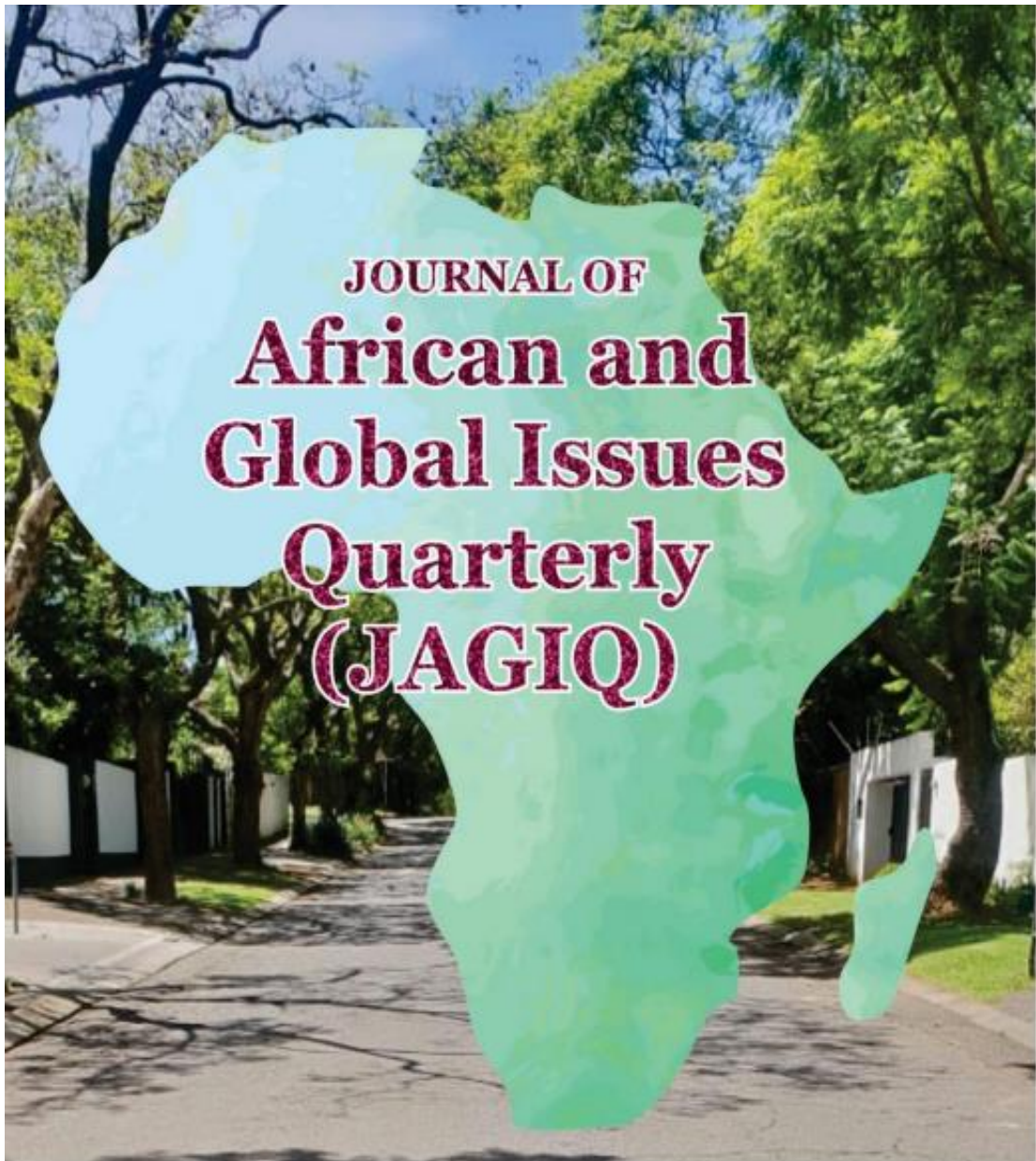




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Editorial Note:

Strengthening Accountability, Confronting Violence, and Reimagining Security in Africa

This Special Issue of African and Global Issues Quarterly arrives at a critical juncture. Across Africa, nations grapple with interconnected crises: the erosion of public trust in financial governance, the devastating rise of organised violence among youth, the persistent marginalisation of vulnerable populations, and the enduring legacy of colonial and neocolonial institutions that continue to shape contemporary realities. The thirteen papers presented here dissect these challenges with intellectual rigour and practical urgency.

We open with Nakabago and Hofisi's forensic examination of Uganda's Universal Primary Education capitation grant. For decades, UPE has been hailed as a pro-poor triumph. Yet, as the authors reveal, weak monitoring and evaluation of internal controls have turned a lifeline into a leaky vessel. Without real-time auditing and community-based oversight, financial accountability remains aspirational. This paper is a clarion call: education funding cannot be separated from forensic vigilance.

The crisis of youth violence, examined across two complementary studies by Somtochukwu, Muyideen, and colleagues, forces us to look where society often refuses to look: inside Ogun State's correctional facilities. Their first paper critically submits that socioeconomic indicators unemployment, broken kinship networks, and educational exclusion are causal pathways into cultism. The second adds a psychosocial layer, revealing how trauma, identity displacement, and the search for belonging drive young inmates deeper into violent collectives. Together, these studies argue that incarceration without therapeutic intervention is not rehabilitation but a factory for recidivism.

History matters. Daniel Oluwafemi John takes us into Igangan Town, Oyo State, between 1973 and 2021. The farmer-herder crisis is often framed as a contemporary emergency, but John demonstrates its long arc: decades of land tenure ambiguity, climate-induced migration, and state neglect. Understanding 1973 is essential for solving 2026. This is a sobering lesson in how unresolved grievances become inherited wars.

Joel Odaudu moves beyond Africa's borders with a multidimensional causal analysis of terrorism. Rejecting single-factor explanations, Odaudu insists on the confluence of political exclusion, economic inequality, and social fragmentation. His framework is a necessary tool for any government designing a counterterrorism policy that does not merely react but prevents.

The international justice system faces a necessary reckoning in Avitus A. Agbor's incisive critique of the International Criminal Court's racist image and agenda. Through comparative analysis of the situations in Ukraine and Palestine, Agbor exposes the selective application of international law a double standard that undermines the Court's legitimacy and perpetuates global hierarchies of victimhood.

Choma, Thobejane, and Ranneditsheni's revisiting of human rights for people living with albinism foregrounds a community too often marginalised in both policy and scholarship. Their work reminds us that human rights discourse must move beyond abstract universality to address specific, lived vulnerabilities rooted in superstition, stigma, and systemic neglect.

Governance and accountability receive comprehensive treatment. Mohono, Gabanakgosi, and Shopola's Public Value Theory perspective on parliamentary oversight provides a fresh framework for understanding democratic governance in Southern Africa. Zweni and Mahlala extend this conversation to grassroots public participation in municipal budget development, demonstrating that budgets are political statements about whose needs are prioritised.

The spectre of fragmentation looms large in Kelechi Johnmary Ani's unravelling of secessionist movements in Ambazonia and Biafra. By examining governance failures, identity politics, and historical grievances, Ani illuminates the root causes of separatist aspirations rather than merely managing their symptoms.

The private sector's challenges in volatile environments are explored by Parsad and Chummun, whose study of operational excellence in VUCA (Volatile, Uncertain, Complex, and Ambiguous) environments focuses on South Africa's insurance industry, offering practical insights for navigating uncertainty.

Academic rigour and methodological integrity come under the spotlight in Musaigwa, Nojiyeza, and Tabane's practical guide to writing strong conclusion chapters, addressing a perennial challenge in research dissemination and preempting reviewer criticism.

Nthambeleni Charles Netshisaulu's conceptual analysis of reversible metaphors in Tshivenda adds a rich linguistic dimension, demonstrating how language reflects and shapes cognition, culture, and social relations.

Taken together, these contributions remind us that accountability is not a bureaucratic checkbox. It is the thread linking school grants to classroom outcomes, correctional policies to safe communities, land history to peaceful coexistence, international law to genuine justice, and linguistic expression to cultural identity. The papers collectively argue that sustainable development in Africa demands simultaneous attention to financial probity, social inclusion, historical reckoning, and institutional reform.

We extend our deepest gratitude to all contributing authors for their intellectual rigour and commitment to advancing knowledge that serves African communities. In a world increasingly characterised by complexity and contestation, the role of critical scholarship has never been more vital. This Special Issue intervenes with rigour, compassion, and hope.

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BLUNTING THE RACIST IMAGE AND AGENDA OF THE INTERNATIONAL CRIMINAL COURT (ICC): THE SITUATIONS IN UKRAINE AND PALESTINE

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Abstract:

Early ICC investigations into Situations in Africa, referred by State Parties thereto, non-State Parties, the United Nations' Security Council and initiated by the ICC Prosecutor proprio motu, succeeded in portraying the ICC as having a racist agenda, targeting Africans and African leaders, and reduced it to a neo-colonial tool designed and deployed by the Global North as part of its agenda to access and extort Africa's resources. The merits of such perceptions have been contested by scholars in the social sciences, activists in the broader civil society, and statesmen. They have fuelled anti-ICC sentiments and movements which ultimately, assaulted the credibility of the institution. However, recent situations investigated by the ICC have been out of the African continent, which suggest that the ICC is gradually blunting its racist and anti-Africans/African leaders' agenda and image. In view of various dynamics such as their broader international relations network, incumbency, superpower status, and member of the United Nations' Security Council, the indictments of Benjamin Netanyahu (Israeli Prime Minister) and Vladimir Putin (Russian President), the ICC is transmitting a message that egregious crimes, irrespective of where they are committed and who the perpetrators are, it will warrant investigations into them and indict those who bear individual criminal responsibility. Taking an evidence-based approach, the paper argues that the ICC is effectively blunting that image as it has stretched into investigations in numerous non-African countries.

Keywords: *International Criminal Court; serious crimes in international law; indictments of Benjamin Netanyahu and Vladimir Putin; African Union; African Union Court with criminal jurisdiction*

1 Introduction

In 2010, an international conference on Africa and the future of international criminal justice was held at the University of the Witwatersrand, Johannesburg. Zooming into the

growing tensions between Africans and the International Criminal Court (ICC), and evidenced by the ICC's investigations into situations and indictments of individuals in Africa only, it pulled experts from various

disciplines and practice who offered insights on the need, trends, challenges and prospects of the pursuit of international criminal justice in Africa in view of the continent's traumatic and recurrent history of gross violations of human rights, perpetrated with impunity, involving often senior state officials. Sequel to this conference was the publication of a monograph containing contributions that captured the various ideological standpoints and sentiments nurtured by individuals drawn from the broader civil society, legal community and intergovernmental organisations (Nmehielle, 2012). Scholars in international criminal law and justice, through different platforms, spewed insights on international criminal justice with focus on trends, necessity and challenges (Murungu & Biegeon, 2011; Oko 2007). In addition, numerous developments in international criminal law and justice took place, some of which furthered the debate on the duty to prosecute serious crimes in international law, the indictment of numerous African leaders, and the African Union's dubious and hypocritical stance and approach in thwarting the ultimate goals of justice, at least, for the victims of serious crimes in international law. While the perception that the ICC targeted only African states and Africans soared amongst African statesmen and some scholars in the social sciences, different schools of thought on this view emerged: on the one hand, Africa was the epicentre of

egregious crimes that have shocked the conscience of mankind. With weak legal systems compounded by the sheer absence of a political will to hold the perpetrators accountable, an imperfect system of justice like the ICC should be preferred to an illusory perfect system that may never happen, ultimately rendering the victims of such crimes hapless and hopeless. If that were to be the case, the lessons learned from the United Nations' *ad hoc* tribunals (like the International Criminal Tribunal for the former Yugoslavia (ICTY) and International Criminal Tribunal for Rwanda (ICTR)) and the hybrid court like the Special Court for Sierra Leone (SCSL) would be squandered in the context of the evolution of international criminal justice and the "consistent" application of the principles underlying the imposition of individual criminal responsibility. On the other hand, the outright challenge in securing the support of some great powers like the United States, China and Russia dented the intent and pursuit of international criminal justice. With their fingerprints visible on such heinous crimes that are committed on African soil by Africans in which Africans are victimized, the ICC's unwillingness to launch investigations into them gives much credence to their arguments and debunks the credibility of international criminal justice. In that regard, the ICC was quickly tagged as having a racist agenda, deployed as a neo-colonial tool to further the capitalist agenda of the West, resulting in the conduct of

hostilities in which Africans within a country pit themselves against their compatriot, battling for the control of natural resources (Carney, 2026). The West, or natural and juristic persons who remote-control such conflicts, by implication, must bear responsibility for the foreseeable and unforeseeable crimes committed therein. They assume the position of disciples of international order and mankind's moral compass while unashamedly plundering and looting Africa's resources for their benefit. However, as has been seen in the past several years, gross violations of human rights in the context of war crimes (international and non-international armed conflicts) and crimes against humanity perpetrated on the territories of non-African countries are indicative of what can trigger a revised perception, affirming a somehow "pure" agendas of the ICC in upholding accountability for crimes falling under its jurisdiction.

Taking a qualitative approach backed by empirical evidence, this paper seeks to find an answer to the question: have recent investigations into Situations by the ICC altered the image that it (the ICC) had a racist agenda? This paper argues that the ICC is gradually blunting the perception that it has a racist agenda. It does so by looking at the investigations launched into non-African countries, and the successful indictments and issuance of warrants of arrests for persons who bear responsibility for these crimes. The first part recounts the history of the ICC,

followed by a synopsis of the overarching principles and objectives of international criminal justice. The third part summarises earlier ICC referrals and investigations. In the fourth part, the paper discusses the relationship between the African Union and the ICC highlighting how an "anti-ICC gang" was fomented in the wake of the indictment of the former Sudanese leader. It is further argued that against the divided perspectives and approaches, in view of the multitude of crimes coming under its jurisdiction, and the exoneration of state officials, the prospective African Court with a criminal jurisdiction comes across as an ambitious entity that reverse developments in international criminal justice, doomed to struggle even if complemented by the necessary political will. In other words, this prospective court already arouses significant doubts that impugn the credibility of the court and a clear intent to circumvent the fundamentals of accountability. The sixth part addresses investigations into non-African countries. The last part is the conclusion.

2 Overarching perspectives: the duty to prosecute heinous crimes, the cries of the victims: the imperatives of justice

A principle drawn from the establishment of criminal tribunals at the end of the Second World War was accountability for grave crimes that shocked the conscience of mankind. At

that time, three crimes, even though with varying definitions, were classified as grave crimes. In addition, specific principles were laid, of which was the imposition of criminal responsibility on state officials (*Charter of the International Military Tribunal*, 1945, art. 7). The two United Nations' *ad hoc* criminal tribunals, the ICTY and ICTR, were significant milestones in this regard. Their Statutes did not only stipulate the various crimes over which they had jurisdiction (*Charter of the International Military Tribunal for the Far East*, 1946, art. 6), they further articulated the different scopes of criminal participation that would lead to the imposition of individual criminal responsibility as well as criminal liability for superiors (*Statute of the International Criminal Tribunal for the former Yugoslavia*, 1993, arts. 2–5). These same principles would feature in the statutes of hybrid tribunals (*Statute of the Special Court for Sierra Leone*, 2002, art. 6(1)–(5)). The Rome Statute of the ICC also captured these developments in international criminal law and justice by maintaining the principles on the imposition of individual criminal responsibility (*Rome Statute of the International Criminal Court*, 1998, art. 25(1)–(4)). In international criminal law, Statutes of criminal tribunals stipulate a sacrosanct duty to prosecute serious crimes in international law. In addition, some international human rights instruments take the same approach: the United Nations' Convention on the Prevention and

Punishment of the Crime of Genocide (Genocide Convention) requires States Parties thereto to ensure suspects of genocide and any of its punishable crimes are held accountable (*Convention on the Prevention and Punishment of the Crime of Genocide*, 1948, art. I). These treaties are further complemented by international human rights treaties such as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). This duty also exists in customary international law: numerous states and institutions, backed by case law from domestic and international courts, have now settled this principle. In the face of mass atrocities, the domestic and international legal order must fulfil this sacred duty: in doing this, impunity is fought, justice is provided for the victims, and the rule of law is upheld. These should be the underlying values that mechanisms that are established for accountability, whether at domestic or international level, and in putting these mechanisms into operation, they must be blind to race, religion, nationality, country or status of the perpetrator in question.

3 The ICC and its past investigations in hindsight

The establishment of the ICC following the conclusion of the Rome Treaty of the ICC in 1998 and subsequent signatories and ratifications thereto was the crescendo of global efforts to end impunity for some of the most heinous crimes in the world (*International Law*

Commission Draft Code of Crimes against the Peace and Security of Mankind, 1996). Established to combat impunity for specific crimes, it brought to fruition decades of efforts by the ILC with numerous drafts of what these crimes would be. At the conclusion of the Treaty of the ICC in 1998, three crimes were listed therein: genocide, crimes against humanity, and war crimes (Rome Statute of the ICC, 1998). In 2017, crimes of aggression were added to the Treaty. The ICC is an international criminal court of last resort, and will exercise its jurisdiction only where a State Party is unable or unwilling to prosecute a perpetrator of any of the crimes over which it has jurisdiction (Rome Statute of the ICC, 1998). The exercise of its jurisdiction can be triggered in many ways: referral by a State Party, referral by a non-state party, referral by the UNSC, and the prosecutor initiating investigation *proprio motu* (Rome Statute of the ICC, 1998). As at June 2026, 33 African countries; 19 Asian-Pacific countries; 20 Eastern European countries; 28 Latin American and Caribbean States and 25 Western and Other countries are States Parties to the Rome Statute of the ICC.

For the few years after the ICC went operational in 2002, numerous situations in Africa were investigated by the ICC: some of these were referred to the ICC by a State Party, a non-state party, the United Nations' Security Council (UNSC), or investigations

launched *proprio motu* (or on the Prosecutor's initiative).

4 AU-ICC relations: African Union “anti-ICC gang” and the illusionary African Union Court

The indictment of the former Sudanese leader, Omar Al-Bashir, fuelled ideological debates amongst African legal scholars and statesmen: on the one hand was that senior state officials like Bashir indicted for participating in serious crimes in international law must be held accountable by an international mechanism like the ICC. On the other hand, senior state officials, including an incumbent president, must be exonerated from individual criminal responsibility. The Situation in the Darfur, Sudan, leading to Bashir's indictment and issuance of arrest warrant, was referred to the ICC by the United Nations' Security Council (UNSC) acting under its Chapter VII powers (United Nations' Security Council Resolution 1593, 2005). That triggered two additional schools of thought: first, the situation impacted international peace and security and therefore, came within the scope of measures at the disposal of the UNSC in order to abate the crisis. Secondly, a request from the Africa Union (AU) to defer the Situation without any concrete suggestion on how to end the gross violations of human rights was a show of an unmistakable intent to thwart the goals of international criminal justice from reaching the confines of a sitting

president. The Malabo Protocol that brought into perspective the AU's vision of international criminal justice lends cogent evidence to this view. Looking at the number and nature of crimes that the envisaged court would have jurisdiction over, it becomes more concerning if they would muster the requisite resources, especially the political will, to investigate and prosecute those crimes. In addition, a more disturbing aspect is the blanket provision of immunities to senior state officials who participate in serious crimes in international law. Article 46A bis spells out immunity for such individuals as follows:

No charges shall be commenced or continued before the Court against any serving AU Head of State or Government, or anybody acting or entitled to act in such capacity, or other senior state officials based on their functions, during their tenure of office.

If there is any logical inference to be drawn from Article 46A is that the AU's ultimate goal is to further validate and consolidate the culture of impunity, regardless of the magnitude of crimes or degree of victimhood. In fact, the AU's proposed court with an objective that is nothing but ambitious and unrealistic would be further avoided as States Parties thereto will stage sham trials to shield perpetrators rather than hold them accountable.

5 Recent trends in ICC referrals and investigations: bringing non-African countries into the ICC dragnet and international responses

Since its establishment, the ICC has opened investigations into over ten situations, spreading across various continents. From Africa, the ICC investigated situations in Uganda (referral made in January 2004 by the Government of Uganda and closed in December 2023); Democratic Republic of Congo (referral by the Government of the Democratic Republic of Congo in March 2004 resulting in three convictions, an acquittal and two cases still in progress); the Darfur, Sudan (referral by the United Nations' Security Council in March 2004, investigations commenced in June 2004, leading to the issuance of warrants of arrest of an incumbent president and the first time the ICC would charge an individual for the crime of genocide); Central African Republic (referred by the Central African government in December 2004, investigations opened in May 2007 and closed in December 2022); Kenya (investigations opened by the ICC Prosecutor *proprio motu* in March 2010, closed in November 2023, with two cases withdrawn and three cases opened); Libya (referred by the United Nations' Security Council in February 2011, investigations opened in March 2011, resulting in four cases); *Côte d'Ivoire* (accepted the jurisdiction of the ICC, ratified the Rome Statute of

the ICC in February 2013, with investigations opened by the ICC Prosecutor proprio motu, resulting in two cases which have been closed); Mali (referred by the Government of Mali in July 2022 and investigations opened in January 2013 with two cases so far); Central African Republic (referred by the Central African Republic Government in May 2014, investigations opened in September 2014 and closed in December 2022 with convictions) and Burundi (opened by the ICC Prosecutor in proprio motu in October 2017, and ongoing). Situations in non-African countries are numerically lower, touching Georgia (opened by the ICC Prosecutor in proprio motu and closed in December 2022); Bangladesh (opened by the ICC Prosecutor in proprio motu in July 2019); Ukraine and Palestine, both of which are detailed below.

5.1 Situation in Ukraine

As at 2026, Ukraine is not a State Party to the ICC. Neither was it when referrals to the ICC were made. However, pursuant to Article 12(3) of the Rome Statute of the ICC, Ukraine sought the jurisdiction of the ICC over suspected or alleged crimes that would have been committed over its territory. Ukraine has twice exercised its prerogatives to accept the jurisdiction of the ICC over alleged crimes under the Rome Statute. The first declaration was lodged by the Government of Ukraine, accepting the jurisdiction of the ICC with respect to alleged crimes committed on Ukrainian territory between 21 November 2013 and 22

February 2014. A second declaration extended this time on an open-ended basis to cover alleged crimes committed throughout the territory of Ukraine since February 20, 2014. Based on findings drawn from preliminary examination conducted by the Prosecutor, on February 28, 2022, the Prosecutor announced that he would seek authorization to open an investigation into the Situation in Ukraine. On March 1, 2022, the Office of the Prosecutor received a referral from Lithuania, a State Party to the ICC. On March 2, 2022, a coordinated group of States Parties to the ICC submitted a joint referral of the Situation in Ukraine to the ICC. On March 11, 2022, two additional States Parties to the ICC, Japan and North Macedonia, referred the Situation in Ukraine to the Office of the Prosecutor. On March 21, 2022, Montenegro joined the group of State Parties to refer the Situation in Ukraine to the Office of the Prosecutor. On April 1, 2022, the Republic of Chile joined the group of State Parties to refer the Situation in Ukraine.

On the basis of referrals made by the various State Parties on different dates, the Prosecutor announced he would proceed to open an investigation into the Situation in Ukraine, with a scope that encompassed both past and ongoing allegations of war crimes, crimes against humanity, or genocide committed on any part of the territory of Ukraine by any person from November 21, 2013.

On March 17, 2023, the ICC Pre-Trial Chamber II issued warrants of arrest for two individuals: Mr Vladimir Vladimirovich Putin, President of the Russian Federation, and Ms Maria Alekseyevna Lvova-Belova, Commissioner for Children's Rights in the Office of the President of the Russian Federation: Pre-Trial Chamber II believed there are reasonable grounds to believe that each suspect bears responsibility for the war crime of unlawful deportation of population (children) and that of unlawful transfer of population (children) from occupied areas of Ukraine to the Russian Federation, in prejudice of Ukrainian children. About a year later (March 2024), arrest warrants were issued for two individuals in the context of the Situation in Ukraine by ICC Pre-Trial Chamber II: Mr Sergei Ivanovich Kobylash and Mr Viktor Nikolayevich Sokolov. Applications lodged by the Prosecutor on February 2, 2024 at Pre-Trial Chamber II detailed reasonable grounds to believe that each of the two suspects bears criminal responsibility for the war crime of directing attacks at civilian objects, the war crime of causing excessive incidental harm to civilians or damage to civilian objects, and the crime against humanity of inhumane acts.

5.2 Situation in Palestine

Yahya Sinwar, Mohammed Diab Ibrahim Al-Masri (Deif) and Ismail

Haniyeh have been charged for various crimes on the bases of their criminal participation, or bearing criminal responsibility for the following war crimes and crimes against humanity committed on Israeli and Palestinian territories from October 7, 2023:

- Extermination as a crime against humanity, contrary to article 7(1)(b) of the Rome Statute;
- Murder as a crime against humanity, contrary to article 7(1)(a), and as a war crime, contrary to article 8(2)(c)(i);
- Taking hostages as a war crime, contrary to article 8(2)(c)(iii);
- Rape and other acts of sexual violence as crimes against humanity, contrary to article 7(1)(g), and also as war crimes pursuant to article 8(2)(e)(vi) in the context of captivity;
- Torture as a crime against humanity, contrary to article 7(1)(f), and also as a war crime, contrary to article 8(2)(c)(i), in the context of captivity;
- Other inhumane acts as a crime against humanity, contrary to article 7(1)(k), in the context of captivity;
- Cruel treatment as a war crime contrary to article 8(2)(c)(i), in the context of captivity; and
- Outrages upon personal dignity as a war crime, contrary to article 8(2)(c)(ii), in the context of captivity.

Those individuals are charged for the foregoing offences, committed in the context of an international armed conflict between the State of Israel and the State of Palestine, and a non-international armed conflict between the State of Israel and Hamas as an armed group operating from and within the State of Palestine. They bear criminal responsibility for crimes against humanity based on a widespread and systematic attack against the civilian population of Israel committed pursuant to organisational policies.

“My Office submits there are reasonable grounds to believe that SINWAR, DEIF and HANIYEH are criminally responsible for the killing of hundreds of Israeli civilians in attacks perpetrated by Hamas (in particular its military wing, the al-Qassam Brigades) and other armed groups on 7 October 2023 and the taking of at least 245 hostages. As part of our investigations, my Office has interviewed victims and survivors, including former hostages and eyewitnesses from six major attack locations: Kfar Aza; Holit; the location of the Supernova Music Festival; Be’eri; Nir Oz; and Nahal Oz. The investigation also relies on evidence such as CCTV footage, authenticated audio, photo and video material, statements by Hamas members including the

alleged perpetrators named above, and expert evidence.

It is the view of my Office that these individuals planned and instigated the commission of crimes on 7 October 2023, and have through their own actions, including personal visits to hostages shortly after their kidnapping, acknowledged their responsibility for those crimes. We submit that these crimes could not have been committed without their actions. They are charged both as co-perpetrators and as superiors pursuant to Articles 25 and 28 of the Rome Statute.”

During my own visit to Kibbutz Be’eri and Kibbutz Kfar Aza, as well as to the site of Supernova Music Festival in Re’im, I saw the devastating scenes of these attacks and the profound impact of the unconscionable crimes charged in the applications filed today. Speaking with survivors, I heard how the love within a family, the deepest bonds between a parent and a child, were contorted to inflict unfathomable pain through calculated cruelty and extreme callousness. These acts demand accountability.

My Office also submits there are reasonable grounds to believe that hostages taken from Israel

have been kept in inhumane conditions, and that some have been subject to sexual violence, including rape, while being held in captivity. We have reached that conclusion based on medical records, contemporaneous video and documentary evidence, and interviews with victims and survivors. My Office also continues to investigate reports of sexual violence committed on 7 October.

Benjamin Netanyahu (Israeli Prime Minister) and Yoav Gallant (Israeli Defence Minister)

They bear criminal responsibility for the following war crimes and crimes against humanity committed on the territory of the State of Palestine (in the Gaza strip) since October 8, 2023:

- Starvation of civilians as a method of warfare as a war crime contrary to article 8(2)(b)(xxv) of the Statute;
- Wilfully causing great suffering, or serious injury to body or health contrary to article 8(2)(a)(iii), or cruel treatment as a war crime contrary to article 8(2)(c)(i);
- Wilful killing contrary to article 8(2)(a)(i), or Murder as a war crime contrary to article 8(2)(c)(i);
- Intentionally directing attacks against a civilian population as

a war crime contrary to articles 8(2)(b)(i), or 8(2)(e)(i);

- Extermination and/or murder contrary to articles 7(1)(b) and 7(1)(a), including in the context of deaths caused by starvation, as a crime against humanity;
- Persecution as a crime against humanity contrary to article 7(1)(h);
- Other inhumane acts as crimes against humanity contrary to article 7(1)(k).

The alleged war crimes were committed in the context of an international armed conflict between Israel and Palestine, and a non-international armed conflict between Israel and Hamas (with other Palestinian Armed Groups). In addition, crimes against humanity were committed as part of a widespread and systematic attack against the Palestinian civilian population pursuant to State policy. The evidence collected, including interviews conducted with survivors and eyewitnesses, authenticated video, photo and audio material, satellite imagery and statements from the alleged perpetrator group, all show that Israel has intentionally and systematically deprived the civilian population in all parts of Gaza of objects indispensable to human survival. This was made possible through

“the imposition of a total siege over Gaza that involved completely closing the three border crossing points, Rafah,

Kerem Shalom and Erez, from 8 October 2023 for extended periods and then by arbitrarily restricting the transfer of essential supplies – including food and medicine – through the border crossings after they were reopened. The siege also included cutting off cross-border water pipelines from Israel to Gaza – Gazans’ principal source of clean water – for a prolonged period beginning 9 October 2023, and cutting off and hindering electricity supplies from at least 8 October 2023 until today. This took place alongside other attacks on civilians, including those queuing for food; obstruction of aid delivery by humanitarian agencies; and attacks on and killing of aid workers, which forced many agencies to cease or limit their operations in Gaza.”

According to the Prosecutor,

“these acts were committed as part of a common plan to use starvation as a method of war and other acts of violence against the Gazan civilian population as a means to (i) eliminate Hamas; (ii) secure the return of the hostages which Hamas has abducted, and (iii) collectively punish the civilian population of Gaza, whom they perceived as a threat to Israel.”

Like many prior Situations, those in Ukraine and Palestine have resulted in indictments. The suspects include, amongst others, President Vladimir Putin of Russia and Prime Minister Benjamin Netanyahu of Israel. They are charged individually for their participation in the crimes committed in the specific jurisdictions within the specified time frame. Warrants have been issued by the ICC for their arrests. Two concerning aspects are worth mentioning: first, the suspects are incumbent leaders in their respective countries. Secondly, and in the case of Vladimir Putin, he is the leader of Russia, a permanent member of the United Nations’ Security Council. Furthermore, and compared to the responses to the issuance of a warrant of arrest of Omar al-Bashir in 2009, fundamentally different reactions have been garnered so far. While the former Sudanese leader was the subject of diplomatic fallouts whenever his international movements were anticipated, those of President Putin and Prime Minister Netanyahu highlight the politicalisation of the pursuit of international criminal justice. Prime Minister Netanyahu has conducted numerous international trips and even addressed the United States’ Congress even though an active warrant for his arrest is in circulation. Likewise, President Putin whose cross-border trips, even to the United States, have depicted the sheer defiance of the international legal system and conveyed the view that some suspects are above the law. An anticipated visit

by President al-Bashir to South Africa was met with requests from State Parties to arrest and surrender him to the ICC, and even a non-commitment to secure his liberty in some instances in Africa. The message is simple: even in cases where specific states would portray themselves as the standard bearers of international human rights and the paragons of morality and accountability, public engagements with the suspects of the most heinous crimes in international law, placing them at a sharp contrast to their reaction to President Bashir's intended movements, reveal a double-standard in their commitment to accountability for gross violations of human rights. The politicking of international criminal justice cut deeper, and once again, evoked and animated the racist charge and agenda of selected states in the international community who would weaponize the ICC in circumstances that do not favour them.

6 Conclusion

Early ICC investigations and indictments sparked profound intellectual controversies and passionate political debates within and outside Africa on the selectivity and sentimentality of the ICC operations as targeting African States and African leaders and Africans. Even though these views have been ridiculed in the face of rigorous intellectual scrutiny backed by historical facts and patterns, one would not struggle to recognize that such views and positions are rooted in

history, international law, economics, and geo-political dynamics. Acknowledging the diversity in the viewpoints echoed and re-echoed by various social science scholars, statesmen and civil society actors, one would be disturbed by the evident distancing from what can be considered so far as unassailable truths that must constitute the bases of any policy on accountability: for heinous crimes, there is a solemn obligation to prosecute the perpetrators, and in cases where a state is unwilling or unable to fulfil such a sacrosanct obligation, such a state must extradite the perpetrator to a state that is both willing and able to do so. Gleaning through the extensive literature on the relationship between Africa and the ICC, one quickly notices that some of the highlights have been on the fight against impunity and the perversion and selectivity exuded some African leaders who themselves referred many of the situations to the ICC. Some have labelled the ICC as a neo-colonialist tool, a Western power proxy that has been designed and institutionalized under the camouflage of accountability at the direction of major global powers to foster and forge their imperialist and divisive agenda on Africa while looting its resources for their gain. Such views have been rendered more complicated by what Mutua calls the continent's (Africa) "tortured place in geopolitics" (Mutua, 2016:47). Africa's "tortured place in geopolitics" has been deployed as a political tool waged against citizens in their countries. It is this stigma that is

used to foment domestic policies that practise exclusivity to retain the political gang, often through sham elections facilitated by judiciaries that lack operational independence. With the ramifications of political corruption percolating every democratic institution in African states, civil society institutions reject such systems and policies through public participation. Indomitable opposition entities challenge the status quo, and victimisation on a massive scale is perpetrated through systems. This has been the case in many African countries: systemic denial of civil and political rights, challenged by stiffened opposition to the political elites, eventually results in gross violations of human rights. What Africa has showed

to the world is not only sheer and despicable political irresponsibility but an impeachable unwillingness to incubate the necessary infrastructure for socio-economic justice which would alleviate the situations of their peoples and give them a life of dignity and worth. In these contexts, political irresponsibility must not be veiled through ideological battles in which the West or the continent's history is reduced to a handy tool for justification.

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