FROM NUREMBERG TO THE HAGUE: IMPERFECT JUSTICE BY VICTOR'S JUSTICE. A CRITICAL ANALYSIS OF THE EVOLUTION OF INTERNATIONAL CRIMINAL LAW

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ABSTRACT

Historically, it has been seen, The Nuremberg Trials of 1945–46 stand as one of the most pivotal, and yet most contested, milestones in the development of international criminal law. It marked the first concerted attempt to hold individuals, including heads of state, personally responsible for crimes that shocked the conscience of humanity. Yet, as it has been witnessed over the years, despite its utterly baffling triumph, the trials have long been subjected unyielding scrutiny owing to it being an exercise in victors' justice, further diseased by the retroactive application of novel legal hierarchies, the selective exclusionary process of Allied atrocities during the expanse of World War II, and the inescapable political character of the entire process. This macabre dual legacy is immensely entrenched within the echelons of contemporary international justice apparatus, notably in the International Criminal Court. Furthermore, this paper shall endeavour to explore the fault lines that plagues Nuremberg's foundational promised premise and its irrevocable shortcomings. It shall further evaluate the degree to which denunciated aspersions of arbitrariness, partiality, and political malice at Nuremberg shaped the later ad hoc tribunals that followed, particularly the International Criminal Tribunals of the ICC for the former Yugoslavia and Rwanda, before turning to the ICC as the first permanent institution of its kind. This paper enquires whether the ICC, which finds it codification under the Rome Statute, the procedural safeguards, and principle of complementarity, fortuitously eclipsed Nuremberg's flaws, or whether it remains imprisoned within the same shackles of selectivity and geopolitical influence. Drawing on historical analysis with the pre-existing doctrinal study, and lingering controversies, the research shall argue that the ICC embodies both continuity and progress. While it has institutionalised more vigorous protections of fairness and commands greater permanence than Nuremberg ever fathomed, its record—particularly the disproportionate focus on African leaders, its dependence on Security Council referrals, and

its continuing inability to prosecute figures from powerful states—reveals leviathan evidences of imbalance and political vulnerability.

Keywords: Nuremberg Trials, Victors' Justice, International Criminal Court (ICC), International Criminal Law, International Criminal Tribunal for the Former Yugoslavia (ICTY), International Criminal Tribunal for Rwanda (ICTR).

I. Introduction & Research Framework

The Nuremberg Trials were convened between 1945 and 1946; it was the first multinational effort to restrict and arrest constitutional state leaders answerable for mass atrocities. History witnessed how high-ranking state officials and military personnel were indicted with not only war crimes, but also with such as crimes against humanity and crimes against peace. Such a legal experiment showed the birth of modern international criminal law.[1] It highlighted that individual people, even heads of state, could be held to account before an international tribunal. Even though they requisitioned justice to the victims of the Nazi countries, the trials have set the precedents that influenced the establishment of the International Criminal Tribunal for the former Yugoslavia (ICTY), the International Criminal Tribunal for Rwanda (ICTR), and the permanent International Criminal Court (ICC).

The Nuremberg Trials, however, faced several criticisms. Many scholars and lawyers mentioned that the trials heavily resembled "victor's justice," via a grandiose display of a "show-trial" only for all the condemned Axis powers, while the Allies were not even thoroughly scrutinized for their own wartime conduct.[2,3] Among the questionable acts committed by the Allies were the firebombing of Dresden in Germany and the fateful infamous atomic bombings of Hiroshima and Nagasaki in Japan, yet none of the state leaders on the Allied side ever found themselves standing before the courtroom in the docket. This unfair manner of proceeding has given rise to the question as to whether these were trials for political power or universal justice. Where do we draw the lines of demarcation as to much quantum of "just-war" defense the leaders of the allied powers requisition for their wartime conduct?

We have to understand that the issue of "victor's justice" thus, has continued to affect

[1] Jacob Klokeid, *The Enduring and Controversial Legacy of the Nuremberg Trials*, 24 Wash. U. Global Stud. L. Rev. 80 (2024).
[2] Bernard D. Meltzer, *A Note on the Nuremberg Debate*, 14 U. Chi. L. Rev. 455 (1947).
[3] William A. Schabas, *Victor's Justice: Selecting Situations at the International Criminal Court*, 43 J. Marshall L. Rev. 535 (2009).

international criminal law. Central to its core, the term refers to the selective application of legal principles depending on who wins or loses a conflict. At Nuremberg, critics argued that the defendants were prosecuted under laws created after the fact, which raised concerns about **retroactivity** and the principle of "***nullum crimen sine lege***" (no crime without law).[4] Others argued on the premise–the trials lacked true neutrality since all of the judges were appointed by the victorious triumphant Allied powers.[5] These criticisms shaped later tribunals, which tried to adopt stronger due process safeguards and more balanced judicial structures.

Nuremberg has the mentioned issues, but it left a lasting legacy. It paved the way for international treaties like the 1948 Genocide Convention and the development of the Rome Statute of the ICC in 1998.[6] Since then, the principle of individual responsibility for crimes committed under international authorities has been prioritised under international law. However, the complaint that justice is provided unevenly still remains an issue. For example, the ICC has faced accusations of bias for focusing disproportionately on African leaders while avoiding action against more powerful states like the United States, Russia, or China.[7] More recently, cases related to Ukraine, Palestine, and Israel have revived debates over whether the ICC can ever truly rise above political influence.

This paper studies how International Criminal Law has changed from the Nuremberg Trials to today's ICC in contemporary times. Principal question is whether the ICC has gone beyond the controversial tenets such as "victor's justice" or if it still serves the interests of powerful states. The study looks at Nuremberg's legal framework and criticisms, the role of later tribunals like the ICTY & ICTR, and the ICC's record. This research is relevant because current cases, such as those in Ukraine and Gaza, raise questions about fairness and impartiality.

II. Literature Review

A. Nuremberg Scholarship

The Nuremberg Trials have been studied for decades as the pioneered genesis bedrock of

[4] M. Samuel Collins, *The Anatomy of the Nuremberg Legacy: Strengths, Flaws and Relevancy Today.* Flaws and Relevancy Today (March 17, 2015).
[5] Benjamin Kane, *Victory for Justice or Victor's Justice? Due Process and the Legacy of the Nuremberg Trials*, 4 GW Undergrad. Rev. 11 (2021).
[6] Philippe Sands, *Seventy Years After Nuremberg, Global Justice Is Still a Work in Progress*, The Guardian (Nov. 19, 2015), https://www.theguardian.com/commentisfree/2015/nov/20/nuremberg-trials-global-justice-law.
[7] Ibid.

modern international criminal law. The Nuremberg trials presented the first attempt to hold individuals, heads of state, or military leaders obligated & culpable for crimes committed during war. They are considered to have instituted the development of the legal categorized echelons of crimes against humanity and crimes against peace. According to Chakravarti (2008), Nuremberg marked a "**watershed moment**" because it showed that leaders could not hide behind the state when committing atrocities.[8] This principle of individual accountability has influenced nearly all later international courts.

At the same time, many writers point out flaws. Garibian (2007) argued that Nuremberg suffered from problems of legality, especially the use of retroactive law.[9] Defendants were charged for acts like aggressive war even though no clear international rule at the time made such acts criminal. Taylor and Bass have also noted the tension between justice and politics: while the trials aimed to be fair, they were shaped by the political interests of the victorious Allied powers.

Despite the criticism, other scholars view Nuremberg as a necessary legal experiment. Krischel (2021) emphasized that due process protections such as defense lawyers and evidence review were included, even though the trials took place under difficult circumstances.[10] Nuremberg therefore represents both innovation and imperfection: it was the first serious step toward global justice, but it left unresolved questions that still shape debates today.

B. The "Victors' Justice" Debate

The idea of "victors' justice" is one of the unyieldingly substantial and longest-lasting criticisms of the Nuremberg Trials. Said phrase suggests that the trials were not neutral but instead reflected the will of the winners of World War II. Critics argue that while Axis leaders were punished, the Allies' own questionable actions were ignored. For example, the firebombing of Dresden and the use of atomic bombs in Japan caused mass civilian deaths, yet no Allied leaders were prosecuted.[11] This one-sided accountability gave the impression that

[8] Sonali Chakravarti, *More than "Cheap Sentimentality": Victim Testimony at Nuremberg, the Eichmann Trial, and Truth Commissions*, 15 Constellations 223 (2008).
[9] Sévane Garibian, *Crimes Against Humanity and International Legality in Legal Theory After Nuremberg*, 9 J. Genocide Res. 93 (2007).
[10] Matthis Krischel, *The Institutionalization of Research Ethics Committees in Germany—International Integration or in the Shadow of Nuremberg?*, 78 Eur. J. Hist. Med. & Health 353 (2021).
[11] Collins, supra note 4.

justice was selective and what transpired in The Hague was a symbolic "show-trial."

Another element of the debate is the composition of the tribunal. All judges came from the Allied powers, with no neutral or independent representation. Wyzanski, a U.S. judge, argued that this made the tribunal biased because the very nations that suffered from aggression were sitting in judgment.[12] Meltzer (1947) also highlighted that the defendants were punished principally for crimes that had not been transparently outlined and defined before the promulgation of the war, raising concerns about ex post facto justice.[13]

Some scholars defend the trials by pointing out that the crimes were so serious that they demanded punishment, even if the legal framework was imperfect. Jackson, the U.S. chief prosecutor, argued that aggressive war was already condemned by treaties like the Kellogg-Briand Pact, so the defendants knew their acts were wrongful. Yet the perception of double standards has endured, making "victors' justice" a central theme in international criminal law debates.

C. ICC-Focused Scholarship

The International Criminal Court, established by the Rome Statute in 1998, was designed to address some of the weaknesses of earlier tribunals. Unlike Nuremberg, it is a permanent institution with an independent prosecutor and judges. It also includes stronger procedural rights, such as appeals and the principle of complementarity, which allows national courts to act first.[14] These features were intended to move beyond the criticisms of partiality and victor's justice.

Despite this, many scholars argue that the ICC faces similar problems. One major critique is its focus on Africa. Cacciatori (2018) noted that nearly all of the ICC's early prosecutions targeted African leaders, even though serious crimes occurred in other parts of the world.[15] This selective focus has fuelled accusations that the ICC is biased and used as a tool against weaker states. The situation has become especially controversial when powerful influential nation states such as the United States of America, Russian Federation (Soviet Union at the time of

[12] Kane, supra note 5.
[13] Meltzer, supra note 2.
[14] Sands, supra note 6.
[15] Mattia Cacciatori, *When Kings Are Criminals: Lessons from ICC Prosecutions of African Presidents*, 12 Int'l J. Transitional Just. 386 (2018).

the Nuremberg Trials), or Peoples Republic of China are outside the court's reach. Their leaders are unlikely to face accountability, while leaders from smaller states are prosecuted.

Another source of criticism is the controversial role of the U.N. Security Council. Because the permanent five members can particularly refer the cases to the International Criminal Court, they exert influence over which situations are investigated.[16] This political link has raised doubts about whether the ICC can ever be fully independent. In short, although the ICC represents progress compared to Nuremberg, it still struggles with accusations of selective justice and political influence.

III. Research Gap

Although there is a large body of scholarship on both Nuremberg and the ICC, most works treat them separately. Studies on Nuremberg often focus on its legality, while ICC research highlights its political challenges. Few works draw a direct line between the flaws of Nuremberg and the structural problems of the ICC. This lack of comparative synthesis leaves an important gap. By linking Nuremberg's criticisms with the ICC's legitimacy crisis, this research contributes a clearer understanding of how international criminal law has developed and whether it has truly moved beyond "victors' justice."

IV. Hypothesis

The ICC, though more advanced procedurally, still inherits structural and political biases from Nuremberg, limiting its universal legitimacy.

The hypothesis, as shall be witnessed, advances the preposition that while the ICC has reinforced substantial procedures and safeguards than Nuremberg itself, it still shoulders forward the same political feeble prostration. Its prima facie focus on certain specific geographical regions, preponderant impudence on UNSC referrals, and the stark failure to hold powerful authoritative nation states within the quantum of responsibility mirror foundational biases. These continuum constancies limit the ICC's integrity as a true universal court.

This research, furthermore as shall be seen, embarks bravely from the hypothesis that the International Criminal Court (ICC), notwithstanding its institutional sophistication and the

[16] Sands, supra note 6.

procedural safeguards contained within the Rome Statute, remains overburdened and saddled by anatomical formalistic and political biases that can be traced to the legacy of the Nuremberg Trials. While the International Criminal Court irreplaceably encapsulates a much more precocious, codified, and robust apparatus of international criminal justice, its constitutionality is fervently extenuated by charges of selectivity and politicisation, which exemplified the very criticisms historically requisitioned against Nuremberg.

The Nuremberg Trials, although rightly celebrated for affirming the principle of individual criminal responsibility and for codifying the gravest categories of international crimes, have long been scrutinised as an exercise in victors' justice. Their selective prosecution of Axis leaders, the retroactive application of novel offences such as crimes against peace, and the conspicuous silence on Allied conduct gave rise to an enduring scepticism about the impartiality of international justice. This research contends that the ICC, though formally distinct and institutionally independent, continues to grapple with analogous dilemmas. Its predominant focus on African cases, its confident convictions on the United Nations Security Council (UNSC) referrals preponderant monopolized by the permanent five members, and its rather implicit incapacitation to hold leaders of powerful states accountable, all betray unfathomably the indefatigability of asymmetry in the conduct and administration of international criminal law.

In pursuance of the same, the hypothesis thus entrenches its postulated conjecture that the ICC has not comprehensively surpassed the fundamental flaws that plagued and wrecked dereliction on Nuremberg. While the Court has irrevocably sequestered international jurisprudence by means of regulating due process rights, codifying crimes within a multilateral treaty, and further on providing instruments for appeals, these procedural triumphs cannot by themselves surrender the conscious apprehension that international justice, yet, remains intermittently mandated. The central contention is that the shadow of Nuremberg continues to haunt the ICC: the very notion that international criminal law is susceptible to the interests of the powerful and that justice, rather than being universal, is often dispensed selectively.

In testing this hypothesis, the research will assess both continuity and departure. The task is not merely to catalogue parallels but to interrogate whether the ICC's structural safeguards are sufficient to overcome the perception—and the reality—of victors' justice, or whether international criminal law remains captive to the political dynamics that first shaped it at

Nuremberg.

V. Research Objectives

The objectives of this research endeavour are:

A. To critically analyze the legal and procedural framework of the Nuremberg Trials.

B. To evaluate the validity of the "victors' justice" critique historically.

C. To trace continuities in the International Criminal Tribunal for the chambers of the ICTY and the ICTR.

D. To assess whether reforms in the ICC have solved or repeated these shortcomings

VI. Research Methodology and Data Sources

This study adopts a mixed doctrinal–historical comparative methodology, fashioned to probe both the legal architecture and the political contexts that have shaped international criminal law from Nuremberg to the present International Criminal Court. Rather than treating law as a self-contained artefact, I read legal texts alongside the political instruments and contemporaneous commentary that moulded them, because the central question—whether the ICC inherits a form of "victors' justice"—cannot be answered by statute-reading alone.

First, doctrinal analysis forms the backbone of the inquiry. I conduct close readings of primary sources: the London Charter and International Military Tribunal (IMT) records, the Rome Statute, key judgments and prosecutorial filings from the ICTY, ICTR and ICC, and relevant United Nations Security Council resolutions. These materials are examined to trace how offences were defined, how jurisdictional rules and procedural safeguards evolved, and where legal language both remedied and replicated earlier flaws. Complementing these are contemporaneous trial transcripts and official records, which provide the empirical texture for doctrinal claims.

Second, the study uses historical-comparative methods. Selected case studies—Nuremberg, the ICTY, the ICTR and representative ICC situations—are compared to identify continuities and departures in practice. Selection criteria prioritise landmark cases that illuminate the themes of selectivity, retroactivity and political influence: those with ample published judgments, rich

secondary literature, and demonstrable political salience. Comparative analysis proceeds thematically (for example, on the questions of judicial composition, UNSC involvement, and complementarity) rather than attempting an exhaustive catalogue of every prosecution.

Third, qualitative content analysis is applied to both judicial texts and scholarly critique. I have endeavoured to code intermittent structured patterns (including selectivity, retroactivity, state cooperation, bureaucratic constraints) and stake out pronounced discoveries across a wide spectrum of antecedent sources to circumlocute over-reliance on a particular single echelon of evidence. Instances where secondary literature exhibits and accords contested emulation of interpreted findings, I strived to bequest these divergent departures and counterbalance them in contra to the primary materials.

Due attention has been sequestered to self-examined introspections and limitations are acknowledged throughout. I have remained alert to my own interpretive stance and to the partiality of sources: many institutional archives are unfortunately mediated by victors or administrators, and several matters in front of the ICC are still *sub judice*. Language constraints (principally translations of some transcripts) and the study's reliance on publicly available documents have been declared as limits. Ethical considerations are observed in the handling of victim testimony and sensitive material, with care taken to present such material respectfully and without sensationalism. In short, this methodology combines doctrinal rigour with historical sensitivity.

VII. Research Questions

This study is guided by research questions that link Nuremberg's legacy with the current state of the International Criminal Court (ICC). The aim is to test whether international criminal law has truly moved beyond political influence or if it still reflects the same weaknesses.

The key research questions are:

A. To what extent were the Nuremberg Trials legally arbitrary, and how far were they shaped by Allied politics rather than neutral justice?

B. How did the Nuremberg judgments help codify genocide, crimes against humanity, and individual responsibility?

C. Which structural features of Nuremberg, such as selective prosecution and lack of neutrality, can be traced into the International Criminal Tribunal for the Former Yugoslavia (ICTY), International Criminal Tribunal for Rwanda (ICTR) and International Criminal Court?

D. Does the ICC's record of prosecutions—especially its focus on Africa and UNSC referrals—show a continuation of a botched "victors' justice"?

VIII. Research Idea

The main idea of this research is that the ICC continues to face a crisis of legitimacy because it has inherited structural flaws from the Nuremberg Trials. While Nuremberg was ground-breaking in creating international criminal law, it was also criticized for being one-sided and politically influenced. These same issues—selective prosecutions, political pressure, and limited jurisdiction—seem to continue in later tribunals and in the ICC today.

IX. Significance of Research

This research is significant because it connects the legacy of Nuremberg to the challenges facing the ICC today. Many studies treat these two topics separately, but looking at them together helps to show how historical problems have carried into modern institutions. By doing so, this study highlights the continuity of flaws such as selective justice, political influence, and jurisdictional limits.

The findings are relevant to ongoing debates surrounding the fora relating to legitimacy of international justice. As conflicts continue in places like Ukraine, Gaza, and Africa, questions about fairness and impartiality remain central. If the ICC is seen as biased or politically influenced, it risks losing credibility and effectiveness.

Academically, this study contributes to discussions about whether international criminal law can be both universal and fair. For policymakers and practitioners, it highlights areas where reform is needed, such as reducing Security Council influence and ensuring more balanced prosecutions. The research shows that Nuremberg's legacy is not just historical—it is alive in the ICC's current struggles, making the debate about "victors' justice" as important now as it was in 1945.

X. The Nuremberg Trials: Context, Structure & Critiques

A. Legal Foundations

The Nuremberg Trials found their legal basis in the London Charter (August 1945), the agreement between the erstwhile Allied powers. This document created the International Military Tribunal (IMT) and gave it the unyielding authority to try individuals accused of major crimes. It introduced three categories of offenses:

a. Crimes against peace (planning or waging aggressive war),

b. War crimes (violations of the laws of war), and

c. Crimes against humanity (murder, enslavement, or persecution of civilians).[17]

These definitions were ground-breaking because they extended beyond traditional war crimes to include crimes committed within a state against its own citizens.

Until the formulation and commencement of the Nuremberg Trials, international law was directed at states. The principle of individual criminal responsibility entered the arena of international law practically on its modern basis after this event. As Heller (2011) noted, the Nuremberg Tribunal showed that leaders could no longer act with complete impunity.[18] However, critics argue that the London Charter was drafted after the events had already occurred, raising concerns about retroactive law. Kim (2023) also pointed out that the Charter was created by the victors, without input from neutral or defeated nations, making it politically shaped rather than universally accepted.[19]

Despite these flaws, the legal framework of Nuremberg marked a turning point. It influenced later developments to the likes of the **1948 Genocide Convention** and the **Rome Statute** of the ICC. The Charter's principles remain entrenched in the core foundations of international criminal law, even as the debates about fairness continue.

[17] Klokeid, supra note 1.
[18] Kevin Jon Heller, *The Nuremberg Military Tribunals and the Origins of International Criminal Law* (Oxford Univ. Press 2011).
[19] Jamie Kim, *Establishing the Frontier of International Law: The Nuremberg Trial*, in *Proceedings of the 34th Int'l RAIS Conf. on Soc. Scis. & Human.* (Scientia Moralitas Rsch. Inst. 2023).

B. Charges & Jurisdictions

The Nuremberg Tribunal prosecuted 22 leading Nazi officials for crimes under the London Charter. The specific charges included crimes against peace, war crimes, and crimes against humanity. The most debated charge was crimes against peace pertaining to the planning and waging of aggressive war. Critics emphasized that aggressive war had never been made a crime before under binding international law, hence posing the problem of retroactivity.[20]

Crimes against humanity were another novel category. They covered atrocities committed by the Nazis, in accordance to orders received by the German High Command, against their own citizens, including genocide against Jews, political persecution, and mass killings of citizens who fell under the category of "**Non-Aryans**." This category expanded international law by recognizing that governments could not treat their populations however they wished. As Heller (2007) explained, this was a revolutionary shift because it restricted state sovereignty in the name of human rights.[21]

Jurisdiction was, however, limited. The tribunal only tried leaders of the Axis powers. Allied leaders were never investigated for their wartime actions, such as the bombing of civilian populations or Soviet atrocities in Eastern Europe. This created a clear imbalance in accountability. Finch (1947) noted that this one-sided jurisdiction gave rise to claims that the court's purpose was to punish enemies rather than establish universal principles.[22]

The tribunal also had no appeals chamber, meaning the judgments were final. This limited procedural safeguards and strengthened the impression of victors' control. Still, the tribunal set historic precedents that shaped international justice, even if the scope of its jurisdiction reflected power politics more than impartial law.

C. Procedural Mechanics & Criticisms

The procedures of the Nuremberg Tribunal were partly modelled on Anglo-American legal traditions. Defendants were provided with lawyers, could cross-examine witnesses, and were given access to evidence. These protections were significant compared to summary executions,

[20] Meltzer, supra note 2.
[21] Kevin Jon Heller, *Retreat from Nuremberg: The Leadership Requirement in the Crime of Aggression*, 18 Eur. J. Int'l L. 477 (2007).
[22] George A. Finch, *The Nuremberg Trial and International Law*, 41 Am. J. Int'l L. 20 (1947).

which some Allied leaders had initially preferred.[23] Still, the process drew criticism for lacking neutrality and balance.

One major issue was **retroactivity**. Defendants were charged with crimes that were clearly not defined in the arena of international law before the commencement of World War-II. Therefore, the utilized pertinence of the legal principle ***nullum crimen sine lege*** ("no crime without law") was arguably violated.[24] Since decisions could not be challenged, the absence of an appeals mechanism also sparked questions about impartiality.

Another criticism was selective justice. While Nazi leaders were tried, allied actions such as the Soviet invasion of Poland and the execution of the **Katyn Massacre**, or the atomic bombings in Japan by the United States were not considered. Wright (1946) pointed out that this selective approach weakened the tribunal's claim of impartiality.[25] In addition, the judges all came from Allied states, with no representation from neutral or Axis countries. This further undermined the perception of fairness.

Despite these criticisms, the tribunal avoided some extremes. It allowed defendants to speak in their defense and relied on a record of evidence, unlike purely political trials. Goldston (2010) noted that Robert Jackson, the U.S. prosecutor, insisted that justice must be based on law rather than revenge.[26] Nevertheless, the procedures reflected the imbalance of power at the time, leaving a mixed legacy of progress and political influence.

D. "Victors' Justice"

The phrase "victors' justice" is often used to describe the Nuremberg Trials. It suggests that the trials were more about punishing defeated leaders than creating a fair and universal system of justice. This critique has shaped much of the debate about Nuremberg's legacy.

One key argument is that the tribunal only applied justice to the losing side. Nazi leaders faced trial, but no Allied leaders were ever investigated for actions that also caused mass civilian harm, such as the bombing of Dresden or Hiroshima.[27] This selective prosecution undermined

[23] Kane, supra note 5.
[24] Meltzer, supra note 2.
[25] Quincy Wright, *The Nuremberg Trial*, 246 Annals Am. Acad. Pol. & Soc. Sci. 72 (1946).
[26] James A. Goldston, *More Candour About Criteria: The Exercise of Discretion by the Prosecutor of the International Criminal Court*, 8 J. Int'l Crim. Just. 383 (2010).
[27] Collins, supra note 4.

claims of impartiality. As Jackson (2021) explained, the perception that law is applied only to the weak but not the powerful continues to haunt international criminal law.[28]

The lack of neutral judges and the retroactive creation of crimes also fed into the victors' justice critique. Jockusch (2012) argued that by writing the rules after the war and applying them only to the Axis, the Allies turned the tribunal into a political exercise.[29] Critics also point out that the tribunal reinforced power imbalances rather than challenging them.

However, some scholars defend the tribunal by arguing that the crimes were so severe that justice, even if imperfect, was necessary. Kane (2021) noted that without Nuremberg, atrocities might have gone unpunished.[30] Ratner *et al.* (1999) added that Nuremberg established accountability as a principle, even if it was applied unevenly.[31] The victors' justice critique remains valid, but it does not erase the tribunal's duty in shaping the very idea of international criminal law as it exists today.

XI. Counterarguments & Legacy

A. Codification Of Crimes

Although the Nuremberg Trials were criticized for bias, they made an important contribution by codifying the new echelons of international crimes. Crimes against humanity, crimes against peace, and war crimes, respectively were defined in ways that later shaped international law. These definitions provided the foundation for the **1948 Genocide Convention** and later treaties.[32] The recognition of the act of genocide as a specific crime came found its genesis fountainhead promptly from the debates at Nuremberg.

This codification ensured that atrocities could be prosecuted in the future under clear legal standards. As Ghooi (2011) noted, while Nuremberg faced charges of retroactivity, it ultimately helped to build a legal framework that removed ambiguity in later prosecutions.[33] Finch (1947)

[28] Jonathan Jackson, *Victors Write the Rules: Hypocrisies and Legacies of the Nuremberg Trials*, 8 J. Global Faultlines 265 (2021).
[29] Laura Jockusch, *Justice at Nuremberg? Jewish Responses to Nazi War-Crime Trials in Allied-Occupied Germany*, 19 Jewish Soc. Stud.: Hist., Culture, & Soc'y 107 (2012).
[30] Kane, supra note 5.
[31] Steven R. Ratner, Jason S. Abrams & James Bischoff, *Accountability for Human Rights Atrocities in International Law Beyond the Nuremberg Legacy*, 1 RIPS: Rev. Investigaciones Políticas & Sociológicas 145 (1999).
[32] Klokeid, supra note 1.
[33] Ravindra B. Ghooi, *The Nuremberg Code—A Critique*, 2 Persps. Clinical Rsch. 72 (2011).

argued that these developments were a "legacy of accountability," showing that law could respond to crimes once thought untouchable.[34]

Thus, even though the tribunal was imperfect, it pushed international law forward by giving lasting definitions to crimes that are now central to justice efforts worldwide.

B. Individual Accountability

Another lasting legacy of Nuremberg is the principle of individual accountability. Before 1945, international law mostly held states, not individuals, responsible for unlawful acts. Nuremberg changed this by declaring that individuals, even heads of nation states or military leaders, could be tried personally liable for crimes such as genocide and crimes against humanity.[35] This principle shattered deafeningly the shield of state sovereignty that often protected leaders.

Robert Jackson, the U.S. prosecutor at the Nuremberg Trials, vehemently stressed that individuals, not abstract entities, commit atrocities and must face the scales of justice.[36] This idea inspired later tribunals that came up as a result to specific geographical cantered crimes such as the International Criminal Tribunal for the Former Yugoslavia (ICTY) and International Criminal Tribunal for Rwanda (ICTR), which prosecuted leaders for atrocities in Yugoslavia and Rwanda.[37]

Badar (2004) explained that this principle also underpins the Rome Statute of the ICC.[38] Even sitting heads of nation states, such as Sudan's Omar al-Bashir, have been indicted, showing how Nuremberg's precedent continues today. While critics note enforcement remains inconsistent, the concept of individual responsibility remains a powerful step toward universal justice.

C. Institutional Innovations

The Nuremberg Tribunal also introduced institutional innovations that shaped later courts. It provided defendants with lawyers, cross-examination rights, and the ability to present

[34] Finch, supra note 22.
[35] Kane, supra note 5.
[36] Goldston, supra note 26.
[37] T Meron 'Classification of Armed Conflict in the Former Yugoslavia: Nicaragua's Fallout' (1998) 92 AJIL 236–42.
[38] Mohamed Elewa Badar, *From the Nuremberg Charter to the Rome Statute: Defining the Elements of Crimes Against Humanity*, 5 San Diego Int'l L.J. 73 (2004).

evidence. These protections were significant compared to earlier practices like summary execution or purely political trials.[39] Though limited, these steps introduced due process into international justice.

Nuremberg also demonstrated that trials could replace revenge. Churchill had proposed executing Nazi leaders without trial, but the Allies chose legal proceedings instead.[40] This decision marked a shift toward the rule of law in dealing with atrocities.

Kim (2023) noted that the tribunal's structure influenced the establishment of the later ad hoc tribunals and, eventually, the ICC.[41] Features such as prosecution independence, written judgments, and public trials became standard in international criminal law. While critics argue Nuremberg was flawed, its institutional model helped prevent future courts from repeating the

D. Contribution to ICC Impetus

Finally, Nuremberg's legacy lies in its influence on the movement to create a permanent international criminal court. After 1945, scholars, diplomats, and lawyers debated how to insure and arrange that international crimes would not go outrightly unpunished in the future. The principles from Nuremberg were reaffirmed in UN resolutions and later written into international treaties.[42]

The established ad hoc tribunals for Yugoslavia (ICTY)[43] and Rwanda (ICTR) in the 1990s drew their impetus & genesis heavily on the Nuremberg precedents, but their limited scope reinforced the need for a permanent body. Badar (2004) explained that these experiences, combined with the moral example of Nuremberg, pushed states to negotiate the Rome Statute in 1998.[44]

Schabas (2009) noted that while the ICC struggles with legitimacy, its very existence is rooted in the Nuremberg vision of global justice.[45] The tribunal demonstrated that international trials

[39] Elizabeth Borgwardt, *Re-examining Nuremberg as a New Deal Institution: Politics, Culture and the Limits of Law in Generating Human Rights Norms*, 23 Berkeley J. Int'l L. 401 (2005).
[40] Sands, supra note 6.
[41] Kim, supra note 19.
[42] Finch, supra note 22.
[43] WJ Fenrick 'The Application of the Geneva Conventions by the International Criminal Tribunal for the former Yugoslavia' (1999) 834 IRRC 317–29.
[44] Badar, supra note 37.
[45] Schabas, supra note 3.

were possible, even if imperfect. Without Nuremberg, the push for the ICC might never have succeeded.

XII. Transition: Ad Hoc Tribunals (ICTY & ICTR)

A. Continuations of Nuremberg

The International Criminal Tribunal for The Former Yugoslavia (ICTY) and The International Criminal Tribunal for Rwanda (ICTR), with the jurisprudential value attributed to these tribunals, were created by the UNSC in the 1990s. These tribunals were designed to respond to atrocities during the Yugoslav Wars which contained The Slovenian War of Independence (1991), The Croatian War of Independence (1991-1995) alongside the Bosnian War (1991-1995) which saw the execution of the Srebrenica Massacre in 1995[46] and the Rwandan genocide.[47] They prosecuted crimes of genocide, crimes against humanity, and war crimes, which Nuremberg had established as their legal foundations.[48] Like Nuremberg, they demonstrated that individuals, be it state heads and military commanders,[49] not just states, could be held liable.

The tribunals cited Nuremberg as precedent when explaining their jurisdiction and definitions of crimes. Collins (2015) noted that Nuremberg's focus on accountability inspired the tribunals' work.[50] At the same time, both tribunals extended Nuremberg's legacy by recognizing sexual violence as a crime against humanity, something the IMT overlooked during Nuemberg. Sterio (2012) added that these courts represented another step in making international justice a reality, even if imperfect.[51]

Thus, ICTY[52] and ICTR continued Nuremberg's vision, while also expanding international law in important areas such as human rights protections and gender-based crimes.

[46] C Greenwood 'The Development of International Humanitarian Law by the International Criminal Tribunal for the Former Yugoslavia' (1998) 2 MaxPlanckUNYB 97–140.
[47] G Mettraux, *International Crimes and the Ad Hoc Tribunals* (OUP Oxford 2005).
[48] Daryl A. Mundis, *Completing the Mandates of the Ad Hoc International Criminal Tribunals: Lessons from the Nuremberg Process*, 28 Fordham Int'l L.J. 591 (2004).
[49] AM Danner and JS Martinez 'Guilty Associations: Joint Criminal Enterprise, Command Responsibility, and the Development of International Criminal Law' (2005) 93 CalLRev 75–170.
[50] Collins, supra note 4.
[51] Milena Sterio, *The Future of Ad Hoc Tribunals: An Assessment of Their Utility Post-ICC*, 19 ILSA J. Int'l & Comp. L. 237 (2012).
[52] JE Alvarez 'Nuremberg Revisited: The Tadić Case' (1996) 7 EJIL 245–64.

B. Procedural Reforms

One major difference between Nuremberg and the established ad hoc tribunals was introduction of stronger procedural safeguards. The ICTY and ICTR created formal appeals chambers, which gave defendants the right to challenge judgments and sentences. This was an important step because Nuremberg had no system of appeal, raising concerns about fairness.[53]

Both tribunals also improved defense rights. Defendants had greater access to legal counsel, translation services, and the ability to cross-examine witnesses. According to Schabas (2009), these safeguards helped the tribunals avoid the strongest criticisms of "victors' justice" that had been directed at Nuremberg.[54]

Another innovation was the establishment of independent prosecutors, separated from political control. This was meant to strengthen neutrality. Barria & Roper (2005) explained that the tribunals also placed greater emphasis on written judgments and transparent procedures, which allowed for better scrutiny of legal reasoning.[55]

These reforms made the ICTY and ICTR appear more professional and balanced, setting a stronger standard for later institutions like the International Criminal Court.

C. Critiques of Selectivity

Despite these improvements, the ICTY and ICTR faced comparable criticisms of selectivity that had haunted Nuremberg. Both tribunals were created by the UN Security Council, which raised concerns about political influence. For example, the International Criminal Tribunal for the Former Yugoslavia was often accused of focusing more on Serb leaders, particularly as spoken about the **Tadić Case** Trial[56] on Duško Tadić,[57] a Bosnian Serb Commander,[58] than on crimes committed by Croats or Bosniaks, leading to claims of bias.[59] Similarly, the ICTR focused almost entirely on prosecuting members of the defeated Hutu regime while largely

[53] Kane, supra note 5.
[54] Schabas, supra note 3.
[55] Lilian A. Barria & Steven D. Roper, *How Effective Are International Criminal Tribunals? An Analysis of the ICTY and the ICTR*, 9 Int'l J. Hum. Rts. 349 (2005).
[56] *Prosecutor v Tadić (Sentencing Judgment)* ICTY-94-1 (11 November 1999).
[57] *Prosecutor v Tadić(Opinion and Judgment)* ICTY-94-1 (7 May 1997).
[58] *Prosecutor v Tadić (Judgment)* ICTY-94-1 (15 July 1999).
[59] Sabrina P. Ramet, *The ICTY—Controversies, Successes, Failures, Lessons*, 36 Southeastern Eur. 1 (2012).

ignoring crimes committed by the victorious Rwandan Patriotic Front.[60]

Sands (2015) argued that this imbalance reflected the political realities of the time.[61] Just as Nuremberg avoided prosecuting Allied crimes, the ad hoc tribunals avoided cases that could upset powerful actors. Sliedregt (2021) also noted that both tribunals were criticized for being "too little, too late," since they came only after atrocities had already caused massive suffering.[62]

In short, while ICTY and ICTR tried to move beyond Nuremberg's flaws, they could not fully escape the problem of selective justice shaped by political decisions.

D. Role of UNSC Politics

Another key critique of the established ad hoc tribunals was their complete dependence on the United Nations Security Council (UNSC). The ICTY and ICTR were created under Chapter VII of the UN Charter, meaning they were instruments of the Security Council's authority.[63,64,65,66,67] This raised questions about independence, since the permanent five members (P5) had the power to decide when and where justice would be applied.[68]

Humphrey (2003) explained that this structure repeated the imbalance seen at Nuremberg, where victors decided who would be prosecuted.[69] For example, atrocities in places like Cambodia or Latin America were ignored, while the UNSC acted in Yugoslavia and Rwanda. This selective intervention gave the impression that justice depended on politics rather than universal principles.

While the tribunals advanced international law, their reliance on UNSC authorization showed the limits of impartiality. Ali (2019) stressed that this dependence highlighted the need for a

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[60] W Schabas, *The UN International Criminal Tribunals: The Former Yugoslavia, Rwanda and Sierra Leone* (CUP Cambridge 2006).
[61] Sands, supra note 6.
[62] Elies van Sliedregt, *One Rule for Them—Selectivity in International Criminal Law*, 34 Leiden J. Int'l L. 283 (2021).
[63] "UNSC Resolution 1966" *(PDF)*.
[64] United Nations Security Council *Resolution 955*. S/RES/955(1994) 8 November 1994.
[65] United Nations Security Council *Resolution 977*. S/RES/977(1995) 22 February 1995.
[66] United Nations Security Council *Resolution 1165*. S/RES/1165(1998) 30 April 1998.
[67] United Nations Security Council *Resolution 1824*. S/RES/1824(2008) page 1. 18 July 2008.
[68] Nada Ali, *Through a Glass Darkly: The ICC, the UNSC and the Quest for Justice in International Law*, 19 Int'l Crim. L. Rev. 669 (2019).
[69] Michael Humphrey, *International Intervention, Justice and National Reconciliation: The Role of the ICTY and ICTR in Bosnia and Rwanda*, 2 J. Hum. Rts. 495 (2003).

permanent, treaty-based court not controlled by the UNSC.[70] This critique became one of the major driving forces initiating the establishment of the International Criminal Court in 1998.

XIII. The International Criminal Court (ICC)

A. Establishment & Structure

In the year of 1998, the ICC was established after the Rome Statute was signed into action. It entered into force in 2002. As there were temporary bodies set up in Nuremberg, ICTY, or ICTR, it became the first pioneered permanent seat of an international criminal court. The ICC was designed to prosecute individuals for crimes that of genocide, crimes against humanity, war crimes, and the crime of aggression.[71]

The court is based in The Hague, Netherlands, and has 18 judges elected by the Assembly of States Parties. It also has an independent prosecutor who can initiate investigations with authorization from the judges. Unlike Nuremberg, the ICC is not controlled by a group of victors but by treaty-based rules agreed upon by over 120 member states.[72]

A key principle is complementarity, which means the International Criminal Court acts only when national courts are unwilling or unable to prosecute crimes. This helps respect state sovereignty while ensuring accountability. Jackson (2021) explained that this structure was meant to prevent the perception of "victors' justice."[73] Even so, the ICC faces challenges in gaining universal membership because major powers like the United States of America, the Russian Federation, and the Peoples Republic of China are not parties to the Rome Statute.

B. Structural Safeguards against Bias

The ICC introduced several safeguards to ensure fairness and reduce the political influence that critics saw in earlier tribunals. First, the prosecutor is independent, with power to open cases subject to review by judges. This reduces the risk of direct political control.[74] Second, the court

[70] Ali, supra note, 53.
[71] Klokeid, supra note 1.
[72] Ahmed Isau, *The International Criminal Court (ICC): Jurisdictional Basis and Status*, 6 Nnamdi Azikiwe U. J. Int'l L. & Juris. 34 (2015).
[73] Jackson, supra note 28
[74] Schabas, supra note 3.

has an appeals chamber, which provides a system of checks and balances that Nuremberg lacked.

Defendants at the ICC enjoy stronger rights, including access to defense lawyers, translation services, and fair trial guarantees. Sterio (2012) noted that these protections make the ICC more balanced than Nuremberg or its ancillary ad hoc tribunals.[75] The Rome Statute also includes rules to prevent **retroactive prosecution**, addressing one of the main criticisms of Nuremberg.

Another safeguard is the courts complementarity. States are given the first opportunity to proactively investigate and execute the prosecution on said crimes, and only when they fail does the ICC step in.[76] This approach tries to avoid accusations of bias by respecting domestic legal systems.

Although these safeguards mark progress, Isau (2015) pointed out that the ICC's effectiveness depends heavily on state cooperation.[77] Without arrests and robust evidence provided by states, the court cannot function.

C. Persistent Criticisms

Despite reforms, the ICC has faced persistent criticism, particularly around selectivity and political influence. One major issue is its focus on Africa. Most of its early cases came from African states, leading to accusations that the ICC unfairly targets weaker nations.[78] African leaders argued that the court ignored crimes in places like Iraq or Afghanistan while concentrating on their continent.

Another problem is the role of the UNSC. The Rome Statute allows the United Nations Security Council (UNSC) to refer cases to the ICC, giving the permanent five members (P5) significant influence. Wright (1946) argued that this replicates the imbalance of Nuremberg, where powerful states decide when justice applies.[79] This creates a perception of selective justice.

The ICC has also been criticized for failing to hold leaders of powerful states accountable. For example, despite allegations of torture by U.S. officials in Iraq, Libya and in Guantanamo Bay

[75] Sterio, supra note 46.
[76] Klokeid, supra note 1.
[77] Isau, supra note 57.
[78] Cacciatori, supra note 15.
[79] Wright, supra note 25.

or Russian war crimes in Chechnya and Ukraine, the ICC has not been able to act because of political and jurisdictional limits.[80] This double standard weakens its legitimacy.

Thus, while the ICC represents progress, it continues to face the same charges of bias and selective enforcement that have haunted international criminal law since Nuremberg.

D. International Perspectives and Contemporary Controversies

Recent cases highlight the ICC's ongoing struggles with legitimacy. In 2009, the court issued an arrest warrant for Sudanese President Omar al-Bashir on charges of genocide in Darfur. However, several African states unequivocally refused to arrest him, arguing that the ICC was biased against Africa.[81] This refusal exposed the ICC's reliance on state cooperation and its limits in enforcing justice.

In the year 2023, the ICC issued a warrant of arrest on Russian President Vladimir Putin, accusing him of varied degrees of war crimes in the Ukrainian territory and for the Russian Commissioner for Children's Rights Maria Lvova-Belova alleging responsibility for the unlawful deportation and transfer of children from the Ukrainian territory during the present ongoing Russian-Ukraine War.[82] On June 2024, the International Criminal Court has also issued arrest warrants for Admiral Viktor Nikolayevich Sokolov, Lieutenant General Sergey Ivanovich Kobylash, Russian Secretary of the Security Council Sergei Kuzhugetovich Shoigu, and General Valery Vasilyevich Gerasimov, the present Chief of the General Staff of the Russian Armed Forces and First Deputy Minister of Defence, accusing them of crime against humanity of "inhumane acts" under the Rome Statute.[83,84]

While praised in some quarters, critics argue that it reflects selective morality since similar actions by other powers have gone unpunished.[85] At the same time, debates continue about whether the ICC will pursue investigations into alleged crimes by Israeli officials in Palestine,

[80] William Abresch, *A Human Rights Law of Internal Armed Conflict: The European Court of Human Rights in Chechnya*, 16 Eur. J. Int'l L. 741 (2005).
[81] Cacciatori, supra note 15.
[82] *"Situation in Ukraine: ICC judges issue arrest warrants against Vladimir Vladimirovich Putin and Maria Alekseyevna Lvova-Belova". International Criminal Court.* 17 March 2023.
[83] *International Criminal Court press release about arrest warrants against Sergei Kobylash and Viktor Sokolov*, International Criminal Court, 5 March 2024.
[84] *Situation in Ukraine: ICC judges issue arrest warrants against Sergei Kuzhugetovich Shoigu and Valery Vasilyevich Gerasimov, International Criminal Court,* 25 June 2024.
[85] Schabas, supra note 3.

raising concerns about political pressures.[86] Similarly on 21st November 2024, the International Criminal Court following an investigation by its prosecutor issues arrest warrants for the Prime Minister of Israel Mr. Benjamin Netanyahu and the Former Minister of Defense of Israel, Mr. Yoav Gallant[87] alleging responsibility for being the orchestrators of insinuating starvation as a method of warfare[88] and crimes against humanity during the ongoing Gaza War, following the filing of a case by South-Africa.[89,90,91]

These controversies show the ICC's fragile position. Vinjamuri (2016) noted that the court must balance legal principles with geopolitical realities.[92] Collins (2015) added that unless the ICC can act consistently across all regions, it risks being seen as another tool of "victors' justice."[93]

Despite its challenges, the ICC remains a robust symbol of hope for accountability, even if its effectiveness and impartiality are still questioned.

XIV. Comparative Analysis: Continuities & Departures

A. Continuities

One of the strongest continuities between the Nuremberg Trials and later institutions, including the ICC, is the dilemma of selectivity. At Nuremberg, only Axis leaders were prosecuted while the Allied powers avoided accountability for their own actions. The firebombing of Dresden in Germany and the atomic bombings of Japan, and Soviet crimes in Poland were never considered.[94] This gave rise to the idea of "victors' justice."

The later established ad hoc tribunals of the 1990s repeated similar patterns. The ICTY was often accused of focusing heavily on Serb state and military leaders while minimizing crimes

[86] "Statement of ICC Prosecutor, Fatou Bensouda, respecting an investigation of the Situation in Palestine". *International Criminal Court*. 3 March 2021. Archived from the original on 22 July 2023.
[87] *"Pre-Trial Chamber I" (PDF). 21 November 2024.*
[88] "Hunger as a weapon of war". *www.ips-journal.eu*. 8 March 2024.
[89] "What is the ICC, which has issued arrest warrants for Israeli and Hamas leaders?". *Reuters*. 21 November 2024.
[90] Karim Ahmad Khan (20 May 2024), *Statement of ICC Prosecutor Karim A.A. Khan KC: Applications for arrest warrants in the situation in the State of Palestine*, International Criminal Court,
[91] *Situation in the State of Palestine: ICC Pre-Trial Chamber I rejects the State of Israel's challenges to jurisdiction and issues warrants of arrest for Benjamin Netanyahu and Yoav Gallant, International Criminal Court,* 21 November 2024.
[92] Leslie Vinjamuri, *The International Criminal Court and the Paradox of Authority*, 79 Law & Contemp. Probs. 275 (2016).
[93] Collins, supra note 4.
[94] Meltzer, supra note 2.

by other groups. The ICTR concentrated almost entirely on Hutu perpetrators and rarely addressed crimes committed by the victorious Rwandan Patriotic Front.[95] These choices reflected political realities, not a neutral application of law.

The ICC continues to face the same accusations. Early cases of ICC focused on African leaders, which led to accusations of bias. Meanwhile, strong states like the United States of America, the Russian Federation, and China remain out of reach as they are not signatory parties to the Rome Statute. Sands (2015) noted that this creates a double standard, where weaker states face prosecution while stronger states escape accountability.[96]

Thus, from Nuremberg to the ICC, the fora of international criminal law has consistently struggled with selectivity, political influence, and jurisdictional limits. These continuities undermine the claim of universality and show that the problem of "victors' justice" has not been fully overcome.

B. Departures

Despite the continuities, there are also important departures that show progress in international criminal law since Nuremberg. At Nuremberg, defendants had lawyers and some rights, but there was no appeals chamber and limited neutrality in the judges. Later tribunals improved these protections. Both the ICTY and ICTR introduced appeals, ensured translation services, and gave defendants stronger rights to a fair trial.[97]

The ICC expanded these protections further. The Rome Statute guarantees defense rights, prohibits retroactive prosecution, and ensures that trials follow international standards of due process.[98] This reflects a clear departure from Nuremberg, where retroactivity and lack of review were major criticisms.

Institutional permanence is another difference. IMT at Nuremberg, ICTY, and ICTR were temporary, established to respond to specific events. The ICC, by contrast, is a permanent body

[95] Barria & Roper, supra note 49.
[96] Sands, supra note 6.
[97] Kane, supra note 5.
[98] Badar, supra note 37.

with a treaty-based structure supported by over 120 states. Isau (2015) explained that this permanence represents a stronger commitment to global justice.[99]

Finally, codification of crimes has improved significantly. Crimes such as that of genocide, crimes against humanity, and war crimes are now clearly defined in the codification of the **Rome Statute**. Sands (2015) noted that this codification avoids ambiguity and retroactivity concerns that weakened Nuremberg.[100]

Together, these departures show that while flaws remain, international criminal law has evolved toward greater fairness, stability, and clarity compared to its beginnings.

C. Normative Assessment

Assessing the ICC in light of Nuremberg's legacy requires a balanced view. On one hand, the ICC has clearly moved beyond some of the most serious criticisms of Nuremberg. It has stronger procedural safeguards, a permanent structure, and a codified legal framework that ensures consistency. Defendants are guaranteed fair trial rights, and cases are decided by independent judges rather than representatives of victorious states.[101]

On the other hand, the ICC still faces challenges that echo Nuremberg. Its record of prosecutions shows a heavy focus on weaker states, especially in Africa, while powerful states remain untouched. The influence of the United Nations Security Council (UNSC) still continues the problem of political interference. Schabas (2009) argued that these features reflect a modern form of "victors' justice," where justice is applied selectively depending on global politics.[102]

van Sliedregt (2021) suggested that the ICC's legitimacy crisis lies in this tension.[103] It aspires to universal justice but is constrained by state sovereignty and geopolitical realities. Collins (2015) added that without universal membership and independence from the United Nations Security Council (UNSC), the International Criminal Court (ICC) cannot fully escape the

[99] Isau, supra note 57.
[100] Sands, supra note 6.
[101] Klokeid, supra note 1.
[102] Schabas, supra note 3.
[103] van Sliedregt, supra note 52.

shadow and binding shackles of Nuremberg.[104]

The ICC has partly transcended Nuremberg by creating a more balanced and permanent system. Yet, its lingering dependence on the practice of state cooperation and selective enforcement **means the core problem of victors' justice is still unresolved**.

XV. Limitations & Conclusion

A. Summary of Findings

As seen, this study shows that the Nuremberg Trials were both a beginning and a warning for the arena of the international criminal law. On one hand we see, Nuremberg created important precedents, such as defining crimes against humanity and establishing the tenets of individual accountability. It showed that leaders could not escape justice by hiding behind the state. On the other hand, the trials were shaped by politics and selectivity, with only Axis leaders prosecuted. **This gave rise to the lasting criticism of "victors' justice."**

The later established ad hoc tribunals for Yugoslavia and Rwanda carried forward Nuremberg's principles but also repeated its flaws. They advanced due process and codified new crimes, like sexual violence, but they were still influenced by political decisions and selective prosecutions.

The ICC represents both progress and continuity. It is a permanent court with stronger safeguards and codified crimes. Yet, it continues to face charges of bias, especially in its focus on Africa, and yet remains restricted by the political nature of the UN Security Council. Overall, international criminal law has improved in fairness and procedure but has not fully escaped the problems of power and politics first seen at Nuremberg.

B. Research Limitations

This research has some important stark limitations.

a. First, it relies mainly on secondary nuanced sources such as literature from books, articles from journals, and various reports. While these provide valuable insights, they do not always capture the full detail of case law or the perspectives of those directly involved in the trials. A more

[104] Collins, supra note 4.

thorough analysis of individual judgments and trial transcripts could add more in-depth analysis.

b. Secondly, the study excludes the Tokyo Tribunal, hybrid courts, or domestic prosecutions for war crimes to keep the focus clear. This means the analysis does not explore the full spectrum of accountability efforts.

c. Lastly, being a relatively young institution, many proceedings before the ICC are still pending. This leaves room for much interpretation as to how it operates in situations such as in Ukraine or Palestine, thus rendering any pronouncements on its effectiveness and fairness provisional.

These limitations, in turn, should provide context for considering these findings as input into an evolving discourse rather than a final statement.

C. Future Directions & Conclusion

Looking forward, major reforms are warranted to strengthen the tenets of international criminal law and principally address the unwavering dilemma of "victors' justice." One major step would be to reducing the influence of the UN Security Council over the ICC. The power of the permanent five members to refer or block cases undermines the idea of universal justice and casts a leviathan apprehension over the basic principles of natural justice. Greater independence for the court would improve its credibility.

Another direction is expanding membership of the signatories to the Rome Statute. With major powers like the United States of America, the Russian Federation, and Peoples Republic of China outside the system, the ICC cannot claim full universality. Efforts to bring more states on board, or to create regional courts as complementary systems, could help close this gap.

Hybrid tribunals, combining international and domestic judges, may also offer a model for more context-specific justice. Finally, the ICC must act more consistently, addressing crimes in all regions and against all actors, not only those in weaker states.

In conclusion, the legacy of Nuremberg continues to shape international justice. The ICC has made progress but still struggles with the same criticisms of bias and selectivity. Achieving true universality and impartiality remains the greatest challenge for international criminal law in the future.

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