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The Urgency of Strengthening International Criminal Justice in Combating Impunity of Perpetrators of International Crimes: The Perspective of the 1998 Rome Statute

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ABSTRACT

This study aims to analyze the urgency of strengthening international criminal justice in overcoming impunity for international criminals and to examine the effectiveness of the implementation of the 1998 Rome Statute as an instrument of international law in realizing criminal accountability. The research method used is normative juridical research with a statute approach, a conceptual approach, and a case approach. The legal materials used consist of primary, secondary, and tertiary legal materials that are qualitatively analyzed through legal interpretation. The results of the study show that the Rome Statute of 1998 has provided a comprehensive legal basis for the prosecution of international criminals through the application of the principles of complementarity, individual criminal responsibility, and international cooperation. However, the effectiveness of international criminal justice still faces various obstacles in the form of political intervention, limited jurisdiction, non-compliance of states with cooperation obligations, and the lack of optimal harmonization of national law with the provisions of the Rome Statute. Therefore, strengthening the ICC institution, increasing the commitment of countries in implementing international obligations, and expanding the ratification of the Rome Statute are strategic steps to reduce impunity and realize a more effective, fair, and just international criminal justice system.

Kewords: International Criminal Court; Rome Statute 1998; Impunity; International Crime.

1. INTRODUCTION

The development of globalization has brought significant changes to the dynamics of relations between nations, in the fields of politics, economics, technology, and international security. On the one hand, globalization encourages closer international cooperation, but on the other hand, it has also given rise to various forms of transnational threats that have a broad impact on global stability and peace. Armed conflicts, both international and non-international, continue to occur in various regions, resulting in serious violations of international humanitarian law and human rights(Hiariej, 2009). This situation demonstrates that the development of modern civilization has not completely eliminated the practice of violence that causes suffering to civilians(Bassiouni, 2013).

In these conflicts, international crimes remain a serious problem that threatens the international legal order. The 1998 Rome Statute classifies four categories of international crimes under the jurisdiction of the International Criminal Court (ICC): genocide, crimes against humanity, war crimes, and crimes of aggression(Atmasasmita, 2006). These four types of crimes are considered the most serious crimes of concern to the international community as a whole because they harm not only individual victims but also threaten peace, security, and humanity universally(Cryer et al., 2019).

The enforcement of international criminal law cannot operate in isolation from public legal awareness at the grassroots level. To prevent systematic human rights violations, fostering discipline and legal awareness from an early age in local communities and among the younger generation plays a crucial role (Saputra et al., 2023). This is because a robust global legal order must be supported by legal compliance internalized in everyday social life. Without basic compliance at the domestic level, even the most prestigious international legal instruments will lose their effectiveness at the grassroots level(Shaw, 2021).

Given the extraordinary nature of international crimes, individual criminal responsibility is a fundamental principle of international criminal law. This principle affirms that individuals who plan, order, carry out, or participate in international crimes can be held personally criminally responsible, regardless of their position, political standing, or official status (Cassese, 2013). Thus, heads of state, government officials, or military commanders cannot use official immunity as an excuse to avoid legal proceedings for serious violations they have committed (Schabas, 2020).

In response to various humanitarian tragedies throughout the 20th century, the international community adopted the Rome Statute on July 17, 1998, as the basis for the establishment of the International Criminal Court. The establishment of the ICC marked a significant milestone in the development of international criminal law, as it provided the world with the first permanent, independent international criminal justice institution with the authority to prosecute perpetrators of international crimes based on the principle of complementarity(Werle & Jessberger, 2020).

However, the ICC has not completely eradicated the practice of impunity for perpetrators of international crimes. Impunity persists due to political intervention by major powers, limited jurisdiction, and a weak commitment to global ratification. Indonesia has also not yet ratified the 1998 Rome Statute, reflecting the tension between state sovereignty and global humanitarian responsibility. Based on the above description, this study aims to analyze the urgency of strengthening international criminal justice in overcoming impunity for perpetrators of international crimes and to examine the effectiveness of the implementation of the 1998 Rome Statute in supporting global law enforcement.

2. METHODS

This research applies the normative juridical research method as the primary analytical tool to examine and dissect the legal issues under study. This normative legal research design focuses on an in-depth review of positive legal norms, national and international legal principles, international criminal law theory, and the doctrines of leading scholars (Kusumaatmadja & Agoes, 2019). This method was chosen based on the dogmatic-prescriptive nature of the research problem, where the primary focus is on the consistency, effectiveness, and urgency of strengthening international regulations to combat impunity for perpetrators of extraordinary crimes.

To approach this legal issue comprehensively, this research utilizes several approaches, starting with the statute approach and the conceptual approach. The legal approach is conducted by critically examining various relevant international legal instruments, particularly the substantive and procedural provisions of the 1998 Rome Statute. Meanwhile, a conceptual approach is used as a theoretical foundation to analyze fundamental ideas in international criminal law, such as the concept of impunity, the principle of individual criminal responsibility, and the doctrine of complementarity.

Furthermore, this research integrates a case approach and a comparative approach to strengthen the empirical-juridical analysis. The case approach is applied by in-depth analysis of various concrete legal decisions and arrest warrants issued by the International Criminal Court, such as the cases of Omar Al-Bashir, Joseph Kony, Thomas Lubanga, and Vladimir Putin.

Furthermore, a comparative approach is used to compare the effectiveness of law enforcement between the era of ad hoc courts such as the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) and the era of permanent justice under the auspices of the ICC.

The legal sources used in this research are rigidly classified into three main categories: primary, secondary, and tertiary legal materials. Primary legal materials consist of authoritative legal documents such as the 1945 UN Charter, the 1948 Genocide Convention, the 1949 Geneva Conventions and their Additional Protocols, and the 1998 Rome Statute. Secondary legal materials were obtained from reputable scholarly literature, including textbooks by leading international criminal law scholars, official ICC reports, and drafts of accredited scientific articles, both nationally and internationally. Tertiary legal materials include legal dictionaries, encyclopedias, and glossaries of international legal terms, which serve to clarify the interpretation of technical concepts.

The legal material collection technique in this normative research was conducted through systematic and structured library research. The author conducted an inventory, identification, categorization, and verification of all written legal documents relevant to the research object, both accessed in physical form and through digital international law databases. The legal material selection process was based on the level of legal authority, the credibility of academic sources, and the topicality of the law enforcement issues discussed, to ensure the reliability and validity of the findings of this legal research.

All collected legal materials were then analyzed using descriptive-qualitative methods using legal interpretation techniques. The legal interpretation employed encompassed systematic and teleological interpretation to understand the logical rationale and purpose of the key articles in the 1998 Rome Statute. Through deductive legal reasoning, these normative legal provisions were synthesized with legal facts from real-life case studies, thus gaining a deeper understanding of the effectiveness and challenges of the current international criminal justice system, and subsequently formulating recommendations for institutional strengthening.

3. RESULTS AND DISCUSSION

The Concept of International Criminal Justice and the 1998 Rome Statute

International criminal justice was founded on a fundamental philosophical foundation: to guarantee absolute criminal accountability for individuals for extraordinary crimes that shake the conscience of humanity (the most serious crimes of concern to the international community). This transformation of the accountability regime marked a paradigm shift from a focus solely on state responsibility to individual criminal responsibility. History records that the initial milestone in the development of this justice system began after World War II with the establishment of international military tribunals, namely the International Military Tribunal (IMT) in Nuremberg and the International Military Tribunal for the Far East (IMTFE) in Tokyo. These two historic trials laid the foundation for the doctrine that international crimes are committed by humans, not abstract entities, so that individuals behind these crimes cannot hide behind their country's sovereign immunity.

Although the Nuremberg principles have been widely adopted, the development of international criminal law stagnated during the Cold War era due to global political polarization. Momentum for international law enforcement revived in the early 1990s when brutal humanitarian tragedies erupted in several parts of the world. In response to the humanitarian crisis, the UN Security Council used its authority under Chapter VII of the UN Charter to establish ad hoc (temporary) international criminal tribunals. The establishment of the International Criminal Tribunal for the Former Yugoslavia (ICTY) in 1993 to prosecute crimes committed in the former Yugoslavia, and the International Criminal Tribunal for Rwanda (ICTR) in 1994, demonstrated the resurgence of the international community's efforts to eradicate impunity through judicial instruments.

The successes, as well as the limitations of these ad hoc tribunals, with their limited jurisdiction within a specific time and region, raised the international community's awareness of the urgency of establishing a more robust and institutionalized judicial institution. The culmination of this evolution in international legal thought and diplomacy was the United Nations Diplomatic Conference in Rome, which resulted in the signing of the Rome Statute on July 17, 1998. This historic statute officially established the International Criminal Court (ICC), the world's first permanent and independent international criminal court. The ICC is not designed to replace national justice, but rather to operate based on the principle of complementarity to ensure that perpetrators of extraordinary crimes do not escape the clutches of global justice.

The 1998 Rome Statute established a strict legal structure through the interaction of key articles to eliminate loopholes of impunity. Based on the results of a normative legal analysis, the following is a classification of the effectiveness of important cases handled by the ICC, which represents the performance of international law enforcement under the umbrella of the 1998 Rome Statute:

Table 1. Legal Analysis of Cases of Violations of International Criminal Law at the ICC

No	Case / Subject Country	Start Year	Major Crime Category	Legal Status & Juridical-Political Obstacles
1	Omar Al-Bashir (Sudan)	2005 / 2010	Genocide, Crimes against Humanity	Defendant at large; lack of cooperation from member states in arrest.
2	Vladimir Putin (Rusia)	2023	War Crimes (Child Deportation)	Arrest warrant issued; obstruction of sovereignty of non-member state (Russia).
3	Joseph Kony (Uganda)	2005	Crimes against Humanity, War Crimes	Defendant at large; operational limitations in active conflict areas.
4	Situasi Konflik Libya	2011	Crimes against Humanity	UNSC Mandate; conflict between national and international jurisdictions (complementarity).
5	Thomas Lubanga (DR Kongo)	2004	War Crimes (Child Recruitment)	Conviction; successful execution and landmark jurisprudence.

Source: Data Processed (Mahkamah Pidana Internasional (ICC), 2026)

Based on the legal analysis in Table 1, it is clear that although the 1998 Rome Statute provides a robust substantive and formal legal basis, its effective enforcement on the ground faces significant structural impasses. The most prominent obstacle is the absence of an independent law enforcement apparatus (such as an independent international police force) within the institutional structure of the International Criminal Court (ICC). Unlike domestic justice systems, which have exclusive coercive powers, the ICC relies entirely on the good faith and cooperation of member states to execute arrest warrants. This structural dependence has proven to be a fundamental weakness, as reflected in the cases of Omar Al-Bashir and Joseph Kony, where these high-profile defendants remained fugitives for years due to a lack of operational support and the reluctance of states to detain them within their jurisdictions.

Furthermore, this impunity is exacerbated by strong political and legal resistance from the international community, particularly from large non-member states with significant geopolitical influence. The case of issuing an arrest warrant for Vladimir Putin sets a monumental precedent, demonstrating the stark clash between the mandate to uphold universal humanitarian law and the doctrine of absolute state sovereignty. Countries reluctant to ratify the Rome Statute often seek refuge behind the shield of their domestic jurisdiction to resist ICC intervention, creating a politically legitimized impunity gap. This situation reflects the harsh reality that the architecture of international criminal law is often held hostage by global political constellations, where legal ideals are forced to confront the thick walls of diplomacy and rational state interests.

Despite facing various political and structural obstacles, the presentation in Table 1 also confirms that the justice system mandated by the Rome Statute is not a complete failure. The ICC's success in prosecuting, convicting, and imprisoning Thomas Lubanga demonstrates that when international cooperation is synchronized and political interference is minimized, international criminal justice mechanisms are truly capable of delivering justice for victims of extraordinary crimes. This fact confirms that the pressing challenge in the future is not simply to revise the text of the Rome Statute, but rather how to create a diplomatic and sanctions mechanism that is able to pressure, or provide strong political incentives, so that the world's countries are willing to consistently carry out their international legal obligations to end the cycle of global impunity.

Analysis of Key Articles of the 1998 Rome Statute

To comprehensively address the root causes of impunity, the 1998 Rome Statute goes beyond simply listing crimes, but relies on the integration of progressive legal principles rigorously enshrined in its articles. This legal architecture is built on the fundamental foundation stipulated in Article 1 in conjunction with Article 17, namely the principle of complementarity. Through this principle, the International Criminal Court (ICC) is positioned absolutely as a court of last resort. This means that the ICC's jurisdiction will only become active and have the authority to prosecute if a country's national criminal justice system is legally proven unwilling or unable to conduct independent investigations and prosecutions of alleged perpetrators of international crimes.

Furthermore, the Rome Statute's most revolutionary breakthrough in dismantling the bastion of impunity is enshrined in Article 27, concerning the abolition of official immunity (irrelevance of official capacity). Historically, state immunity has often served as a shield for dictators to avoid legal action. However, the provisions of this article expressly eliminate the right to official immunity for anyone, from functional public officials, senior military commanders, to even active heads of state. The essential application of this article can be seen clearly in the ICC's bold move to issue arrest warrants for influential figures such as Omar Al-Bashir and Vladimir Putin, confirming that no individual is immune from the reach of international criminal law.

To ensure that criminal responsibility extends throughout the chain of command, the Rome Statute also formulated the doctrine of command responsibility through Article 28. This normative provision is specifically designed to ensnare military officers and civilian superiors who may not physically pull the trigger on the battlefield but have effective control over troops or subordinates who commit crimes. This article imposes proportionate criminal responsibility on superiors based on culpable negligence, failure to prevent the occurrence of grave violations, or unwillingness to punish perpetrators under their command, thereby breaking the chain of structural impunity from the top.

Nevertheless, all of these robust substantive legal structures ultimately come down to the operational realities stipulated in Articles 86 and 89 concerning the obligation of interstate cooperation. These two articles imperatively require each state party to fully support the judicial process and execute arrest warrants issued by the ICC within its sovereign territory. Unfortunately, in practice, this crucial provision is the weakest link and the most frequently violated. The absence of an independent enforcement mechanism within the ICC, coupled with the absence of firm legal or economic sanctions for states that ignore this obligation, means that the effectiveness of upholding global justice remains highly dependent on fluctuations in the goodwill and political constellation of each state.

Indonesia's Position on the 1998 Rome Statute and the Relevance of Legal Governance

Indonesia remains in a dilemma and has not yet ratified the 1998 Rome Statute, despite its commitment to normative human rights protection continuing to be articulated in national legal development. The primary concern underlying this defensive stance is the fear of potential erosion of state sovereignty and the intervention of international law into domestic jurisdiction. More specifically, there are concerns within the military and national defense that security forces carrying out security operations in areas prone to domestic conflict could be unilaterally criminalized by the International Criminal Court (ICC). This political and psychological resistance places national legal sovereignty in direct conflict with global humanitarian obligations, often leading to tactical deadlocks at the legislative and executive levels.

However, when analyzed through a progressive legal lens, these concerns can essentially be legally eliminated through a deeper understanding of the complementarity principle stipulated in Article 17 of the Rome Statute. Progressive law believes that law is not rigid but must serve sovereign humanity and social justice. Within this framework, Indonesia's legal sovereignty will be fully protected as long as the national criminal justice system operates effectively, independently, and fairly. The principle of complementarity absolutely guarantees that the ICC has no legal loopholes whatsoever to intervene in Indonesia's jurisdiction, as long as the national judiciary is proven "capable" and "willing" to independently adjudicate any alleged gross human rights violations occurring within its sovereign territory. In other words, strengthening domestic justice is the best shield of sovereignty, not legal isolation.

In the effort to realize a robust national legal system, law enforcement and human rights protection cannot be viewed solely as the exclusive responsibility of the central government. Aligning international commitments with domestic policies requires a collaborative governance approach. This dynamic demands strong vertical harmonization between macro policies at the national level and micro-administration at the local level. In line with the thinking of Saputra et al. (2025), legal governance and government management at the regional and village levels play a crucial role in implementing the values of legal compliance at the grassroots level. Without adaptive regulatory synchronization within local governance systems, any international commitments signed by countries at the global level will lose their binding force and practical effectiveness on the ground.

The concrete implementation of this vertical collaboration can be identified through strengthening legal protection for vulnerable groups at the grassroots level, such as village governments. Human rights protection at the local level, particularly for Indonesian Migrant Workers (PMI) in rural areas, is a concrete manifestation of the state's micro-compliance with universal humanitarian standards. Previous research by Andhani et al. (2025) shows that the active involvement of village actors in the participatory formulation of protective local regulations can create a responsive social and legal safety net system. When local and village-level institutions are able to formulate policies that effectively protect their citizens from exploitation, the state is cumulatively building legal credibility, confirming that its national legal system is truly functioning well.

Therefore, strengthening national regulations aligned with progressive policies at the regional and village levels is a tactical-strategic step to demonstrate Indonesia's continued "ability" and "willingness." This effort also allays concerns about external intervention. Ratification of the Rome Statute should not be viewed as a threat to sovereignty, but rather as a momentum to accelerate comprehensive national legal reform. Through the integration of collaborative governance from the central government down to the village level, Indonesia can maintain its legal sovereignty with dignity in the eyes of the international community, while fulfilling its universal moral responsibility to end the cycle of global impunity without compromising its national integrity.

4. CONCLUSION

Based on the results of the legal analysis and discussion outlined above, this study concludes that the urgency of strengthening international criminal justice is an inevitability that cannot be postponed. Impunity for perpetrators of extraordinary crimes remains rife globally. This situation is rooted in the strong dominance of the international political constellation, the abuse of veto power by permanent members of the UN Security Council, and the limited jurisdiction of the International Criminal Court (ICC). Furthermore, the lack of independent enforcement power to execute arrest warrants often leaves this global judicial system hostage to the fluctuating political reluctance of states.

Secondly, this study confirms that, normatively, the 1998 Rome Statute provides a very comprehensive and progressive legal instrument. Its crucial provisions explicitly require the realization of individual criminal accountability without discrimination, as evidenced by the absolute rejection of political immunity and the recognition of the doctrine of command responsibility. However, empirical reality shows that the effectiveness of international criminal law enforcement remains hampered. The biggest gap lies not in the absence of norms, but rather in operational weaknesses triggered by the lack of compliance and reluctance of states to fulfill their international cooperation obligations mandated by the statute.

In response to this impasse, this study offers several strategic recommendations at the global level. First, structural reforms are needed to address the institutional relationship between the ICC and the UN Security Council to minimize the practice of political double standards in handling humanitarian crises. Second, the international community must encourage increased and more binding mutual legal assistance (MLA) cooperation between states. Third, in this modern era, the ICC and national courts need to optimize the use of digital tracking and electronic evidence in the evidentiary process, so that investigations of international crimes can be conducted more accurately even if investigators do not have direct physical access to conflict areas.

At the domestic level, particularly for developing countries like Indonesia, this study recommends accelerating the harmonization of national regulations. Ratification of the Rome Statute should not be viewed with fear of the loss of sovereignty, but rather as a golden opportunity. This ratification step is essential to strengthen the credibility of national human rights enforcement in the eyes of the world, while also triggering reform of the Human Rights Court Law to align it with modern international criminal standards and norms. With a robust and globally recognized judicial infrastructure, the state's legal sovereignty will become even more impenetrable to external intervention.

In conclusion, successfully combating impunity ultimately requires synergy between the macrostructure of international law and the microstructure of legal compliance at the domestic level. In accordance with a collaborative governance approach, the enforcement of universal humanitarian values must be firmly rooted in the commitment of local governments down to the village level. Through policy harmonization from the grassroots to the state level, the international criminal justice system envisioned by the Rome Statute can transform from a mere treaty text into a tangible shield of justice for the protection of human rights worldwide.

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