

Afghanistan, the ICC, and the Structural Limits of International Criminal Justice

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1. Introduction

The situation in Afghanistan represents one of the most legally complex and politically contested episodes in the history of international criminal justice. Following the Taliban's return to power in August 2021, systematic restrictions on women and girls, including bans on education, employment and freedom of movement, have prompted widespread condemnation from international organizations and human rights bodies.¹ These policies have increasingly been characterized by scholars and international institutions as constituting gender-based persecution, a crime against humanity under Article 7(1)(h) of the Rome Statute. In July 2025, the International Criminal Court ('ICC') issued arrest warrants against two senior Taliban officials, Supreme Leader Haibatullah Akhundzada and Chief Justice Abdul Hakim Haqqani, alleging their responsibility for crimes against humanity of persecution on gender grounds.² The warrants constitute one of the most significant developments in the Court's evolving jurisprudence on gender persecution and signal an effort to address structural discrimination as a form of international criminal conduct.

At the same time, the Afghanistan situation exposes the enduring structural limits of international criminal justice. Although the Court possesses jurisdiction and legal authority to prosecute international crimes committed on the territory of Afghanistan, the absence of state co-operation, the collapse of domestic judicial institutions, and geopolitical resistance severely constrain the ICC's capacity to translate legal determinations into effective accountability. The situation thus provides a critical opportunity to examine the institutional design of the Rome Statute system. It highlights the tension between the normative aspirations of international criminal justice and the political realities that shape its implementation. Understanding these structural limits is essential for evaluating both the achievements and the shortcomings of the ICC in addressing contemporary mass atrocity situations.

2. The International Criminal Court's Engagement with Afghanistan

The ICC was established by the 1998 Rome Statute as the first permanent international criminal tribunal with jurisdiction over genocide, crimes against humanity, war crimes, and, since 2018, the crime of aggression. Unlike earlier *ad hoc* tribunals such as the International Criminal Tribunal for the former Yugoslavia ('ICTY') and the International Criminal Tribunal for Rwanda ('ICTR'), the ICC was designed as a permanent institution operating on the principle of complementarity.³

Afghanistan acceded to the Rome Statute on 10 February 2003 and

became a State Party on 1 May 2003.⁴ By virtue of Article 12(2)(a) of the Statute, the Court obtained jurisdiction over crimes committed on Afghan territory from that date onward. This jurisdiction is territorial in nature and therefore remains unaffected by subsequent changes in the political regime governing the state. A preliminary examination into the situation in Afghanistan was made public in 2007. The examination focused on allegations of war crimes and crimes against humanity committed in the context of the armed conflict involving Taliban forces, Afghan government forces, and foreign military personnel operating in the country. In November 2017, then Prosecutor Fatou Bensouda requested authorization from Pre-Trial Chamber II to open a formal investigation under Article 15 of the Rome Statute. In April 2019, however, the Chamber rejected the request, reasoning that an investigation would not serve the "interests of justice" due to anticipated difficulties in obtaining co-operation and evidence.⁵ This decision was widely criticized for introducing pragmatic considerations into a legal assessment that should have focused on jurisdiction and admissibility. The Appeals Chamber overturned the decision in March 2020, emphasizing that the Prosecutor's request satisfied the statutory requirements under Articles 15 and 53 of the Rome Statute.⁶ The Chamber clarified that the 'interests of justice' provision could not be interpreted as a broad discretionary tool allowing the Court to decline jurisdiction due to anticipated political obstacles.

Following the Taliban's return to power in August 2021, the Prosecutor sought to prioritize investigations relating to crimes committed by the Taliban and by Islamic State Khorasan Province. On 31 October 2022, Pre-Trial Chamber II authorized the resumption of the investigation after concluding that Afghanistan's domestic authorities were neither willing nor able genuinely to carry out prosecutions.⁷ Subsequent investigations by the Office of the Prosecutor produced extensive evidentiary material concerning Taliban policies restricting the rights of women and girls. These measures included prohibitions on female education beyond primary school, bans on women working in most sectors, and restrictions on travel without male guardianship. In January 2025, the Prosecutor applied for arrest warrants against Taliban Supreme Leader Haibatullah Akhundzada and Chief Justice Abdul Hakim Haqqani. The applications alleged crimes against humanity of gender persecution committed as part

⁴ Assembly of States Parties to the Rome Statute, "Afghanistan" (available on its web site).

⁵ ICC, *Situation in the Islamic Republic of Afghanistan*, Pre-Trial Chamber II, Decision Pursuant to Article 15 of the Rome Statute on the Authorisation of an Investigation into the Situation in the Islamic Republic of Afghanistan, 12 April 2019, ICC-02/17-33 (<https://www.legal-tools.org/doc/2fb1f4/>).

⁶ ICC, *Situation in the Islamic Republic of Afghanistan*, Appeals Chamber, Judgment on the appeal against the decision on the authorisation of an investigation into the situation in the Islamic Republic of Afghanistan, 5 March 2020, ICC-02/17-138 (<https://www.legal-tools.org/doc/x7k112/>).

⁷ ICC, *Situation in the Islamic Republic of Afghanistan*, Pre-Trial Chamber II, Decision pursuant to article 18(2) of the Statute authorising the Prosecution to resume investigation, 31 October 2022, ICC-02/17-196 (<https://www.legal-tools.org/doc/psibag/>).

¹ Dianne Penn, "Afghanistan: Taliban rule has erased women from public life, sparked mental health crisis", *UN News*, 13 August 2024.

² ICC, "Situation in Afghanistan: ICC Pre-Trial Chamber II issues arrest warrants for Haibatullah Akhundzada and Abdul Hakim Haqqani", Press Release, 8 July 2025.

³ See, generally, William A. Schabas, *An Introduction to the International Criminal Court*, 5th ed., Cambridge University Press, 2017.

of a widespread and systematic attack against the civilian population. On 8 July 2025, the Pre-Trial Chamber issued the requested warrants, marking a landmark development in the international criminal law treatment of systematic gender discrimination.⁸

3. Complementarity and the Collapse of Domestic Justice

The Rome Statute establishes complementarity as the cornerstone of the ICC system.⁹ Article 17 provides that a case is inadmissible before the Court if it is being genuinely investigated or prosecuted by a state with jurisdiction. This principle reflects a compromise between the goal of combating impunity and the traditional sovereignty of states over their criminal justice systems. In theory, complementarity encourages states to prosecute international crimes domestically while allowing the ICC to intervene when national authorities fail to act. In practice, however, the effectiveness of this principle depends on the existence of functioning domestic institutions capable of administering justice.

Afghanistan illustrates the limitations of complementarity when state institutions collapse or are captured by actors implicated in the alleged crimes. Following the Taliban takeover in 2021, much of the judicial infrastructure created under the previous constitutional order was dismantled. Judges, prosecutors and legal professionals associated with the former government were removed from office or forced into exile.¹⁰ The Taliban's legal system is grounded in their interpretation of Islamic law and has replaced many of the statutory institutions that previously governed criminal proceedings.¹¹ Under these conditions, the prospect of genuine domestic prosecutions for crimes committed by Taliban authorities is effectively non-existent. This situation exposes an inherent tension in the Rome Statute framework. Complementarity presupposes that states retain a minimum capacity and willingness to investigate crimes within their jurisdiction. When these assumptions collapse, the ICC must operate without the domestic institutional environment that the Statute envisages.

Comparable dynamics have arisen in other ICC situations. In Sudan, for example, the government of former President Omar al-Bashir resisted co-operation with the Court following the issuance of arrest warrants relating to atrocities in Darfur.¹² Similarly, in Libya, the collapse of central authority complicated the Court's efforts to pursue prosecutions relating to crimes committed during the 2011 uprising.¹³ These cases demonstrate that complementarity functions most effectively in states with relatively stable institutions. In situations where governments themselves are implicated in crimes or where state institutions have disintegrated, the ICC's reliance on domestic judicial structures becomes a structural vulnerability.

4. Jurisdictional Questions and Non-State Actors

The Afghanistan situation also raises complex jurisdictional questions concerning the role of non-state actors and the limits of the Court's authority. Under Article 12 of the Rome Statute, the ICC may exercise jurisdiction when crimes are committed on the territory of a State Party or by nationals of a State Party. Because Afghanistan remains a State Party to the Rome Statute, the Court retains territorial jurisdiction regardless of changes in government. However, the Taliban's status as a *de facto* governing authority without widespread international recognition complicates the practical exercise of this jurisdiction. While international law recognizes that territorial jurisdiction persists despite regime change, the enforcement of ICC orders depends heavily on co-operation from the authorities exercising control over the territory. The Taliban authorities have rejected the legitimacy of the ICC and have shown no intention of co-operating with its investigations.¹⁴ This lack of co-operation severely

limits the Court's ability to gather evidence, secure witnesses, and execute arrest warrants.

Another jurisdictional challenge concerns crimes allegedly committed by nationals of non-States Parties. The Afghanistan investigation initially included allegations relating to foreign military personnel from states that are not parties to the Rome Statute. Although the Court may exercise territorial jurisdiction over such crimes, political resistance from non-party states has complicated the pursuit of these cases. The jurisdiction decision in the ICC's Myanmar/Bangladesh situation illustrates the Court's willingness to interpret territorial jurisdiction expansively. In that case, the Pre-Trial Chamber held that the Court could exercise jurisdiction over the crime of deportation because part of the criminal conduct occurred on the territory of Bangladesh, a State Party.¹⁵ Nevertheless, such interpretations cannot overcome the practical difficulties that arise when powerful states refuse to co-operate with international investigations.

5. Enforcement Constraints and Political Resistance

One of the most persistent structural limitations of the ICC lies in its dependence on state co-operation for the enforcement of its decisions.¹⁶ Unlike domestic courts, the ICC possesses neither a police force nor any independent mechanism for executing arrest warrants. The Court therefore relies almost entirely on the co-operation obligations of States Parties under Part IX of the Rome Statute, particularly Articles 86 and 89, which require states to co-operate fully with the Court in the arrest and surrender of persons subject to ICC warrants. This structural feature reflects the broader architecture of international law, which remains fundamentally decentralized and state-centred. While the Rome Statute imposes binding legal obligations on States Parties, the enforcement of those obligations ultimately depends on political will. Where such will is absent, the Court has few practical tools to compel compliance.

The history of the ICC demonstrates the consequences of this institutional design. The case of al-Bashir, illustrates the problem vividly. Despite the issuance of arrest warrants in 2009 and 2010 for genocide, crimes against humanity, and war crimes in Darfur, al-Bashir travelled to multiple states, including several States Parties to the Rome Statute, without being arrested.¹⁷ Although the Court repeatedly found that certain states had failed to fulfil their obligations under Article 89, the resulting referrals to the Assembly of States Parties and the United Nations Security Council produced limited practical consequences.

The Afghanistan situation presents similar enforcement challenges. Although the ICC has issued arrest warrants against senior Taliban officials, the likelihood of their arrest remains extremely low while they remain within the territory under Taliban control. The Taliban authorities have explicitly rejected the Court's jurisdiction and have shown no willingness to co-operate with international judicial processes. In these circumstances, the Court's ability to advance proceedings beyond the warrant stage depends almost entirely on the possibility that suspects may travel abroad or that political circumstances within Afghanistan may change in the future.

Political resistance from powerful states further complicates the enforcement landscape. The Afghanistan investigation has long been intertwined with broader geopolitical tensions surrounding the role of the ICC. Previous attempts by the Court to investigate alleged crimes committed by foreign military personnel operating in Afghanistan generated strong reactions from the United States, which imposed sanctions on ICC officials during the Trump administration.¹⁸ Although the policy environment has evolved since then, restrictions and legislative measures

⁸ ICC, 2025, see *supra* note 2.

⁹ Kai Ambos, *Treatise on International Criminal Law, Volume I: Foundations and General Part*, Oxford University Press, 2013, pp. 145, 406, 427.

¹⁰ "Afghanistan: Collapse of legal system is 'human rights catastrophe'", *UN News*, 20 January 2023.

¹¹ Belquis Ahmadi, "The Taliban's New Criminal Regulation Legalizes Slavery, Violence, and Repression of Women", in *Georgetown Institute for Women, Peace and Security*, 30 January 2026.

¹² ICC, "Situation in Darfur, Sudan: ICC-02/05" (available on its web site).

¹³ ICC, "Situation in Libya: ICC-01/11" (available on its web site).

¹⁴ "Taliban Lacks Authority To Reject ICC Jurisdiction, Says Afghan Envoy", in *Afghanistan International*, 21 February 2025.

¹⁵ ICC, *Situation in the People's Republic of Bangladesh/Republic of the Union of Myanmar*, Pre-Trial Chamber III, Decision Pursuant to Article 15 of the Rome Statute on the Authorisation of an Investigation into the Situation in the People's Republic of Bangladesh/Republic of the Union of Myanmar, 14 November 2019, ICC-01/19-27 (<https://www.legal-tools.org/doc/kbo3hy/>).

¹⁶ Gerhard Werle and Florian Jeßberger, *Principles of International Criminal Law*, 4th ed., Oxford University Press, 2020, p. 126.

¹⁷ Yousif Mansour Ahmed Abdalla AlZarouni, "Why Sudan won't hand over former president alBashir to the International Criminal Court", *The Conversation*, 28 May 2019.

¹⁸ The United States, Executive Order 14203: Imposing Sanctions on the International Criminal Court, 6 February 2025 (<https://www.legal-tools.org/doc/ahgs-b70o/>).

targeting the Court remain in force as of early 2026,¹⁹ demonstrating the extent to which international criminal justice can become entangled in global power politics.

Such episodes highlight a deeper structural tension. The ICC was designed as a universal institution intended to enforce fundamental norms of international law. Yet it operates within a political system in which states retain significant control over the implementation of international legal obligations. As a result, the Court's authority is strongest in situations where states are willing to co-operate and weakest in precisely those circumstances where accountability is most urgently needed.

6. Investigative Constraints and Victim Participation

In addition to enforcement challenges, the Afghanistan investigation illustrates the operational constraints that international criminal tribunals face when conducting investigations in complex conflict environments. The effective investigation of international crimes requires access to witnesses, crime scenes, documentary evidence, and forensic material. In situations where the Court lacks physical access to the territory in question, the gathering of such evidence becomes considerably more difficult. The Office of the Prosecutor has increasingly relied on remote investigative techniques, including satellite imagery, digital documentation,²⁰ and witness testimonies collected in neighbouring states or through diaspora networks. While these methods have become more sophisticated in recent years, they cannot fully substitute for on-the-ground investigative access. Direct access to crime scenes allows investigators to verify evidence, assess the credibility of witnesses, and reconstruct the factual context of alleged crimes. Without such access, prosecutors must rely more heavily on indirect forms of evidence, which may complicate the presentation of cases at trial.

The Afghanistan situation also raises important questions regarding victim participation, one of the distinctive features of the Rome Statute system. Articles 68 and 75 of the Statute allow victims to present their views and concerns during proceedings and to seek reparations if convictions are secured. This approach reflects an effort to move beyond purely punitive models of international criminal justice and to incorporate elements of restorative justice. In practice, however, meaningful victim participation requires a degree of security and institutional support that may not exist in conflict environments. Many Afghan victims remain within Taliban-controlled territory, where participation in ICC proceedings could expose them to serious risks of retaliation. Others have fled the country and now live in refugee communities scattered across neighbouring states and Europe.

The experience of other ICC situations demonstrates that such logistical and security challenges can significantly limit victim engagement. In the Court's proceedings relating to crimes committed in the Democratic Republic of the Congo and the Central African Republic, extensive outreach efforts were required to facilitate participation.²¹ Even in those cases, however, the Court faced difficulties ensuring that victims fully understood the proceedings and could participate safely. In Afghanistan, these challenges are compounded by the absence of local institutional partners capable of facilitating outreach and legal representation. The Court must therefore rely heavily on international organizations and civil society networks to maintain contact with affected communities. While these efforts are essential, they underscore the structural limitations of an international justice system operating far from the communities most directly affected by the crimes under investigation.

7. Structural Limits of International Criminal Justice

The Afghanistan situation illustrates with unusual clarity several structural limitations that continue to shape the operation of international criminal justice. These limitations do not arise merely from temporary political obstacles but are rooted in the institutional design of the Rome Statute system and the broader architecture of international law.

¹⁹ Beyza Binnur Donmez, "UN special rapporteur urges US to lift sanctions on ICC judges, prosecutors", *Anadolu Ajansi*, 26 January 2026.

²⁰ Sofia Aalto-Setälä and Maria F. Jaramillo Gomez, "ICC investigations in Ukraine: How Digitally Derived Evidence can make a difference", in *Leiden Law Blog*, 19 May 2022.

²¹ ICC, Public Information and Documentation Section and Outreach Unit, "Outreach Report 2008", 20 November 2008 (<https://www.legal-tools.org/doc/21643d/>).

The first structural constraint concerns the ICC's reliance on state co-operation. The Rome Statute creates binding obligations for States Parties to co-operate with the Court in investigations and prosecutions, including the arrest and surrender of suspects under Articles 86 and 89. Yet the Statute does not provide the Court with independent enforcement powers. Unlike domestic courts, the ICC cannot compel arrests or execute warrants through its own institutions. Instead, enforcement depends entirely on the willingness of states to act on the Court's behalf. This dependence is not accidental. It reflects the broader structure of the international legal system, in which states remain the primary subjects and enforcers of international law.²² The Rome Statute therefore represents a compromise between the aspiration to create a system of international criminal accountability and the political realities of state sovereignty. However, this compromise inevitably limits the Court's effectiveness in precisely those situations where state co-operation is least likely to be forthcoming. The Afghanistan situation demonstrates this dilemma in a particularly stark form. The Taliban authorities currently exercising control over Afghan territory reject the legitimacy of the ICC and are unlikely to co-operate with its investigations. In the absence of co-operation from territorial authorities, the Court must rely on the possibility that suspects might eventually travel to states willing to enforce ICC arrest warrants. This scenario is not impossible but experience suggests that it may take years or even decades before such opportunities arise. The Court's experience with the Darfur situation illustrates this dynamic: as mentioned above, for more than 15 years after the issuance of arrest warrants against al-Bashir, the warrants remained unenforced despite numerous opportunities for arrest, and several States Parties allowed al-Bashir to travel within their territory without executing the warrants, raising serious questions about the credibility of the Court's enforcement regime.

A second structural limitation arises from the complementarity principle itself. Complementarity was designed to preserve the primacy of national jurisdictions while ensuring that the ICC could intervene when domestic authorities failed to act. Yet the principle assumes the existence of functioning national institutions capable of conducting genuine investigations and prosecutions. In Afghanistan, the collapse of the previous constitutional order and the consolidation of Taliban authority have effectively eliminated the possibility of independent domestic prosecutions for international crimes. The Taliban's judicial system does not operate according to internationally recognized standards of due process and will not prosecute members of its own leadership for policies that it regards as legitimate exercises of governance. This situation exposes a fundamental paradox. The ICC is most needed in contexts where domestic institutions are unwilling or unable to provide justice. Yet these are precisely the contexts in which the Court faces the greatest obstacles in conducting investigations and enforcing its decisions. Complementarity therefore functions most effectively in states that already possess relatively strong legal institutions, while its impact is limited in situations characterized by state collapse or authoritarian rule.

A third structural constraint concerns the jurisdictional reach of the ICC. The Court's jurisdiction is limited to crimes committed on the territory of States Parties or by their nationals, unless the United Nations Security Council refers a situation under Article 13(b) of the Rome Statute. Although Afghanistan's membership in the Rome Statute provides a territorial basis for ICC jurisdiction, the Court's ability to investigate crimes committed by nationals of non-State Parties remains politically sensitive. The Afghanistan investigation initially included allegations relating to the conduct of foreign military personnel from states that are not parties to the Rome Statute. While the Court's territorial jurisdiction arguably extended to such conduct, the political consequences of pursuing those cases proved significant. Opposition from powerful states illustrated the limits of the Court's ability to exercise jurisdiction in ways that challenge major geopolitical actors. This issue reflects a broader debate within international criminal law concerning the relationship between legal universality and political legitimacy. The Rome Statute aspires to establish universal standards of accountability, yet the Court operates within an international system in which not all states have accepted its jurisdiction. As a result, the Court's authority remains both legally grounded and politically contested.

²² Sergey Sayapin, *A Central Asian Perspective on International Law*, Hart Publishing, 2026, p. 19.

A fourth structural limitation relates to the operational challenges of conducting international criminal investigations in situations where investigators lack physical access to the territory concerned. The Afghanistan investigation has required the Office of the Prosecutor to rely heavily on remote investigative techniques, including digital evidence, satellite imagery, and witness testimony collected outside the country. While these methods represent significant advances in investigative practice, they cannot fully replace the evidentiary value of direct access to crime scenes and documentary archives. The absence of such access may complicate efforts to establish individual criminal responsibility, particularly in cases involving senior political leaders whose responsibility must be demonstrated through complex chains of command and policy decisions.

Finally, the Afghanistan situation highlights a deeper structural issue concerning the relationship between international criminal justice and global political power. The ICC operates within a system in which geopolitical interests continue to shape the implementation of international legal norms. Accusations of selectivity and politicization have accompanied many of the Court's investigations, particularly when cases involve actors from powerful states or politically sensitive conflicts.²³ Such criticisms do not necessarily undermine the legal validity of the Court's work. However, they illustrate the extent to which international criminal justice remains embedded within broader political debates about legitimacy, sovereignty and global governance. The Court's authority ultimately depends not only on legal doctrine but also on the willingness of states and international institutions to support its work. In this sense, the structural limits revealed by the Afghanistan situation should not be understood simply as institutional shortcomings. Rather, they reflect the deeper tension between the aspiration to create a universal system of criminal accountability and the continuing realities of a state-centred international order.

8. Conclusion

The ICC's engagement with Afghanistan represents one of the most important contemporary tests of international criminal justice. By issuing arrest warrants against senior Taliban leaders for crimes against humanity, the Court has taken a significant step toward recognizing systematic gender persecution as a matter of international criminal responsibility. In doing so, it has reaffirmed a central principle of international law – that policies of systematic discrimination and exclusion may constitute crimes when they form part of a widespread or systematic attack against a civilian population. The legal significance of this development extends beyond the Afghanistan situation itself. The recognition of gender persecution as an international crime contributes to the evolving jurisprudence of the Rome Statute system and reinforces the broader international legal framework protecting fundamental human rights. In this respect, the Court's actions carry important normative implications even in the absence of immediate enforcement. At the same time, the Afghanistan situation demonstrates that international criminal justice cannot operate independently of the political environment in which it functions. The ICC possesses legal authority under the Rome Statute but it lacks the coercive powers necessary to ensure that suspects are arrested and brought before the Court. Without co-operation from states and territorial authorities, the Court's ability to advance proceedings remains constrained.

This tension between legal authority and political reality has characterized international criminal justice since its modern revival in the 1990s. The creation of the ICTY and ICTR demonstrated that international institutions could prosecute individuals responsible for mass atrocities. Yet those tribunals operated under the authority of the United

²³ Amnesty International, "The ICC at 20: Double standards have no place in international justice", 1 July 2022.

Nations Security Council and benefited from significant international political support. The ICC was designed as a more permanent and independent institution. However, its reliance on state co-operation means that its effectiveness ultimately depends on the political commitment of states to the project of international criminal accountability. Where such commitment exists, the Court can function as a powerful instrument of justice. Where it is absent, the Court's capacity to enforce its decisions becomes significantly more limited.

The Afghanistan investigation therefore illustrates both the achievements and the limits of the contemporary system of international criminal justice. On the one hand, the Court has demonstrated its ability to identify and articulate legal responsibility for grave crimes, even in politically complex situations. On the other hand, the enforcement of those legal determinations remains uncertain in the absence of effective co-operation mechanisms. For this reason, the future of international criminal justice is likely to depend on the development of a more integrated system of accountability. The ICC must operate alongside domestic courts exercising universal jurisdiction, hybrid tribunals combining international and national elements, and regional human rights mechanisms capable of addressing mass atrocity crimes.

Such an ecosystem of accountability can help mitigate the structural limitations inherent in any single institution. National prosecutions under universal jurisdiction, for example, have already played an important role in addressing international crimes committed in Syria and elsewhere. Hybrid tribunals have similarly demonstrated their potential to combine international expertise with domestic legitimacy. Within this broader framework, the ICC continues to play a vital role as the central institutional expression of the international community's commitment to combating impunity. Even when arrests remain elusive, the Court's investigations contribute to the documentation of atrocities, the recognition of victims' suffering, and the reaffirmation of fundamental norms of international law.

The Afghanistan situation therefore offers an important reminder that international criminal justice is not merely a mechanism for punishment but also a normative project. By identifying and condemning grave crimes, international legal institutions help shape global expectations about accountability and reinforce the principle that no individual should be above the law. Yet the situation also demonstrates that achieving this aspiration requires sustained political commitment and institutional innovation. Without stronger mechanisms of co-operation and enforcement, the gap between the normative authority of international criminal law and its practical implementation will remain significant. Confronting this gap represents one of the central challenges facing the international legal order in the twenty-first century. The experience of Afghanistan underscores both the urgency of that challenge and the continuing relevance of the international community's efforts to build a more effective system of justice for the gravest crimes of concern to humanity.

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