

Role of the International Criminal Court in preventing genocide and crimes against humanity

So far in class our perspective on ‘the most serious crimes of concern to the international community as a whole’ has been largely retrospective on two counts: first, we primarily addressed ways in which different justice repertoires were applied in *post*-crime settings, and secondly, we exclusively concerned ourselves to the *past* record of ‘punishing’ these crimes. Only tangentially we touched upon the second common commitment of the 1948 ‘Genocide Convention’ signatories, anchored in the very first article, namely to ‘prevent’ genocide. By its very nature, the act of preventing or dissuading is forward-looking and proactive. This second mandate of deterring the most heinous crimes was entrusted to the newly created International Criminal Court (ICC) in 1998. The preamble of the Rome Statutes underscores the determination of the signatories ‘to contribute to the prevention of [these] crimes’, while pointing to its determination ‘to these ends [...] for the sake of present and future generations’. For me this most ambitious goal of the ICC is the ultimate yardstick against which the ‘success’ of the institution will be measured. On a personal note, the ability and hope to prevent is the only source of light in a so often depressingly dark and nightmarish domain.

In my paper I seek to investigate the progress and limitations of the ICC in this endeavor. I intend to single out the Court’s effect on strengthening the legitimacy of international law more broadly, the Prosecutor’s impact of opening investigations in the midst of an ongoing conflict, the reactions of various potential suspects to the emergence of the ICC, the interdependence of the ICC and other actors such as for example the UN institutions and the human rights community and the constraints (material & political will) on the ICC in fulfilling this mission.

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