IMPACT OF INTERNATIONAL CRIMINAL COURT ON POLITICS IN AFRICA

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Abstract - Delivering distanced justice from The Hague with limited expertise on African societies and spending scant time in the field, the ICC has failed to grapple sufficiently with complex political dynamics "on the ground." Combined with the Court's heavy reliance on state cooperation, these factors have enabled African governments to use the ICC to target their political and military enemies while protecting themselves from prosecution. This has also emboldened African states in continuing to commit atrocity crimes against civilians, especially during periods of mass conflict and fraught national elections. The establishment of the ICC has created a new phrase in African politics, where by the present African leaders hang on in power and even manipulate their constitutions for fear of being indicted by the ICC. Though the ICC was created to check excessive powers of such despotic leaders it has created a scare in then and they would rather manipulate their populations which are largely illiterate than face the court. Regrettably many African leaders are mere puppets of neo-colonial interest that has helped them to eternalize power in exchange for defending the neo-colonial economic and hegemonic agenda. It is often under these circumstances that crimes falling under the jurisdiction of the ICC are perpetrated.

Keywords - International Criminal Court, African Politics, international justice ,Neo-colonial, African Politics

I. INTRODUCTION

The idea of a permanent international criminal court can be traced to the late 19th Century. In 1870, Gustav Moynier, one of the founders of the International Committee of the Red Cross called for the establishment of an International Permanent Court. In his commentary on the 1864 convention regarding the treatment of wounded soldiers, he stated that "a treaty was not a law imposed by a superior authority on its subordinates but only a contract whose signatories cannot decree penalties against themselves since there would be no one to implement them. The only reasonable guarantee should lie in the creation of international jurisdiction with the necessary power to compel obedience."

In 1998, the international community adopted the Rome Statute of the International Criminal Court to establish the first permanent international tribunal to try perpetrators of the most heinous crimes. The ICC was given jurisdiction over genocide, crimes against humanity, war crimes, and the crime of aggression. The ICC was inaugurated in 2003 shortly after the Rome Statute came into force in 2002. To date, 122 countries have signed and ratified the ICC's Statute. The International Criminal court has been on investigations in African Countries as Kenya, Uganda, the CAR, and Sudan. The cases in these countries are related to most of the problems facing the African region most of which have been wracked by civil conflict for years. African submission to ICC jurisdiction exists within political and "structural" inequalities in the global arena, meaning that the ICC's involvement in Africa is not simply a question of the ICC's targeting of Africa. Nor is it a matter of whether African states themselves participated in referring particular cases. Rather, it has to do with which crimes can be pursued, which agents can be held responsible, whether Africa's violence can be managed by African countries, and whether the crimes of the Rome Statute are sufficient to address the root causes of violence in Africa's political landscape.

II. DETAILED DISCUSSION

ICC has effects on peace negotiations, national elections, domestic judicial reform, amnesty processes, combatant demobilization and community-level accountability and reconciliation in the African Continent.

In Uganda, there was hope that the ICC would induce the perpetrators to seek a political settlement, although that has not yet happened. Currently over one million people have so far signed a petition to drag President Yoweri Kaguta Museveni to the International Criminal Court- ICC. The People's Government will hand over the petition to the prosecutor of the International Criminal Court to open cases of crime against humanity against President Museveni and other government officials in security agencies. In January 2019, seven years after issuing a warrant for Gbagbo's arrest for crimes against humanity during the 2010-11 post-election violence in Côte d'Ivoire, which claimed 3,000 lives, the ICC judges ruled that he and his youth minister Charles Blé Goudé had no case to answer. As the only former head of state to have been prosecuted by the ICC, Gbagbo's acquittal is the biggest blow to the Court since its inauguration. . This was seen to have a positive impact in diffusing tension from mass killings, however The Hague court's decision was another big setback for the prosecution, which has been stung by a series of defeats. Thus shows the fear of ICC making African politicians more powerful and dictatorial.

In Sudan, Al-Bashir is currently being held in a prison in Khartoum, facing trial on corruption

charges. He ruled Sudan for three decades after seizing power in a coup in 1989. After he was deposed on April 11th 2019 , ICC prosecutors once again demanded Al-Bashir stand trial for mass killings in Darfur. The military generals who had initially seized power in the aftermath of the president's fall have refused to hand him over to the ICC. The transitional authorities would need to ratify the ICC's Rome Statute to allow for the transfer of al-Bashir to the Hague.

In the case of Kenya, the International Criminal Court (ICC) cleared the way for two prominent suspects Uhuru and Ruto to campaign for the presidency in Kenya's General Election. The two were charged with crimes against humanity in relation to the post-election violence of 2008.They were later cleared of all charges proving that aggressive campaigning was to run away from ICC making Politian's stronger giants which is a negative impact on politics in Africa.

Today, Africa contains 54 sovereign countries, most of which have borders that were drawn during the era of European colonialism. Since colonialism, African states have frequently been hampered by instability, corruption, violence, and authoritarianism. The vast majority of African states are republics that operate under some form of the presidential system of rule. However, few of them have been able to sustain democratic governments on a permanent basis, and many have instead cycled through a series of coups, producing military dictatorships.

Great instability was mainly the result of marginalization of ethnic groups, and graft under these leaders. For political gain, many leaders fanned ethnic conflicts, some of which had been exacerbated, or even created, by colonial rule. In many countries, the military was perceived as being the only group that could effectively maintain order, and it ruled many nations in Africa during the 1970s and early 1980s. During the period from the early 1960s to the late 1980s, Africa had more than 70 coups and 13 presidential assassinations. Border and territorial disputes were also common, with the European-imposed borders of many nations being widely contested through armed conflicts.

Cold War conflicts between the United States and the Soviet Union, as well as the policies of the International Monetary Fund, also played a role in instability. When a country became independent for the first time, it was often expected to align with one of the two superpowers. Many countries in Northern Africa received Soviet military aid, while many in Central and Southern Africa were supported by the United States, France or both. The most devastating military conflict in modern independent Africa has been the Second Congo War. By 2008, this conflict and its aftermath had killed 5.4 million people. Since 2003 there has been an ongoing conflict in Darfur which has become a humanitarian disaster. Another notable tragic event is the 1994 Rwandan Genocide in which an estimated 800 000 people were murdered. In the 21st century, however, the number of armed conflicts in Africa has steadily declined. For instance, the civil war in Angola came to an end in 2002 after nearly 30 years. This has coincided with many countries abandoning communist style command economies and opening up for market reforms. The improved stability and economic reforms have led to a great increase in foreign investment into many African nations, mainly from China, which has spurred quick economic growth in many countries, seemingly ending decades of stagnation and decline. However there is a general fear that International criminal court could breed a new level of dictatorship among African leaders for fear of being prosecuted hence a reverse of the political and economic progress on the economy.

The role of the ICC is to help states combat impunity and help foster a culture for the respect of the rule of law. The hope is that the executive and judicial arms of the state will obey and apply the law equally, especially against powerful political figures. The ICC should perform the role of the "gentle civilizer" of state power in weak states that are unable, or unwilling, to bring perpetrators to account. But the ICC cannot be – and is not – intended to replace domestic legal processes. It is meant to complement them and incubate accountability.

States Parties to the Rome Statute are obligated, as a matter of law, to fully cooperate with the investigations and prosecutions of the ICC. Specifically, States Parties must arrest the individuals wanted by the Court, locate and provide evidence needed for use by the Court, relocate and protect witnesses, and enforce the Court's decisions, including sentences. States Parties must recognize that the ICC is not the primary locus for combating impunity. Domestic national tribunals and processes constitute the primary and lasting solutions to impunity. States must work with the ICC and with each other through bilateral and multilateral forums and processes to address egregious violations. Otherwise, the "impunity gap" will never be closed. Thus states have the primary duty to investigate and prosecute all offenders, including those who bear the greatest responsibility. Where a state is unable, or unwilling, to bear this burden, the principle of complementarity – where the ICC addresses those bearing the greatest responsibility while domestic tribunals deal with the bulk of the offenders – is invoked. But States Parties must realize that the ICC will fail if national proceedings are abandoned in favour of ICC prosecutions. Norway and other stakeholders must work to encourage domestic investigations and prosecutions in the first instance. States Parties must abandon the charade of pitting justice against peace. Justice and peace must be seen to complement each other, not be seen in opposition.

The AU has vowed to shed the negative legacy of its predecessor, the Organization of African Unity (OAU), which was loath to "interfere" in the internal affairs of sister states. On paper, the AU has committed itself to a democratic, rule-of-law culture.
According to Noref Working Paper September 2010 ,the position of the AU reflects too the complex relationships between African and Arab states, as well as the culture of impunity in most African states. It is important to note, however, that the AU is divided over how to address al-Bashir's indictment. Several countries (notably South Africa, Uganda, and Botswana) advocate cooperation with the ICC, while several others (led by Libya) would like to see the body shun the ICC. The actual situation is, however, more complex because a number of African states have been cooperating with the ICC. There is even a memorandum of understanding (MOU), agreed in 2008, between the ICC and the Asian-African Consultative Organisation.
Some scholars like Schabas wrote about Introduction to the International Criminal Court. Judge Pillay's studied International Criminal Court and victims of sexual violence, Phakiso Mochochoko worked on Africa and the International Criminal Court, but none of the scholars interested themselves to see the impact the ICC is having on the new trend on African and to measure it's influence both positive and negative in political, social and economic terms. The reason the researcher is carrying out this research.
According to Phil Clark the ICC has become more politicized and damaging to African policies, requiring a substantial rethink of the approaches and ideas that underpin the ICC's practice of distant justice.

III. CONCLUSION

The ICC was created to address the problem of impunity, and it is only right that its judges, prosecutors, and other officials should do their utmost to achieve that end. At the same time, the ICC and its officials should exercise and exhibit ―prudence‖ in pursuing that institution's mandate for international justice. Although no one wants an ICC compromised by political considerations, this does not mean that politics cannot in some legitimate way be relevant to the work of the ICC. The ICC prides itself on its impartiality and independence, but mere impartiality may not be enough. In particular, the Court cannot be successful if it ignores the real and persistent sensitivities that complementarity was intended to address and resolve.
To avoid being willfully used by African governments, the ICC must bolster its political expertise and become politically savvier. Rather than claiming to be neutral while hovering above the domestic terrain, the ICC must embrace its inherently political nature and deliver justice in a way that improves rather than undermines the practice of national and community-level politics across Africa.

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