) and Senegal. This tribunal prosecuted and convicted the former Chadian President Hissene Habre for charges of crimes against humanity, torture, and war crimes. The trial of Hissene Habre was the first trial in the world in which the courts of one country prosecuted the former ruler of another for alleged human rights crimes. It was also the first universal jurisdiction case to proceed to trial in Africa. The Extraordinary African Chambers have the power to prosecute and try the person or persons most responsible for crimes and serious violations of international law, customary international law and international conventions ratified by Chad, committed in the territory of Chad during the period from June 7, 1982 to December 1, 1990.

Moreover, to improve the relationship between Africa and the International Criminal Court, the Statute of the African Court of Justice and Human Rights should be amended. In June 2014, the Assembly of the AU adopted the Malabo Protocol which created the African Court by adding an International Criminal Law Section to the already existing jurisdiction of the ACJHR (General Affairs and Human Rights). The Statute of the African Court vests the court with criminal jurisdiction over 14 crimes such as genocide, crimes against humanity, war crimes, the

crime of aggression, piracy, terrorism, money laundering, mercenarism, corruption, trafficking in persons, trafficking in drugs, trafficking in hazardous wastes, illicit exploitation of natural resources, and the crime of unconstitutional change of government. The Statute has made several progressive steps such as the inclusion of corporate criminal liability and raising the age of child soldiers to 18 years, not to mention the inclusion of ten transnational crimes under the jurisdiction of the ACC. Despite the establishment of an African Court for Justice and Human Rights, one can doubt the commitment of African States to transparent and equitable justice in the sense that a clause of this protocol (Article 46A bis) grants immunity to Heads of state during their mandate and senior officials in office. This clause prevents the investigation of heads of state and senior state officials who often abuse their position to commit violations of human rights. The immunity clause undermines the legitimacy of the court and the fight against impunity. Therefore, it is necessary to amend the protocol to remove this clause of immunity.

As I said above, this study has some limitations. This study can lead to additional research. Indeed, additional research on this topic may be related to the examination of the role and challenges of the court outside Africa. Also, additional research may be related to the effectiveness of the African Court of Justice and Human Rights related to the enforcement of laws regarding international crimes.

## References

Agence France-Press. (2017). The 1990s Balkan Wars in Key Dates.

<https://www.voanews.com/europe/1990s-balkan-wars-key-dates>

Aljazeera. (2018). What Jean-Pierre Bemba's acquittal by the ICC means.

<https://www.aljazeera.com/opinions/2018/6/13/what-jean-pierre-bembas-acquittal-by-the-icc-means>

Aloisi, R. (2013). A Tale of Two Institutions: The United Nations Security Council and the International Criminal Court. *International Criminal Law Review*, Vol 13, pp. 147- 168,

<http://web.b.ebscohost.com.scsuproxy.mnpals.net/ehost/pdfviewer/pdfviewer?vid=1&sid=695b539c-4bd5-4601-aed5-89a95e6fd8c8%40pdc-v-sessmgr03>

Amnesty International. (2004). DR Congo: International Criminal Court's investigation of war crimes and crimes against humanity a major step forward.

<https://www.amnesty.org/download/Documents/92000/afr620142004en.pdf>

Amnesty International. (2019a). Cote d'Ivoire: Acquittal of Gbagbo and Blé Goudé a crushing disappointment to victims of post-election violence.

<https://www.amnesty.org/en/latest/news/2019/01/cote-acquittal-of-gbagbo-a-crushing-disappointment-to-victims/>

Amnesty International. (2019b). Israel/OPT: ICC investigation into war crimes a 'historic step towards justice'. [https://www.amnesty.org/en/latest/news/2019/12/israel-opt-icc-](https://www.amnesty.org/en/latest/news/2019/12/israel-opt-icc-investigation-into-war-crimes-a-historic-step-towards-justice/)

[investigation-into-war-crimes-a-historic-step-towards-justice/](https://www.amnesty.org/en/latest/news/2019/12/israel-opt-icc-investigation-into-war-crimes-a-historic-step-towards-justice/)

Amnesty International. (2019c). Philippines: Withdrawal from the ICC must spur UN action.

<https://www.amnesty.org/en/latest/news/2019/03/philippines-withdrawal-icc-spur-un-action/>

Amnesty International. (2020a). ICC decision on UK military in Iraq rewards obstructionism.

<https://www.amnesty.org/en/latest/news/2020/12/icc-decision-on-uk-military-in-iraq-rewards-obstructionism/>

Amnesty International. (2020b). ICC: Milestone decision paves the way for full investigation

into atrocities in Nigeria. <https://www.amnesty.org/en/latest/news/2020/12/icc-milestone-decision-paves-the-way-for-full-investigation-into-atrocities-in-nigeria/>

Amnesty International. (2020c). Sudan: The ICC is presently the best option for justice for

Darfur crimes. <https://www.amnesty.org/en/latest/news/2020/10/sudan-icc-presently-the-best-option-for-justice-for-darfur-crimes/>

Amnesty International. (2021). Israel/OPT: Historic ICC ruling brings new hope to victims of

crimes under international law. <https://www.amnesty.org/en/latest/news/2021/02/israel-opt-historic-icc-ruling-brings-hope-for-victims-of-crimes-under-international-law/>

Appel, B. J. (2018). In the Shadow of the International Criminal Court: Does the ICC Deter

Human Rights Violations? *Journal of Conflict Resolution*, Vol. 62(1), pp.3-28,

<https://journals-sagepub-com.scsuproxy.mnpals.net/doi/full/10.1177/0022002716639101>

Arieff, A., Margesson, R., Browne, M. A., & Weed, M.C. (2011). International Criminal Court

Cases in Africa: Status and Policy Issues. Congressional research service.

<https://fas.org/sgp/crs/row/RL34665.pdf>

- Austin, W., & Thieme, M. (2016). Is the International Criminal Court Anti-African? *Peace Review, Vol.28 (3)*, p.342-350,  
<http://web.a.ebscohost.com.scscopy.mnpals.net/ehost/pdfviewer/pdfviewer?vid=1&sid=bbd0501d-c6f8-4049-8fef-ac0c59af7e89%40sdc-v-sessmgr02>
- Bachman, R.D., & Schutt, R.K. (2017). *The practice of research in criminology and criminal justice*. Sage Publications
- BBC NEWS. (2017). International Criminal Court probes Burundi 'crimes against humanity'.  
<https://www.bbc.com/news/world-africa-41932291>
- Behles, C. (2018). ICC Prosecutor Closes Investigation into Gabon.  
<https://www.asil.org/ILIB/icc-prosecutor-closes-investigation-gabon-september-21-2018>
- Bowcott, O. (2020). ICC abandons inquiry into alleged British war crimes in Iraq.  
<https://www.theguardian.com/uk-news/2020/dec/09/icc-abandons-inquiry-into-alleged-british-war-crimes-in-iraq>
- Browne- Marshall, G, J. (2011). International Criminal Tribunals and hybrid courts. In Natarajan, M (Eds), *International crime and justice* (pp.350-356). Cambridge University Press
- Cannon, B.J., Pkalya, D.R., & Maragia, B. (2016). The International Criminal Court and Africa Contextualizing the Anti-ICC Narrative. *African journal of international criminal justice, Vol.2 (1-2)*, pp. 6-28, [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3061703](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3061703)
- Chigara, B.A., & Nwankwo, C.M. (2015). To be or not to be?' The African Union and its Member States Parties' Participation as High Contracting States Parties to the Rome Statute of the International Criminal Court (1998). *Nordic Journal of Human Rights, Vol*

33(3), pp. 243-268,

<https://www.tandfonline.com/doi/full/10.1080/18918131.2015.1105559>

Clottey, (2013). International Court Urged to Administer Equal Justice in Ivory Coast.

Voa.news. <https://www.voanews.com/africa/international-court-urged-administer-equal-justice-ivory-coast>

Corey-Boulet, R. (2012). Ivory Coast: Victor's Justice. *World Policy Journal*, Vol. 29, No. 3, pp.

68-79, [https://www.jstor.org/stable/23326810?seq=1#metadata\\_info\\_tab\\_contents](https://www.jstor.org/stable/23326810?seq=1#metadata_info_tab_contents)

Coalition for the International Criminal Court. (2021a). Afghanistan.

<https://www.coalitionfortheicc.org/country/afghanistan>

Coalition for the International Criminal Court. (2021b). Bangladesh/Myanmar.

<https://www.coalitionfortheicc.org/country/bangladesh-bangladeshmyanmar>

Coalition for the International Criminal Court (2021c). Burundi.

<https://www.coalitionfortheicc.org/country/burundi>

Coalition for the International Criminal Court. (2021d). Central African Republic (I and II).

<https://www.coalitionfortheicc.org/country/central-african-republic-i-and-ii>

Coalition for the International Criminal Court. (2021e). Colombia.

<https://www.coalitionfortheicc.org/country/colombia>

Coalition for the International Criminal Court. (2021f). Cote d'Ivoire.

<https://www.coalitionfortheicc.org/country/cote-divoire>

Coalition for the International Criminal Court. (2021g). Iraq/UK. <https://www.icc-cpi.int/iraq>

Coalition for the International Criminal Court (2021h). Kenya.

<https://www.coalitionfortheicc.org/country/kenya>

Coalition for the International Criminal Court. (2021i). Libya.

<https://www.coalitionfortheicc.org/country/libya>

Coalition for the International Criminal Court. (2021j). Mali.

<https://www.coalitionfortheicc.org/country/mali>

Coalition for the International Criminal Court (2021k). Philippines.

<https://www.coalitionfortheicc.org/country/philippines>

Coalition for the International Criminal Court. (2021l). Uganda.

<https://www.coalitionfortheicc.org/country/uganda>

Coalition for the International Criminal Court. (2021m). Sudan.

<https://www.coalitionfortheicc.org/country/sudan>

Corder, M. (2020). ICC prosecutor ready to open investigation into Ukraine.

<https://www.pbs.org/newshour/world/icc-prosecutor-ready-to-open-investigation-into-ukraine>

Crowe, D. M. (2014). War crimes, genocide, and justice. New York, NY: Palgrave Macmillan

Dancy, G., & Montal, F. (2017). Unintended positive complementarity: why International

Criminal Court investigations may increase domestic human rights prosecutions. *The*

*American Journal of International Law*, Vol.111 (3), p.689-723.

Dancy, G., Dutton, Y. M., & Alleblas, T. (2019). What Determines Perceptions of Bias toward

the International Criminal Court? Evidence from Kenya. *Journal of Conflict Resolution*,

vol 64: 7-8, pp. 1443-1469,

<https://journals.sagepub.com/doi/full/10.1177/0022002719893740>

Destexhe, A. (1995). Rwanda and genocide in the twentieth century. New York University Press

- Epure, G. (2020, July 15). Writing the Jurisprudence of Gender-Based Persecution: Al Hassan on Trial at the ICC. *Justice in Conflict*, <https://justiceinconflict.org/2020/07/15/writing-the-jurisprudence-of-gender-based-persecution-al-hassan-on-trial-at-the-icc/>
- Eubank, K. (1973). *Road to World War II: A documentary history*. Thomas Y. Crowell Company
- Evenson, E., Jarrah, B., Keppler, E., Pappier, J., & Singh, P-P. (2018, December 6). The ICC's Impact on National Justice Can the ICC Prosecutor Catalyze Domestic Cases? *Justice in Conflict*, <https://justiceinconflict.org/2018/12/06/the-iccs-impact-on-national-justice-a-symposium/>
- Ezennia, C. (2016). The modus operandi of the International Criminal Court System: An impartial or a selective justice regime? *International Criminal Law Review*, 16(3), pp.448-479.  
<http://web.b.ebscohost.com.libproxy.stcloudstate.edu/ehost/detail/detail?vid=0&sid=6042a636-09d2-4fb4-a282-2f4849f88a72%40pdc-v-sessmgr02&bdata=JnNpdGU9Z>
- Facing History and Ourselves. (2018). *Holocaust and human behavior*.  
[https://www.facinghistory.org/sites/default/files/publications/Holocaust\\_Human\\_Behavior\\_revised\\_edition\\_2.pdf](https://www.facinghistory.org/sites/default/files/publications/Holocaust_Human_Behavior_revised_edition_2.pdf)
- Fisher, K.J., & Stefan, C.G. (2016). The Ethics of International Criminal 'Lawfare'. *International Criminal Law Review*, Vol 16 (2), pp. 237-257,  
<http://web.b.ebscohost.com.scsuproxy.mnpals.net/ehost/pdfviewer/pdfviewer?vid=1&sid=0b42e0e1-c725-4633-9822-2cd8c9f6cab6%40pdc-v-sessmgr06>

- Ganeson, K. (2021). What is text similarity? <https://kavita-ganesan.com/what-is-text-similarity/#.YKa6vS2ZPUJ>
- Gegout, C. (2013). The International Criminal Court: limits, potential and conditions for the promotion of justice and peace. *Third World Quarterly*, 34 (5), pp. 800-818.  
<https://www.tandfonline.com/doi/full/10.1080/01436597.2013.800737>
- Hillebrecht, C., & Straus, S. (2017). Who pursues the perpetrators? State cooperation with the ICC. *Human Rights Quarterly*, Vol.39(1), pp.162-188, <https://muse-jhu-edu.scsuproxy.mnpals.net/article/647805>
- History. (2019a). Nuremberg Trials. <https://www.history.com/topics/world-war-ii/nuremberg-trials>
- History. (2019b). Rwandan genocide. <https://www.history.com/topics/africa/rwandan-genocide>
- Hohn, S. (2014). New Start or False Start? The ICC and Electoral Violence in Kenya. *Development and Change*, Vol 45 (3), pp. 565-588,  
<http://web.b.ebscohost.com.scsuproxy.mnpals.net/ehost/detail/detail?vid=0&sid=5e173557-65bc-4140-985b-3c88e01fed3d%40sessionmgr101&bdata=JnNpdGU9ZWhvc3QtbGl2ZSZzY29wZT1zaXRI#AN=95864563&db=aph>
- Human Rights Watch. (2011). Unfinished business closing gaps in the selection of ICC cases.  
<https://www.hrw.org/sites/default/files/reports/icc0911webwcover.pdf>
- Human Rights Watch (2016a). Georgia/Russia: ICC Judges OK Investigation.  
<https://www.hrw.org/news/2016/01/27/georgia/russia-icc-judges-ok-investigation>

Human Rights Watch. (2016b). ICC: Kenya Deputy President's Case Ends.

<https://www.hrw.org/news/2016/04/05/icc-kenya-deputy-presidents-case-ends>

Human rights Watch (2018). Pressure Point: The ICC's Impact on National Justice; Lessons from Colombia, Georgia, Guinea, and the United Kingdom.

<https://www.hrw.org/report/2018/05/03/pressure-point-iccs-impact-national-justice/lessons-colombia-georgia-guinea-and>

Human Rights Watch. (2019a). Congo Warlord Gets 30 Years.

<https://www.hrw.org/news/2019/11/07/congo-warlord-gets-30-years>

Human Rights Watch. (2019b). Côte d'Ivoire: UN Review Should Press Government on Justice.

<https://www.hrw.org/news/2019/05/06/cote-divoire-un-review-should-press-government-justice>

Human Rights Watch. (2019c). ICC Prosecutor Seeking to Investigate Crimes Against Rohingya.

<https://www.hrw.org/news/2019/06/26/icc-prosecutor-seeking-investigate-crimes-against-rohingya>

Human Rights Watch. (2019d). Philippines Pullout From ICC Won't Block Justice for 'Drug

War. <https://www.hrw.org/news/2019/03/18/philippines-pullout-icc-wont-block-justice-drug-war>

Human Rights Watch. (2020a). The ICC's Work in Congo Isn't Done.

<https://www.hrw.org/news/2020/08/11/iccs-work-congo-isnt-done>

Human Rights Watch. (2020b). United Kingdom: ICC Prosecutor Ends Scrutiny of Iraq Abuses.

<https://www.hrw.org/news/2020/12/10/united-kingdom-icc-prosecutor-ends-scrutiny-iraq-abuses>.

Human Rights Watch. (2020c). Venezuela: Justice Needed for Systematic Abuses.

<https://www.hrw.org/news/2020/12/14/venezuela-justice-needed-systematic-abuses#>

Human Rights Watch. (2021a). Central African Republic: First Anti-Balaka Trial at ICC.

<https://www.hrw.org/news/2021/02/07/central-african-republic-first-anti-balaka-trial-icc>

Human Rights Watch. (2021b). Israel/Palestine: ICC Judges Open Door for Formal Probe.

<https://www.hrw.org/news/2021/02/06/israel/palestine-icc-judges-open-door-formal-probe>

International Criminal Court. (2010). ICC Prosecutor: alleged war crimes in the territory of the Republic of Korea under preliminary examination. [https://www.icc-](https://www.icc-cpi.int/Pages/item.aspx?name=pr608)

[cpi.int/Pages/item.aspx?name=pr608](https://www.icc-cpi.int/Pages/item.aspx?name=pr608)

International Criminal Court. (2014a). Statement of the Prosecutor of the International Criminal Court, Fatou Bensouda, on the conclusion of the preliminary examination of the situation in the Republic of Korea. <https://www.icc-cpi.int/Pages/item.aspx?name=pr1019>

International Criminal Court. (2014b). Statement of the Prosecutor of the International Criminal Court, Fatou Bensouda, on concluding the preliminary examination of the situation referred by the Union of Comoros: “Rome Statute legal requirements have not been met”. <https://www.icc-cpi.int/Pages/item.aspx?name=otp-statement-06-11-2014>

International Criminal Court. (2015). Statement of the Prosecutor of the International Criminal Court, Fatou Bensouda, on the conclusion of the preliminary examination into the situation in Honduras. <https://www.icc-cpi.int/Pages/item.aspx?name=otp-stat-28-10-2015>

- International Criminal Court. (2019). Office of the Prosecutor Report on Preliminary Examination Activities. <https://www.icc-cpi.int/itemsDocuments/191205-rep-otp-PE.pdf>
- International Criminal Court. (2020). Report on Preliminary Examination Activities (2020). <https://www.icc-cpi.int/itemsDocuments/2020-PE/2020-pe-report-eng.pdf>
- International Criminal Court. (2021a). Afghanistan. <https://www.icc-cpi.int/afghanistan>
- International Criminal Court. (2021b). Burundi. <https://www.icc-cpi.int/burundi>
- International Criminal Court. (2021c). Central African Republic. <https://www.icc-cpi.int/car>
- International Criminal Court. (2021d). Central African Republic II. <https://www.icc-cpi.int/itemsDocuments/yekatom-ngaissona-q-a-start-trial-eng.pdf>
- International Criminal Court. (2021e). Central African Republic II. <https://www.icc-cpi.int/carII>
- International Criminal Court (2021f). Colombia. <https://www.icc-cpi.int/colombia>
- International Criminal Court. (2021g). Cote d'Ivoire. <https://www.icc-cpi.int/cdi>
- International Criminal Court. (2021h). Darfur, Sudan. <https://www.icc-cpi.int/darfur>
- International Criminal Court (2021i). Democratic Republic of the Congo. <https://www.icc-cpi.int/drc>
- International Criminal Court. (2021j). Gabon. <https://www.icc-cpi.int/gabon>
- International Criminal Court. (2021k). Georgia. <https://www.icc-cpi.int/georgia>
- International Criminal Court. (2021l). Guinea. <https://www.icc-cpi.int/guinea>
- International Criminal Court. (2021m). Honduras. <https://www.icc-cpi.int/honduras>
- International Criminal Court. (2021n). Kenya. <https://www.icc-cpi.int/kenya>
- International Criminal Court. (2021o). Libya. <https://www.icc-cpi.int/libya>
- International Criminal Court. (2021p). Mali. <https://www.icc-cpi.int/mali>

International Criminal Court. (2021q). Nigeria. <https://www.icc-cpi.int/nigeria>

International Criminal Court. (2021r). Preliminary Examination. <https://www.icc-cpi.int/venezuela>

International Criminal Court. (2021t). Republic of the Philippines. <https://www.icc-cpi.int/philippines>

International Criminal Court. (2021u). Rome Statute of the International Criminal Court [PDF file]. <https://www.icc-cpi.int/resource-library/Documents/RS-Eng.pdf>

International Criminal Court. (2021v). State of Palestine. <https://www.icc-cpi.int/palestine>

International Criminal Court. (2021w). Uganda. <https://www.icc-cpi.int/uganda>

International Criminal Court. (2021x). Venezuela. <https://www.icc-cpi.int/venezuela>

International Criminal Tribunal for the former Yugoslavia. (2021). The Conflicts. <https://www.icty.org/en/about/what-former-yugoslavia/conflicts>

International Federation for Human Rights (2018a). Georgia: the International Criminal Court has the potential to be a game changer in the region. <https://www.fidh.org/en/region/europe-central-asia/georgia/georgia-the-international-criminal-court-has-the-potential-to-be-a>

International Federation for Human Rights. (2018b). In the face of brutal crackdowns, the International Criminal Court opens preliminary examinations into Venezuela and the Philippines. <https://www.fidh.org/en/issues/international-justice/international-criminal-court-icc/in-the-face-of-brutal-crackdowns-the-international-criminal-court>

International Federation for Human Rights (2019a). ICC/Côte d'Ivoire: Towards total impunity for 2010-2011 crimes after acquittal of Laurent Gbagbo and Charles Blé Goudé.

<https://www.fidh.org/en/issues/international-justice/icc-cote-d-ivoire-towards-total-impunity-for-2010-2011-crimes-after>

International Federation for Human Rights. (2019b). ICC to investigate crimes against Rohingya, the Court's first investigation in Asia. <https://www.fidh.org/en/region/asia/burma/icc-to-investigate-crimes-against-rohingya-the-court-s-first>

International Federation for Human Rights. (2020). Afghanistan: ICC to Investigate War Crimes, Including US Torture. <https://www.fidh.org/en/region/asia/afghanistan/afghanistan-icc-to-investigate-war-crimes-including-us-torture>

International Federation for Human Rights. (2021). Happenings in The Hague: The Palestine situation at the ICC. <https://www.fidh.org/en/region/north-africa-middle-east/israel-palestine/happenings-in-the-hague-the-palestine-situation-at-the-icc>

International Justice Resource Center. (2016). ICC Finds Jean-Pierre Bemba, Four Others Guilty of Witness Tampering. <https://ijrcenter.org/2016/10/24/icc-finds-jean-pierre-bemba-four-others-guilty-of-witness-tampering/>

International Residual Mechanism for Criminal Tribunals. (2010). Statute.

[https://www.irmct.org/sites/default/files/documents/101222\\_sc\\_res1966\\_statute\\_en\\_0.pdf](https://www.irmct.org/sites/default/files/documents/101222_sc_res1966_statute_en_0.pdf)

Iommi, L.G. (2020). Whose justice? The ICC 'Africa problem'. *International Relations* 2020, Vol. 34 (1), pp.105–129, <https://journals.sagepub.com/doi/full/10.1177/0047117819842294>

- Jo, H., & Simmons B.A. (2016). Can the International Criminal Court Deter Atrocity? *International Organization*, Vol. 70 (3), pp. 443-475, [https://www-jstor-org.scsuproxy.mnpals.net/stable/24758127?seq=1#metadata\\_info\\_tab\\_contents](https://www-jstor-org.scsuproxy.mnpals.net/stable/24758127?seq=1#metadata_info_tab_contents)
- Joyner, C.C. (2005). *International Law in the 21<sup>st</sup> Century*. Rowman & Littlefield Publishers, INC.
- Justice Initiative. (2016). *The Trial of Jean-Pierre Bemba at the ICC*.  
<https://www.justiceinitiative.org/publications/trial-jean-pierre-bemba-icc>
- Langley, A. (2017). *Hiroshima and Nagasaki. Minnesota Made*.  
<https://library.biblioboard.com/content/ed93239c-e4cf-457c-8edd-cbb001e5a1bf>
- Kenney, C., & Norris, J. (2018). *International Justice on Trial? Center for American Progress*.  
<https://www.americanprogress.org/issues/security/reports/2018/03/28/448415/international-justice-trial/>
- Kersten, M. (2014). *Three Reasons Why the ICC Intervenes in Ongoing and Active Conflicts*.  
Justice in conflict. <https://justiceinconflict.org/2014/04/29/why-the-icc-intervenes-in-ongoing-and-active-conflicts/>
- Kersten, M. (2015a). *The Africa-ICC Relationship – More and Less than Meets the Eye (Part 1)*.  
<https://justiceinconflict.org/2015/07/17/the-africa-icc-relationship-more-and-less-than-meets-the-eye-part-1/>
- Kersten, M. (2015b). *The Africa-ICC Relationship – More and Less than Meets the Eye (Part 2)*.  
<https://justiceinconflict.org/2015/07/24/the-africa-icc-relationship-more-and-less-than-meets-the-eye-part-2/>

- Kersten, M. (2016a). A Missed Trial or a Mistrial? The End of the ICC Cases against Ruto and Sang. Justice in conflict. <https://justiceinconflict.org/2016/04/07/a-missed-trial-or-a-mistrial-the-end-of-the-icc-cases-against-ruto-and-sang/>
- Kersten, M. (2016b). South Africa and Burundi Withdrawals Expose Faults and Fault-Lines in ICC Opposition. <https://justiceinconflict.org/2016/11/11/south-africa-and-burundi-withdrawals-expose-faults-and-fault-lines-in-icc-opposition/>
- Kersten, M. (2016c). The al-Mahdi Case is a Breakthrough for the International Criminal Court. Justice in Conflict. <https://justiceinconflict.org/2016/08/25/the-al-mahdi-case-is-a-breakthrough-for-the-international-criminal-court/>
- Kersten, M. (2016d). What the ICC Can Do to Improve its Relationship with African States. Justice in Conflict, <https://justiceinconflict.org/2016/11/01/what-the-icc-can-do-to-improve-its-relationship-with-african-states/>
- Kersten, M. (2017). The ICC and Afghanistan: Challenges for a Court, Opportunities for an International Organization. Justice in Conflict, <https://justiceinconflict.org/2017/12/08/the-icc-and-afghanistan-challenges-for-a-court-opportunities-for-an-international-organization/>
- Kersten, M. (2019). Acquittals and the Battleground over the ICC's Legitimacy. Justice in conflict. <https://justiceinconflict.org/2019/03/14/acquittals-and-the-battleground-over-the-iccs-legitimacy/>
- Magliveras, K.D., & Naldi, G.J (2013). The International Criminal Court's Involvement with Africa: Evaluation of a Fractious Relationship. *Nordic Journal of International Law*, Vol 82 (3), pp. 417-446,

<http://web.a.ebscohost.com.scsuproxy.mnpals.net/ehost/pdfviewer/pdfviewer?vid=1&sid=99b5d6d0-04a2-45d8-83c4-6eb33473bdf0%40sdc-v-sessmgr01>

Malu, L.N (2016). The International Criminal Court and the Complex Road to Peace in Côte d'Ivoire. *International Criminal Law Review*, Vol 16 (5), pp 826-855,

<http://web.a.ebscohost.com.scsuproxy.mnpals.net/ehost/pdfviewer/pdfviewer?vid=1&sid=c5a8b7af-6f86-4dbb-b21d-918db63b217f%40sdc-v-sessmgr02>

Malu, L.N. (2019). The international criminal court and peace processes. Palgrave Macmillan

Marsico, K. (2015). World War II. Minnesota Made.

<https://library.biblioboard.com/content/a9b9c40e-7424-4f0e-82de-5aaa3735bc57>

Mills, K. (2012). "Bashir is Dividing Us": Africa and the International Criminal Court. *Human Rights Quarterly*, Vol. 34, No. 2, pp. 404-447.

<https://www.jstor.org/stable/pdf/23254731.pdf>

Miner, R.H. (1971). Victors' justice The Tokyo war crimes trial. Princeton University Press

Mojzes, P. (2011). Balkan genocides. Rowman & Littlefield Publishers

Mue, N. (2016, November 2016). "We Stay. We Respond" – A Speech on Africa and the International Criminal Court. Justice in Conflict,

<https://justiceinconflict.org/2016/11/21/we-stay-we-respond-a-speech-on-africa-and-the-international-criminal-court/>

Natarajan, M. (Eds.). (2011). International crime and justice. Cambridge University Press

Ochab, E. (2020). Nigeria To Be Investigated by The International Criminal Court.

<https://www.forbes.com/sites/ewelinaochab/2020/12/11/nigeria-to-be-investigated-by-the-international-criminal-court/?sh=7217214b549e>

- Office of the Historian. (n.d). The Nuremberg Trial and the Tokyo War Crimes Trials (1945–1948). [https://history.state.gov/milestones/1945-1952/nuremberg#:~:text=NOTE%20TO%20READERS-,The%20Nuremberg%20Trial%20and%20the%20Tokyo%20War%20Crimes%20Trials%20\(1945,crimes%20and%20other%20wartime%20atrocities.](https://history.state.gov/milestones/1945-1952/nuremberg#:~:text=NOTE%20TO%20READERS-,The%20Nuremberg%20Trial%20and%20the%20Tokyo%20War%20Crimes%20Trials%20(1945,crimes%20and%20other%20wartime%20atrocities.)
- Okpe, S.O. (2020). Anti-Impunity Norm of the International Criminal Court: A Curse or Blessing for Africa? *Journal of Asian and African Studies*, Vol 55:7, pp.1077 –1090. <https://journals.sagepub.com/doi/abs/10.1177/0021909620909455>
- The Avalon Project. (2008). Judgment: The Accused Organizations. <https://avalon.law.yale.edu/imt/judorg.asp>
- Reid, K. (2019, April 1). 1994 Rwandan genocide, aftermath: Facts, FAQs, and how to help. World Vision. <https://www.worldvision.org/refugees-news-stories/1994-rwandan-genocide-facts>
- Reuters. (2019). International Criminal Court puts Mali war crimes suspect to trial. <https://www.reuters.com/article/us-icct-mali-idUSKBN1WF1W0>
- Reuters. (2020a). ICC prosecutor seeks investigation into Ukraine war crimes -statement. <https://www.reuters.com/article/uk-ukraine-warcrimes-idUKKBN28L2NQ>
- Reuters. (2020b). Venezuela asks ICC prosecutor to investigate U.S. officials. <https://www.reuters.com/article/us-icct-venezuela-usa-idUSKBN2072I6>
- Robinson, D., & Macneil, G. (2016). The tribunals and the renaissance of international criminal law: three themes. *American Journal of International Law*, 110 (2), pp. 191-211. <https://www-jstor->

[org.libproxy.stcloudstate.edu/stable/10.5305/amerjintelaw.110.2.0191?seq=1#metadata\\_info\\_tab\\_contents](http://org.libproxy.stcloudstate.edu/stable/10.5305/amerjintelaw.110.2.0191?seq=1#metadata_info_tab_contents)

Schabas W. (2012). Victors' Justice? Selecting Targets for Prosecution. Unimaginable Atrocities: Justice, Politics, and Rights at the War Crimes Tribunals.

<https://oxford.universitypressscholarship.com/view/10.1093/acprof:oso/9780199653072.001.0001/acprof-9780199653072-chapter-4>

Schneider, L. (2020). The International Criminal Court (ICC) – A Postcolonial Tool for Western States to Control Africa? *Journal of International Criminal Law (JICL)*, vol 1(1), pp. 90-109, <https://www.zora.uzh.ch/id/eprint/193279/>

Scott, S. V. (2004). *International Law in World Politics*. Lynne Rienner Publishers

Soufi, J., & Maurice, S. (2015). Structure, Functions and Initial Achievements of the Mechanism for International Criminal Tribunals (MICT). *International Criminal Law Review*, 15(3), pp. 544-564.

<http://web.b.ebscohost.com/ehost/pdfviewer/pdfviewer?vid=2&sid=d9976f53-1564-4e97-888d-fb8201f75747%40sessionmgr103>

Tiemessen, A. (2013). Defying Gravity: Seeking Political Balance in ICC Prosecutions. Justice in conflict. <https://justiceinconflict.org/2013/04/22/defying-gravity-seeking-political-balance-in-icc-prosecutions/>

Tiemessen, A. (2016). The International Criminal Court and the lawfare of judicial intervention. *International Relations*, 30(4), pp.409-431. <https://journals-sagepub.com.libproxy.stcloudstate.edu/doi/full/10.1177/0047117815601201>

United Nations. (1945). Charter of the United Nations. <https://www.un.org/en/charter-united-nations/>

United Nations. (1946). International Military Tribunal for The Far East. [https://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.3\\_1946%20Tokyo%20Charter.pdf](https://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.3_1946%20Tokyo%20Charter.pdf)

United Nations. (1993). Resolution 808. [https://undocs.org/S/RES/808\(1993\)](https://undocs.org/S/RES/808(1993))

United Nations. (1994). Resolution 955. [https://undocs.org/S/RES/955\(1994\)](https://undocs.org/S/RES/955(1994))

UN News. (2019). ICC green-lights probe into violent crimes against Rohingya. <https://news.un.org/en/story/2019/11/1051451>

U.S.News. (2020). Bolivia Calls on ICC to Investigate Morales Over Blockades. <https://www.usnews.com/news/world/articles/2020-09-09/bolivia-calls-on-icc-to-investigate-morales-over-blockades>

Vilmer, J-B. (2016). The African Union and the International Criminal Court: counteracting the crisis. *International Affairs, Vol.92 (6)*, p.1319-1342, <http://web.b.ebscohost.com.scsuproxy.mnpals.net/ehost/detail/detail?vid=0&sid=a9e5ff2f-69b9-44c9-a1b9-154b818b3170%40pdc-v-sessmgr06&bdata=>

Weiss, T. G., & Daws, S. (2018). *The Oxford handbook on the United Nations*. Oxford University Press

Wilson, R. A. (2011). *Writing history in international criminal trials*. Cambridge University Press




## Appendix B

### Filing System: Support

Author	Promotes Anti- Impunity	Promotes Deterrence	Promotes Domestic Prosecutions	Provides Hope for Victims and Civilians	Promotes Respect for Victims' Rights	Provides Accountability	Provides International Justice and Peace	Is not Bias ed	Is not targeting only Africa
Gegout (2013)	<b>X</b>	<b>X</b>					<b>X</b>		<b>X</b>
Hohn (2014)			<b>X</b>				<b>X</b>		
Chigara & Nwan kwo (2015)								<b>X</b>	<b>X</b>

Kerstein (2015a)								<b>X</b>	
Kerstein (2015b)								<b>X</b>	
Jo & Simmons (2016)	<b>X</b>	<b>X</b>	<b>X</b>						
Malu (2016)		<b>X</b>			<b>X</b>	<b>X</b>			
Fisher & Stefan (2016)				<b>X</b>					
Cannon, Pkalya, &				<b>X</b>			<b>X</b>	<b>X</b>	

Marag ia (2016)									
Austin & Thiem e (2016)						<b>X</b>		<b>X</b>	<b>X</b>
Kerste n (2016a )						<b>X</b>	<b>X</b>		
Kerste n (2016b )								<b>X</b>	
Vilmer (2016)								<b>X</b>	<b>X</b>
Mue (2016)								<b>X</b>	
Dancy			<b>X</b>						

& Monta l (2017)									
Appel (2018)		<b>X</b>							
Huma n Rights Watch (2018)			<b>X</b>						
Kenne y & Norris (2018)						<b>X</b>			
Evens on, Jarrah, Keppl er, Pappie r &			<b>X</b>						

Singh (2018)									
Malu (2019)		<b>X</b>		<b>X</b>			<b>X</b>	<b>X</b>	
Dancy , Dutton , & Allebl as (2019)								<b>X</b>	
Kerste n (2019)								<b>X</b>	
Okpe (2020)	<b>X</b>	<b>X</b>				<b>X</b>		<b>X</b>	
Epure (2020)					<b>X</b>				
Schnei der (2020)								<b>X</b>	<b>X</b>

## Appendix C

### Filing System: Oppose

Authors	Is selective	Is targeting only Africa	Is instrumentalizing by states	Is instrumentalized by UNSC	Is endangering peace and reconciliation
Arieff, Margesson, Browne, & Weed (2011)					<b>X</b>
Human Rights Watch (2011)	<b>X</b>				
Corey-Boulet (2012)	<b>X</b>			<b>X</b>	
Clottey (2013)	<b>X</b>				
Gegout (2013)	<b>X</b>		<b>X</b>		

Tiemessen (2013)	X				
Aloisi (2013)				X	
Ezennia (2016)	X			X	
Fisher & Stefan (2016)			X	X	
Cannon, Pkalya, & Maragia, 2016)			X		
Tiemessen (2016)			X		X
Mue (2016)				X	
Malu (2016)					X
Kenney & Norris (2018)		X			

Schneider (2020)				X	
---------------------	--	--	--	---	--

## Appendix D

### Filing System: Neutral

Authors	Divided opinions among African states	Selectivity of States' support and cooperation	Is not promoting deterrence
Arieff, Margesson, Browne, & Weed (2011)			<b>X</b>
Mills (2012)	<b>X</b>		
Corey-Boulet (2012)		<b>X</b>	
Magliveras & Naldi (2013)	<b>X</b>	<b>X</b>	
Gegout (2013)		<b>X</b>	

Kersten (2014)		<b>X</b>	
Hohn (2014)			<b>X</b>
Kersten (2015)		<b>X</b>	
Cannon, Pkalya, & Maragia (2016)	<b>X</b>		
Kersten (2016)	<b>X</b>		
Jo & Simmons (2016)			<b>X</b>
Tiemessen (2016)			<b>X</b>
Hillebrecht & Straus (2017)		<b>X</b>	
Kersten (2017)		<b>X</b>	

Appel (2018)			<b>X</b>
Malu (2019)		<b>X</b>	
Iommi (2020)	<b>X</b>		

## Appendix D

### Filing System Sorted on Recording Sheet Number

FILING SYSTEM: SORTED ON RECORDING SHEET NUMBER		
Recording Sheet Number	Year	Citation as found in this Study's Bibliography
1	2013	Clottey (2013)
2	2012	Kurt (2012)
3	2012	Corey-bOulet (2012)
4	2020	Okpe (2020)
5	2019	Dancy, Dutton, & Alleblas (2019)
7	2019	Iommi (2019)
8	2013	Aloisi (2013)
9	2013	Magliveras & Naldi (2013)
10	2016	Jo & Simmons (2016)
11	2016	Malu (2016)
13	2013	Gegou (2013)
14	2014	Hohn (2014)
15	2016	Fisher & Stefan (2016)
16	2020	Schneider (2020)
17	2017	Hillebrecht & Strauss (2017)
18	2016	Cannon, Pkalya, & Maragia (2016)
19	2015	Chigara & Nwankwo (2015)
20	2017	Dancy & Montal (2017)
21	2016	Austin & Thieme (2016)
22	2016	Tiemessen (2016)
23	2018	Appel (2018)
24	2016	Vilmer (2016)
25	2016	Ezennia (2016)
26	2020	Epure (2020)

27	2018	Evenson., Jarrah., Keppler., Pappier., & Singh (2018)
28	2016	Kersten (2016)
29	2016	Kersten (2016)
30	2017	Kersten (2017)
FILING SYSTEM: SORTED ON RECORDING SHEET NUMBER		
Recording Sheet Number	Year	Citation as found in this Study's Bibliography
31	2014	Kersten (2014)
32	2016	Kersten (2016)
33	2016	Mue (2016)
34	2019	Kersten (2019)
35	2019	Kersten (2019)
36	2013	Tiemessen (2013)
38	2015	Kersten (2015)
39	2015	Kersten (2015)
40	2014	Kersten (2014)
41	2019	Tessema (2019)
42	2019	Woolaver (2019)
43	2011	Arieff., Margesson., Browne., & Weed (2011)
44	2018	Human Rights Watch (2018)
45	2011	Human Rights Watch (2011)
46	2018	Kenney & Norris (2018)
47	2017	Rondreux (2017)
48	2014	Vilmer (2014)
49	2019	Malu (2019)

## Appendix F

### Filing System Sorted on Year of Original Publication

FILING SYSTEM: SORTED ON YEAR OF ORIGINAL PUBLICATION		
Recording Sheet Number	Year	Citation as found in this Study's Bibliography
36	2011	Arieff, Margesson, Browne, & Weed (2011)
38	2011	Human Rights Watch (2011)
2	2012	Mills (2012)
3	2012	Corey-Bouley (2012)
1	2013	Clottey (2013)
7	2013	Aloisi (2013)
8	2013	Magliveras & Naldi (2013)
11	2013	Gegout (2013)
32	2013	Tiemessen (2013)
12	2014	Hohn (2014)
29	2014	Kersten (2014)
17	2015	Chigara & Nwankwo (2015)
33	2015	Kersten
34	2015	Kersten (2015)
9	2016	Jo & Simmons (2016)
10	2016	Malu (2016)
13	2016	Fisher & Stefan (2016)
16	2016	Cannon, Pkalya, & Maragia (2016)
19	2016	Austin & Thieme (2016)
20	2016	Tiemessen (2016)
22	2016	Vilmer (2016)
23	2016	Ezennia (2016)
26	2016	Kersten (2016)

27	2016	Kersten (2016)
30	2016	Mue (2016)
35	2016	Kersten (2016)
15	2017	Hillebrecht & Straus (2017)
18	2017	Dancy & Montal (2017)
28	2017	Kersten (2017)
21	2018	Appel (2018)
FILING SYSTEM: SORTED ON YEAR OF ORIGINAL PUBLICATION		
Recording Sheet Number	Year	Citation as found in this Study's Bibliography
25	2018	Evenson, Jarrah, Keppler, Pappier, & Singh (2018)
37	2018	Human Rights Watch (2018)
39	2018	Kenney & Norris (2018)
5	2019	Dancy, Dutton, & Alleblas (2019)
31	2019	Kersten (2019)
40	2019	Malu (2019)
4	2020	Okpe (2020)
6	2020	Iommi (2020)
14	2020	Schneider (2020)
24	2020	Epure (2020)

