Reimagining the ICC: Exploring Practitioners' Perspectives on the Effectiveness of the International Criminal Court

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Abstract

This exploratory study documents International Criminal Court (ICC) personnel's perspectives on the effectiveness of the ICC. It examines practitioner views on the ICC's goals, strengths, weaknesses, and effectiveness. Interviews with nine professionals from the Office of the Prosecutor, Defense, and Chambers reveal several themes. Professionals agreed upon the ICC's greatest strengths: its foundation and its symbolic value. They also named common weaknesses, including its reliance on state cooperation, challenges in administrative functions, and, from the perspective of largely Defense personnel, an unfair disadvantage against the Defense. While personnel often agreed upon which factors needed improvement, they diverged on precisely how to improve them. However, they alluded to several potential paths forward. Interviews ultimately suggested the Court has several areas requiring improvement, but a solid foundation and considerable potential. These interviews coincide with ongoing reviews of the Court, providing a fuller picture of its effectiveness.

Keywords

International Criminal Court (ICC) – effectiveness – goals – personnel views – interviews

1 Introduction

The International Criminal Court (ICC), headquartered in The Hague, The Netherlands, is the world's first permanent international criminal court.¹ Inspired by the *ad hoc* international criminal tribunals such as the International Criminal Tribunal for former Yugoslavia (ICTY), and International Criminal Tribunal for Rwanda (ICTR), the ICC was signed into existence in 1998 through the Rome Statute. It officially became an independent international body in 2002. Since then, according to its website, the ICC has been tasked with 1) investigating and charging individuals who commit atrocity crimes of international concern, and 2) by doing that, contributing to long-term peace, stability and equitable development in post-conflict societies.² It includes the Office of the Prosecutor, Chambers, Presidency, and Trust Fund for Victims.

Because of the pioneering nature of the ICC as well as its prominent role in addressing atrocities at the international level, there is a vital need to understand how well it carries out its goals. However, due to the Court's relative youth, a lack of consensus of what its goals are and the consequent difficulty of defining and measuring a concept like 'effectiveness', there is relatively little empirical analysis of the Court's work. Likewise, researchers have not explored the ICC from the perspectives of its personnel. For the Court to function optimally, it is critical to develop a further understanding of its goals as well as how different factors affect its proceedings.

To this end, some studies have analysed the ICC's effect on several outcomes and from various angles. Researchers have examined the Court's impact on deterrence of atrocity crimes (e.g., Jo and Simmons,³ Rothe and Collins,⁴

1 International Criminal Court, 'Review of the International Criminal Court and the Rome Statute system', icc-cpi.int/en_menus/asp/sessions/documentation/19th%20session/Pages/Review.aspx, accessed 4 August 2020.

2 International Criminal Court, 'About', icc-cpi.int/about, accessed 17 July 2020.

3 Jo Hyeran and Beth A. Simmons, 'Can the International Criminal Court Deter Atrocity?', (70)3 *International Organization* (2016) 443–475.

4 Dawn L. Rothe and V.E. Collins, 'The International Criminal Court: A Pipe Dream to End Impunity?', 13(1) *International Criminal Law Review* (2013) 191–209.

Appel),⁵ a country's likelihood of experiencing peace or continued violence (e.g., Prorok,⁶ Hillebrecht,⁷ Dancy and Montal,⁸ Kersten),⁹ and victims' satisfaction (e.g., OSJI,¹⁰ HRC,¹¹ Zegveld),¹² to name a few. In September 2020, external experts (a committee composed of e.g., judges, prosecutors, academics) appointed by the Assembly of State Parties (ASP) published a report on the ICC's procedural effectiveness.¹³ Using data from internal surveys such as a staff engagement survey and extensive interviews with a broad range of staff members, the experts paid special attention to improving the efficiency and cost-effectiveness of the Court. They review and make recommendations to improve a range of procedural processes within the Court, including preliminary examinations, reparations, and internal governance. This expert report provides one of the first systematic assessments of the ICC's procedural effectiveness and provides unique insights into the inner workings of the Court.

Despite these aforementioned studies, there is a considerable gap in researchers' understanding of the ICC's effectiveness and functioning. Researchers have not yet reached a consensus on the ICC's effect on various outcomes such as peace, stability, or deterrence, and on how to measure or model these effects. Likewise, though researchers such as Ford¹⁴ examine the efficiency of international criminal courts and tribunals, there is still a dearth

- 5 Benjamin J. Appel, 'In the Shadow of the International Criminal Court: Does the ICC Deter Human Rights Violations?', 62(1) *Journal of Conflict Resolution* (2018) 3–28.
- 6 Alyssa K. Prorok, 'The (In)compatibility of Peace and Justice? The International Criminal Court and Civil Conflict Termination', 71(2) *International Organization* (2017) 213–243.
- 7 Courtney Hillebrecht, 'The deterrent effects of the International Criminal Court: evidence from Libya', 42(4) *International Interactions* (2018) 616–643.
- 8 Geoff Dancy and Florencia Montal, 'From Law Versus Politics to Law in Politics: A Pragmatist Assessment of the ICC's Impact', (32) *Am. U. Int'l L. Rev.* (2016) 645.
- 9 Mark Kersten, *Justice in Conflict: The Effects of the International Criminal Court's Interventions on Ending Wars and Building Peace* (Oxford University Press, Oxford, 2016).
- 10 Open Society for Justice Initiative, 'Witness Interference in Cases before the International Criminal Court', <https://www.justiceinitiative.org/publications/witness-interference-cases-international-criminal-court>, accessed 17 May 2019.
- 11 Alexa Koenig, Eric Stover, and Stephen Smith Cody, 'The Victims' Court? A Study of 622 Victim Participants at the International Criminal Court', University of California at Berkeley School of Law, 2015, <https://escholarship.org/content/qt1c49288z/qt1c49288z.pdf>, accessed 5 April 2020.
- 12 Liesbeth Zegveld, 'Victims' Reparations Claims and International Criminal Courts: Incompatible Values?', 8(1) *Journal of International Criminal Justice* (2010) 79–111.
- 13 Independent Expert Review, 'Independent Expert Review of the International Criminal Court and the Rome Statute System Final Report', *International Criminal Court* (2020) 1–348.
- 14 Stuart Ford, 'Complexity and Efficiency at International Criminal Courts', 29(1) *Emory Int'l L. Rev.* (2014).

of literature examining the procedural effectiveness of the ICC. Finally, the perspective of ICC personnel when examining the effectiveness and functioning of the ICC has been largely neglected. While the recent expert report marks an important first step on this front, it is a practice and policy-oriented study instead of an academic piece of research.

In this political and academic landscape, which is marred by gaps, contestations and disagreements as to the evaluation of the ICC's goals, functioning and effectiveness, the present explorative study is one of the first to examine the perspectives of personnel who work within the ICC and experience first-hand how its everyday proceedings are carried out (though, see Clark¹⁵ and the recent expert report¹⁶ for examples of writings in which authors make use of interviews and/or personnel perspectives). Examining the effectiveness and functioning of the ICC from the perspective of its personnel is a worthwhile exercise because practitioners work at the Court on a day-by-day basis. They are likely to be very familiar with its strengths and weaknesses from an internal perspective, and might offer considerations that outside observers are less likely to raise. Given the lack of research examining personnel's perspectives, ICC practitioners could offer a unique lens through which to view the ICC's effectiveness and functioning. This could help policymakers and researchers shape their understanding of the ICC, its strengths, weaknesses, and potential paths forward.

After discussing methodology in Section 2, we describe and discuss results of our interviews focusing on the goals of the ICC, its strength, weaknesses and recommendations, as discussed by our nine interviewees. The article ends with conclusions summarising our main findings and offering suggestions for future research. By offering, to our knowledge, one of the first analyses of practitioner perspectives on ICC effectiveness, we hope to contribute to scholarly and policymaking discussions regarding international criminal law's institutions, their possibilities, and their limitations. This discussion will advance both scholars' and practitioners' ability to understand the effect of the Court as well as where and how it can improve in its pursuit to respond to global atrocities and enforce international criminal law.

2 Methodology

To further the discussion on the ICC, we conducted semi-structured interviews with ICC practitioners working in the Office of the Prosecutor (OTP), Defence,

¹⁵ Phil Clark, *Distant Justice: The Impact of the International Criminal Court on African politics* (Cambridge University Press, Cambridge, 2018).

¹⁶ Independent Expert Review, *supra* note 13.

and Chambers. We conducted nine interviews in total, each of which typically lasted 45–75 minutes. Respondents were gathered through snowballing methods after making contact with initial respondents through our networks. Respondents ranged in terms of the amount of time they had worked at the Court and/or in other international criminal law organisations, with two having worked less than five years and the other seven for five or more. Of the nine respondents, four worked in Defence, three in Chambers, and two in OTP. During the interviews, respondents discussed what they identified as the goals of the Court, areas of strength, areas of weakness, and what they saw as an ideal ICC (see a more detailed list of interview topics in Appendix A). Interviews were audio-recorded, transcribed, and then analysed for thematic points of convergence and divergence across the interviewees and their respective sections (i.e., Defence, Chambers or OTP), as detailed in the results section.

There are some limitations to our study that should be noted. First, our snowballing method offered us unique access to ICC practitioners; however, it can also be the source of some bias. The themes mentioned in the interviews might reflect those of a given network at the ICC, and this should be taken into account when assessing the generalisability of findings. The use of snowball sampling means that we used respondents' networks to contact other respondents; consequently, as can be noted by the distribution of respondents described above, our sample over-represents Defence personnel. Relatedly, the sample size of this study ($n = 9$) is considerably small, which also limits generalisability. While we make use of respondents' quotes when they are representative of a recurring theme we noticed in our interviews, we do not attempt to suggest that these quotes or themes necessarily reflect the views of respondents' respective sections or those of the ICC as a whole. Likewise, we have intentionally included quotes from respondents from all sections we interviewed (OTP, Chambers, and Defence), but because Defence personnel is over-represented in our sample, they are most often-quoted. In sum, we cannot, with these data, claim that our findings are generalisable. While the sample size is small and our interviewees might not reflect the general views of their respective sections, we find it useful to incorporate the voice of respondents and quotes that exemplify potential themes future researchers might find in exploring the perspectives of ICC personnel. It is our hope that this explorative piece of research is one of the first steps in what will be a string of contributions examining the ICC from the perspective of its personnel.

It should also be noted that two of our respondents had, at the time of interviews, worked at the ICC for less than five years. While this might limit their exposure to certain Court proceedings, we argue that the diversity in tenure at the ICC is an advantage of our study. Being professionally 'young' at the ICC does not dismiss one's viewpoints of its strengths and weaknesses, and

including these practitioners could provide valuable insight. It could be, for example, that those who stay at the ICC for long periods of time tend to be more forgiving of its shortcomings, or that they become more complacent with issues that younger workers are more likely to notice. Likewise, including more tenured professionals (who make up the majority of our respondents: seven of nine) provides perspectives from those who have worked with the ICC and its process for extended periods of time. These more tenured professionals have a range of experiences to pull from in providing their insights. Both perspectives, therefore, are valuable.

3 Results

Personnel perspectives on the effectiveness of the Court featured several points of convergence and divergence. We observed several themes in practitioners' perspectives on what they saw as the primary goals of the ICC, its strengths, its weaknesses, and practitioners' recommendations for continued improvement. We also noted themes in how practitioners thought the Court should be evaluated, as well as their outlook on its future. Such themes are detailed below.

3.1 Goals

First, we asked participants about what they perceive to be the primary goals of the ICC.¹⁷ Across interviews, respondents showed little convergence on what they proclaimed to be the primary goals of the ICC (see Table 1). They often acknowledged more than one goal, suggesting that identifying a clear goal is not very straightforward. Interestingly, this phenomenon reflects the larger conversation amongst international law scholars and institutions regarding the role of the international community and the ICC itself: opinions on what the role of the ICC in dealing with atrocities (and indeed, the international community at large) is, as well as what it should be, have varied greatly between scholars.¹⁸ Table 1 below includes the identified goals, the total number of respondents who mentioned them, and the frequency with which they were mentioned by section (Defence, Chambers, or OTP).

¹⁷ It should be noted that respondents could acknowledge more than one goal, if they believed that the ICC served more than one main goal.

¹⁸ See, for example, Andrea Birdsall, 'The responsibility to prosecute and the ICC: a problematic relationship?', 26(1) *Criminal Law Forum* (2015) 51–72; see also Kai Ambos, 'The legal framework of transitional justice: A systematic study with a special focus on the role of the ICC', in Kai Ambos, Judith Large, and Marieke Wierda (eds.), *Building a Future on Peace and Justice* (Springer, Berlin, 2009), pp. 19–103.

TABLE 1 Goals of the ICC

Primary Goal	Total Frequency	Frequency per Section
Fight impunity and prosecute those responsible for heinous crimes	6	Defence – 1 Chambers – 3 OTP – 2
Provide justice to victims and giving victims a voice	4	Defence – 2 Chambers – 2 OTP – 0
Capacity-building and supplementing domestic courts	3	Defence – 2 Chambers – 0 OTP – 1
Conduct fair, impartial trials	2	Defence – 1 Chambers – 1 OTP – 0
Contribute to peace and stability	1	Defence – 0 Chambers – 1 OTP – 0

For respondents, differing ideas of the Court's goals stemmed from differing ideas on why the ICC was created. For example, two respondents, both from Defence, explicitly referred to the ICC as a court of law, similar to any other court, but with international jurisdiction. These respondents, therefore, saw its primary goal as to hold impartial and independent trials to assess whether the accused was guilty of the charges brought against them beyond a reasonable doubt. One respondent noted their disturbance at some co-workers' ideas of the ICC's purpose as a mechanism to hold people accountable and 'end impunity', noting,

For me, the goal of the ICC is to conduct trials and to serve justice. I know that for a lot of my colleagues...it's the idea of fighting impunity. And it's really funny, because when people would send you an e-mail, it was even like in the footer of their – of their e-mail. *It's the fight against*

impunity.' ... From the very beginning, I thought, 'What do you mean, 'the fight against impunity?' Because, justice can also be giving someone a fair trial. (R1, Defence)

This perspective clashed with six other respondents' answers, all of whom explicitly mentioned that the Court should end impunity and hold perpetrators of heinous offenses accountable. For example, for one respondent, who worked in the prosecution, this meant that OTP's primary goal was to have a high success rate of conviction, stating,

Well, I would say the primary goal of the ICC is just first to prosecute the most responsible ones of the heinous crimes we have at the Rome Statute. That would be the main goal. And, if you want to talk more about OTP and prosecution, it's just to have a success rate on that and to have efficient investigations and prosecutions in court...I'll say our main goal as the OTP? Yes, to convict as much as possible people who are responsible for those crimes (R6, Office of the Prosecutor).

Another respondent, from Chambers, echoed the goal of ending impunity. This respondent also described the importance of complementarity in this pursuit, explaining,

I think for me, [the goal is] putting an end to impunity, definitely, for crimes that are not being...adjudicated elsewhere. But at the same time, I think bringing justice, mainly to victims that would not otherwise get their justice elsewhere...The ultimate goal, for me at least, would be to encourage domestic jurisdictions to do their jobs...[T]he ICC should be giving the example of how this should be done, and why this should be done. And the hope should be – the ultimate goal should be that, in the long-term, the ICC should not exist anymore, hopefully (R2, Chambers).

Still, there were other responses to this question. Two respondents, both in Defence, saw the ICC as primarily political (though, they did not necessarily believe this to be ideal). This politicisation, in their eyes, was in competition with the goal to conduct fair, impartial trials: instead, it led to the prioritisation of holding people accountable and providing justice to victims. One respondent contrasted the ICC's landscape with those of domestic western courts, asserting,

Everyone [at the domestic courts] is there at the pursuit of a goal which is to determine, in a criminal case, whether or not the accused, beyond

reasonable doubt, committed the crimes they are charged. When you walk into the ICC, you're just immediately confronted with what I think... gives you a real sense of what the institution's there for. There's these... huge banners about impunity and huge...monuments to testimonials of victims. And you're immediately struck by the fact that...the overwhelming message that's coming is one that's more of sort of an international organization or human rights organization rather than strictly a court of law...The trials themselves, the criminal process is sort of a sideshow...to the bigger picture, which is a political apparatus (R4, Defence).

Three respondents, two in Defence and one in OTP, stressed that the Court's goal must be, in their view, primarily related to complementarity. The respondent from OTP stated that the only primary goal of the ICC was to provide a judiciary complement for situations where the domestic judicial system was unwilling or unable to hold trials, while the other two carefully qualified the ICC's role by noting that it is only a cog in the larger system of international law. For all of these respondents, the goals of the ICC were to step in where local courts could or would not, but they believed that encouraging domestic jurisdictions to build up their capacity and hold their own trials was a feature of that goal.

While a respondent from Defence was asserting that several of the aforementioned goals were simultaneously very important to the ICC, they noted that the differing goals were sometimes in contest with each other. For example, according to this respondent, the ICC has a need to conduct fair, impartial, independent trials in its capacity as a court of law. However, it simultaneously aims to eliminate impunity, provide justice to victims, and complement domestic courts to fulfil its capacity as a product of the Rome Statute. The ICC's role as a court of law and as part of a larger Rome Statute system, therefore, could mean goals were simultaneously very important and in competition with each other.

It should also be noted that only one respondent, who worked in Chambers, saw promoting stability to be a primary goal of the ICC. Eight of nine responses were directly related to providing justice, whether that meant through a dispassionate fair trial (in which case the goal is to determine whether there is sufficient evidence to convict someone beyond a reasonable doubt) or by seeking and holding perpetrators accountable (in which case the goal is to find enough evidence for a conviction). If one considers being a 'judiciary complement' and 'helping victims [in a country without a willing or able judicial system] along' to be providing justice, then all respondents' answers described providing justice as a primary goal. However, the ways in which this should be

done (e.g., finding enough evidence for a conviction versus a more dispassionate engagement) differed amongst respondents.

The divergence in how practitioners identify the primary goals of the ICC is striking, because divergent goals can lead to conflicting perspectives on how the Court should behave.

Different understandings of the goals of the ICC translate into different ideas regarding what the Court should prioritise and how this should manifest in everyday operations.¹⁹ It can also affect perspectives on how the Court is evaluated. It is therefore notable that practitioner perspectives on the goals of the Court seemed to vary across respondents.

3.2 *Strengths*

We asked respondents about their views regarding the strengths of the ICC. The most frequent answer to this open-ended question was something to the effect of the ICC's 'good bones' and solid foundation. The Court's very existence, in the eyes of most respondents, is a distinctive strength of its role in the international arena. This sentiment is embodied in one respondent's quote:

I mean, it's happening, isn't it? [The ICC is] up and running. It's been going for however many years. It's got a statute. It's got huge, big kinks in it, but it's generally pretty good...A lot of civil society [is] really invested in it, and that does a lot of work in lobbying for the Court, within states and within affected populations. So starting from scratch, I think, isn't an option, because the fundamentals have been there for quite a while (R4, Defence).

Another respondent echoed this idea, stating:

[The ICC's biggest strength is] the symbolic value. Which, in a way, could be seen as something not that important, but for me, that is a really big part of the importance of the institution. It's what it represents. What its potential is...The fact that we have something like the ICC, the fact that

¹⁹ Indeed, respondents had different ideas regarding to what extent the Court should take into account factors such as, for example, whether a case was likely to end in a conviction, or how a case would be perceived by civilians, when the Court is deciding whether to pursue a case. These perspectives could be affected by whether a respondent believed the Court had a primary interest in promoting political stability or whether its goal was primarily judicial as opposed to political.

TABLE 2 Strengths of the ICC

Biggest Strength	Total Frequency	Frequency per Section
ICC's existence as a symbol and as a foundation	5	Defence – 1 Chambers – 3 OTP – 2
ICC boosts domestic societies' commitments to prevent and prosecute international crimes	3	Defence – 1 Chambers – 1 OTP – 1
ICC's noble motivations	1	Defence – 0 Chambers – 0 OTP – 1
ICC can help victims	1	Defence – 1 Chambers – 0 OTP – 0

there's so much money and resources devoted to it...the fact that this is an institution which is...up and running, and it does what it does, I think, is amazing. And I think, I'm very proud from that side of the institution...I think [some things] could really be improved, but I think, yeah, what the ICC represents is huge. Yeah, the fact that it's here. And I don't think that should be underestimated (R8, Chambers).

Table 2 details the strengths mentioned, their total frequency, and their frequency by section (i.e., Defence, Chamber, OTP).

Five respondents made reference to this 'good bones' phenomenon, mentioning either the consequentiality of the Court's symbolic value or describing the Court as riddled with potential. Several respondents answered that the Court's existence had an effect on other things, such as the ability to proceed with investigations and trials without relying on *ad hoc* institutions for individual situations, such as those that had to be set up in the cases of Rwanda and the former Yugoslavia. This, in their eyes, meant that the Court was an institution that was already prepared to act with little notice, and already had the institutions in place to handle international atrocity cases. Respondents

thought the Court was a viable start for enabling the international community to respond to international atrocities. One respondent from Chambers described this, saying;

[The ICC's biggest strength is], well, its mere existence. Because even if the institution as such is not as effective as desired or as promised, I'm pretty sure that it's still better that it exists and it's already in place instead of going forward constantly relying on whether or not another *ad hoc* will be created, or some sort of investigative mechanism, and so on. And even where certain states are not parties to the Statute, it's still probably easier to get states to ratify a treaty sometime in the future...than it is to create an institution altogether, with all the practicalities that that involves, with recruiting people and entering into a headquarters agreement and all these things. So, the fact that is already exists, that's definitely the biggest win. (R9, Chambers)

Four respondents specifically spoke to the Court's symbolic value. One respondent described the use of symbolic value for victims, stating:

I worked in a particular situation, and, you know, I read witness statements. Many of them. And I could see in them already the reference that was being made by them to the ICC. And, you know, very often they don't even know the name of the institution as such, but they know that something exists that's going to help them to get justice again. To get some form of justice. And I think it does help (R1, Defence).

Two respondents mentioned that the ICC encouraged domestic societies to commit themselves further to preventing and prosecuting international crimes, because the ICC's presence both facilitated norm-building and increased pressure to stave off intervention. These respondents noted that it encouraged local dialogue regarding how to respond to atrocities. They also asserted that, when countries signed onto the Rome Statute, officially committing themselves to the prevention of and response to international crimes, even if only on paper, the civil population took note of this and created more internal pressure on their governments to stand by those commitments. This symbolic feature of the Court's existence, while noted by practitioners, has also been described in the literature of international law: Jo and Simmons,²⁰ for instance, find

20 Jo and Simmons, *supra* note 3.

that legitimacy-seeking political actors, who value citizen approval, might be deterred from committing atrocity crimes because of the Court.

While the Court's existence was the most oft-referenced 'biggest strength' described in interviews, with large consensus surrounding its value and the subsequent effects of its presence, respondents also agreed on some other strengths of the ICC. Namely, there was a general consensus amongst respondents that the culture of the Court as a workplace was one in which employees from a host of countries were generally respectful and cordial with one another. Respondents were generally satisfied with their own and their co-workers' abilities to work together across cultural lines.²¹ This contrasts with some of the expert report's²² findings that there were several accounts of bullying and harassment throughout the Court, though particularly in the OTP. The expert report documented bullying and harassment as often reflecting gender (rather than cultural) insensitivities, but it recommends increasing both gender and geographical diversity in managerial positions, nonetheless, as one of several measures to promote a more cooperative culture.

Likewise, two respondents noted that the Court was, in their opinion, gaining more international recognition. They commented on recent current events in which the Court was globalising its investigations, and prompting domestic political discussions on the role of the Court in different countries, particularly in powerful countries such as the United States. These respondents felt that the Court was becoming a more legitimate and recognised actor in the international arena, since the threat of the ICC's presence in powerful countries was taken seriously. As one respondent observed,

When Bolton was criticizing the Court...no one was actually saying, 'Oh, well this is great, actually, in the sense that the Court matters'. Like, ten years ago, [the US] would've been like, 'The ICC? What?' So, the fact that it's considered to be a threat, in a way, is actually a positive sign. Because it shows that it's not a paper tiger. That...it does have credibility. It does have legitimacy (R7, Defence).

For these respondents, the fact that countries were seriously considering how to respond to potential Court investigations symbolised the Court's growing

21 The only mention of cultural insensitivity as a weakness of the Court occurred in one Chamber respondent's interview, where they mentioned differing cultural concepts, such as age or who is considered 'family', being used in trial to draw inconsistencies in witness accounts and dismiss them.

22 Independent Expert Review, *supra* note 13.

power and presence on the international stage as a consequential institution with a greater-than-symbolic role in international relations and atrocity crimes.

3.3 *Weaknesses*

Respondents largely agreed on ICC's biggest weaknesses. The most common theme of respondents' answers to the biggest weakness of the ICC in carrying out its operations was its reliance on state cooperation. Table 3 lists the obstacles mentioned throughout interviews, how frequently they were mentioned in general, and how frequently by section (i.e., Defence, Chamber, OTP).

Eight out of nine respondents, when asked open-endedly what they thought was the biggest obstacle to the Court, answered state cooperation. They noted its effect in determining both whether there would be an investigation and what that investigation would be. These respondents indicated that, without state cooperation, which was often politically-motivated and flimsy at best, investigations could not go on. Six of these respondents also explicitly stated concerns regarding how state cooperation could systematically bias investigations, with five describing their view that political opponents and military adversaries of the state were often forced to The Hague. This is because, according to these respondents, governments would only be likely to volunteer information and investigations that were politically advantageous to the government. As one respondent stated:

There is not a lot of *proprio motu* activity on the states to help the ICC...Especially, *especially* when we are investigating people in governments, obviously the cooperation from those governments is often minimal. And that, I think, is the biggest roadblock for the ICC (R3, Office of the Prosecutor).

Another respondent explained this phenomenon and the conundrum it presented to the ICC, stating,

It's really based on the fact that the ICC doesn't have its own police force and isn't able to go out and arrest [whom] it wants. It's based on political will...So, you know, it's a real double-edged sword for the ICC. It needs its states to survive, but then it's at the whim of states in terms of the cases that it prosecutes (R4, Defence).

TABLE 3 Weaknesses of the ICC

Biggest Weakness	Total Frequency	Frequency per Section
Reliance on and lack of state cooperation	8	Defence – 4 Chambers – 2 OTP – 2
Selection of personnel (judges, prosecution, and defense counsel)	3	Defence – 1 Chambers – 1 OTP – 1
Bureaucracy/management	2	Defence – 1 Chambers – 0 OTP – 1
Lack of transparency	1	Defence – 1 Chambers – 0 OTP – 0
Outside world's unrealistic expectations	1	Defence – 1 Chambers – 0 OTP – 0
Difficulties gathering evidence from crimes that happened years ago	1	Defence – 0 Chambers – 1 OTP – 0

This conundrum was a common theme in describing obstacles to effectiveness of the ICC. It was only bolstered by the commonly-held sentiment that outside actors the ICC relies upon, including the ASP, did not have a good understanding of the Court, its responsibilities, and its limitations under the Rome Statute. This led both to poorer cooperation from funding states and, somewhat ironically, criticism against the ICC that it was not doing enough, despite its lack of control over cooperation. The issue of the ICC's reliance is not just one noted in these interviews: scholars such as Clark,²³ for example, have often discussed the international community's effect on how the Court is able to

²³ Clark, *supra* note 15.

approach cases. They have described how the ICC's reliance on states, which are political actors who choose to cooperate or not cooperate for political reasons, has made it itself subject to politicisation and has hindered its ability to conduct its work. These ideas were echoed in interviews.

However, respondents also noted that the ICC had several weaknesses that were under its control and fell outside of its limitations as an international body. One fairly common theme across interviews – and one that, perhaps, non-practitioners would rarely consider²⁴ – is the weakness of several hiring and firing administrative workings of the ICC. Seven interviewees mentioned entrenched employees and/or politicised judge hiring processes as inhibitive to Court processes. In addition to practitioners who described politicised judge hiring processes as inhibitive, one practitioner stated that judges who had already been hired might still not want to work on certain cases that could bring them backlash from states and hurt the judge's future career or ability to travel. ICC judges are elected by the ASP, and must complete interviews before serving.²⁵ Practitioners who brought this up contrasted it against their own experiences, such as having to complete exams and evaluations before onboarding, and expressed concern that these practices lead to a systematic onboarding of judges who are at the ICC as a political move for career advancement and/or who are less qualified than another, less politically popular judge might be. The issue of how judges are elected to the ICC has also been a topic of discussion in academic spheres, where reports such as OSJI²⁶ analyses the implications of this electoral process and how it might be improved. The recently published external report also records that some judges did not have much 'experience, knowledge, or interest in international criminal law', and notes that the practice of politicising votes for a judge during the electoral process is entrenched.²⁷ Interviews echoed these sentiments, expressing concern for the electoral process and recommending it be amended to be more merit-based.

24 Although, the recent ASP external expert report (*supra* note 13) discusses administrative issues, and could prompt more discussion on these topics.

25 Yassir Al-Khudayri and Christian De Vos, 'Excellence, not Politics, Should Choose the Judges at the ICC', *Justice Initiative*, <https://www.justiceinitiative.org/voices/excellence-not-politics-should-choose-the-judges-at-the-icc>, accessed 20 July 2020.

26 Open Society for Justice Initiative, 'Raising the Bar: Improving the Nomination and Election of Judges to the International Criminal Court', <https://www.justiceinitiative.org/publications/raising-the-bar-improving-the-nomination-and-election-of-judges-to-the-international-criminal-court>, accessed 4 August 2020.

27 Independent Expert Review, *supra* note 13.

Practitioners who brought up hiring processes also expressed concern over firing processes (or lack thereof) at the ICC. They explained that the ICC, like many other governmental and intergovernmental bodies, makes it very difficult to let go of employees. Two respondents (one in OTP, one in Chambers) specifically expressed concern that this leads to a system where senior employees are more likely to be entrenched and lose their passion for the field than senior employees in organisations without this context. This in turn leads to less effective work, which is consequential in an organisation dealing with international atrocities. These two practitioners recommended limiting the amount of time people could stay at the ICC to reduce the likelihood that employees become entrenched, either by setting time limits for the duration of a career there or making it easier to fire unproductive employees.

Another theme that came up in the interviews was the unfair disadvantage some practitioners saw Defence teams as having. Three of four Defence personnel mentioned this explicitly, with the fourth stating that there was not necessarily a bias against Defence but structural inefficiencies. This theme, however, only came up once in non-Defence interviews, when a member of Chambers described it. In these interviews, respondents discussed Defence teams' lack of abilities to gather evidence in a way that was fair, or to have the same resources available to them in building their cases. Regarding evidence-gathering difficulties, the ICC has a pre-trial and confirmation hearing component, in which the prosecution gathers evidence on a case and accumulates witnesses before the trial has officially begun, and this is to be shared with Defence. According to Defence personnel, prosecution is meant to gather evidence that would be useful to either team. However, in practice, Defence personnel argued that prosecution focuses on gathering evidence that helps build its case. One respondent spoke to this, saying,

The lack of exculpatory disclosure that's given to Defence teams [is such that] you never get documents being disclosed that could show that [there's] another group responsible [for the crime], or that your client isn't fully responsible. [Prosecution is] just not in any way abiding with that Statute or obligation. They're just trying to get the best information for a conviction (R4, Defence).

Another respondent echoed this, stating that, since during the confirmation of charges stage, prosecution does not bring live witnesses, Defence is unable to cross-examine witnesses or effectively respond to what they described as *ex-parte* motions, which leads to a bias.

In addition to a disadvantage within the courtroom, Defence personnel brought up their comparative lack of resources.²⁸ Defence expressed strong concerns over its inability to guarantee witness protection in the way that prosecution could. As one respondent described, prosecution gathers witnesses during the pre-trial phase, and prosecution has its own internal section that decides what to do to protect witnesses. According to this respondent, Defence does not, and can only protect witnesses after Chambers has approved Defence's list of witnesses, which does not happen until later, when the case has reached the trial stage. In some cases, this advancement takes years. Because of this structural condition, a Defence team hoping to prepare for trial must meet with witnesses before the list is compiled and protective measures can be put in place for that witness, whereas prosecutorial witnesses, used for pre-trial stage, have protective measures in place.²⁹ This was combined with a context where Defence personnel could not access witnesses very well to begin with, since their witnesses were often on the 'losing' side of a conflict, and had fled into other, harder-to-access territories. Besides this, Defence personnel also referred to other lack of resources, including the need to run back and forth between the courtroom and their building, which, at one point, was separate from the main building where OTP and the courtrooms were housed, if they needed to carry out administrative tasks such as printing papers as trials develop in real-time. Combining these disadvantages with the cultural value on fighting impunity (one respondent thought the valued goal of 'fighting impunity' as opposed to 'conducting fair trials'), Defence personnel often described feeling systematically disadvantaged. They saw this as a weakness to the ICC, and one Defence respondent stated that this had a negative impact on day-to-day morale.

This systematic disadvantage is not unheard of in the existing literature: McDermott³⁰ observes that Defence is often at a disadvantage, in part since states are often less willing to cooperate. However, the disadvantage described

28 Of course, it should be noted that OTP's mandate and functions are broader than Defence's. OTP must establish proof beyond a reasonable doubt, whereas Defence identifies loopholes in the OTP case narratives. Defence, therefore, might require fewer resources than OTP, which one Defence respondent acknowledged. Still, however, Defence personnel brought up a comparative lack of resources as impeding their ability to effectively perform their duties on several occasions.

29 The interviewee discussing this contrasted it with the International Criminal Tribunals. This contrast was a common theme in interviews (see the next section of this article, 'Practitioner Recommendations', for further discussion).

30 Yvonne McDermott, *The Ashgate Research Companion to International Criminal Law: Critical Perspectives* (Routledge, New York, 2016).

in the interviews is notable, given that they often reference inequality of resources that has occurred, in part, by the structure of the Court. This is the kind of disadvantage that, in international law, courts claim to be most concerned with.³¹

3.4 *Practitioner Recommendations*

Respondents were also asked about their ideas on how to better the Court. When asked, if they could change anything, what they would change about the ICC to make it better, respondents provided a range of answers. They differed in their assertions of where they would start, and what the best path forward for the ICC was. This variability could be due in part to the fact that they were asked this question in an open-ended way, rather than asked to pick from a list of possible paths forward. For example, two respondents discussed making more consistent how judges assess evidence; two others suggested making it easier to let go of unproductive employees. Despite these discrepancies in what respondents chose to highlight, there were several consistencies.

The most common recommendation for improvement, coming up in six of nine interviews, was amending the Rome Statute in some way (though, specific amendments differed). Five respondents mentioned that, despite clear logistical difficulties, it would have been preferable to have universal global-wide jurisdiction and/or make all states a signatory to the ICC. The related logic was that, if an international body were to generally sanction Court investigations in any country, the Court would be less at the whim of individual state cooperation. These respondents often mentioned that having international backing and/or universal jurisdiction would allow for less biased trials and investigations that are interrupted at lower rates. Six of nine respondents compared the ICC to former International Criminal Tribunals (ICTs), suggesting that the ICC should model itself after these tribunals in several ways. Four of these respondents lauded the more mandated cooperation (notably, the most common recommendation for improvement for the ICC in these interviews) under Chapter VII of the UN Charter, which allowed for UN intervention for non-cooperation. Respondents also mentioned the ICTs as having more support from outside countries and international bodies, such as NATO and the European Union, which gave the tribunals more authority to carry out investigations regardless of involved parties' political preferences. They discussed the ICTs as not being at the political will of cooperating countries in their investigations. They often cited the ICTY as a good model for this and felt that, since NATO and the United Nations were

³¹ *Ibid.*

supportive facilitators of investigations and there were international repercussions for non-cooperation, the ICTY could function relatively well despite dissatisfaction or opposition by some of the governments in the Former Yugoslavia.

As another amendment to the Rome Statute, three respondents (all members of Defence) also advocated for a removal of the pre-trial phase, noting its ability to last for well over a year just to decide which charges an accused would face, something that two respondents from Defence mentioned OTP should do in advance of arrest. Several respondents also advocated for a separation of reparations and convictions: tying the two, they noted, pressured judges to convict, and could harm victims, who still needed access to rehabilitative or restorative services. These responses suggest that, even within the ICC, personnel find the Rome Statute in need of repair.

A common suggestion for improvement was also increasing the capacity-building functions of the Court. Several respondents mentioned that, if they were President of the ICC, they would focus on the ICC's complementary role and empower domestic courts. One respondent suggested that, rather than providing the aid itself, the ICC should support domestic courts and/or centres in providing aid to victims. The respondent's idea was that domestic institutions, such as courts or rehabilitation/counselling centres, would be better equipped to provide aid to victims, since these institutions would better understand what the needs of the victims were (e.g., financial, physical, mental, etc.). Likewise, a given victim is currently only provided reparations by the ICC if the accused is convicted *and* the victim can establish that they are the victim of the specific convicted person's crimes. Reparations are not allotted dependent upon whether the victim was simply a victim of any given crime that occurred during the conflict. According to the respondent, however, if the ICC's victim aid programs shifted to a more supportive role, it could provide resources to domestic institutions that could give victims of conflict crimes aid, regardless of whether their assailants were convicted. Another respondent asserted that the ICC should empower domestic courts with more legal resources, which could help them carry out trials in their own countries. Respondents who suggested that the ICC would be more contributive to society if it leaned into its complementary role suggested that it invest in capacity-building processes such as these.

Another suggestion promulgated by members of Defence was to better incorporate Defence into the ICC, unsurprising given their critique of Defence's status. Their suggestions for improvement often served as direct responses to their complaints: they mentioned making it easier to gather evidence and protect witnesses, and having access to more resources. They wanted to see a generally more incorporated Defence with more capabilities.

Finally, three respondents (all members of Defence) also mentioned ridding the ICC of its pre-trial phase, closer in accordance with the ICTs, which did not have one.³² One of these respondents also mentioned the ICTs' regular status conferences, and suggested remodelling the ICC's processes after these. Another of these respondents described the ICTs' protective mechanisms for Defence's witnesses as more favourable, since Defence counsel could put their witnesses into the witness protection unit immediately at the ICTs, whereas they have to wait until after the pre-trial phase to do so at the ICC.³³ Generally, practitioners seemed to favour the ICTs and how they were carried out, bringing them up as models for the ICC to look to.

3.5 *Evaluating the ICC*

Practitioners, despite their different assessments of ICC goals, featured several themes in the strengths, weaknesses, and recommendations for improvement of the ICC. These discussions bring up the natural question of how the international community should evaluate ICC's effectiveness in the future. On this front, practitioners had one clear point of consensus: convictions could not be the sole, or even main, measure to evaluate the ICC. Even when respondents agreed that convictions could be one of many metrics to evaluate the Court, they argued that factors such as victims' satisfaction, fairness of trials, and long-term effects should be used as other metrics to evaluate the Court, as well. This is illustrated by one respondent, who asserted,

The ICC should not be about conviction. By saying this, you know, it's as if we're saying, 'Once we arrest, the person is presumed less innocent and it should lead to a conviction'? I mean, that's not how a judicial system is built...[The ICC] shouldn't look at its results in terms of conviction or acquittal...[but] whether there is reconciliation in the country...[The ICC] should ask the people in the situation country... 'Do you feel better?'...It's not about how many convictions we will get...The ICC should not be about that. Should be able to conduct more effective trials. And more publicly. Because that's also what it is about. It's about bringing it back to the people (R5, Defence).

32 In the ICTs, an arrest warrant and indictment were given at the same time, and then the accused was arrested.

33 As noted previously, this is because the list of witnesses for the Defence is not approved by Chambers until the trial stage at the ICC, according to this respondent. The respondent described the Prosecution as not facing the same limitations, since the OTP has its own internal order that assesses and decides what to do with a witness.

Another respondent felt similarly, commenting,

Right, so what is an effective ICC? That's a good question, because that [raises] the question of what are the performance indicators you would use to assess what a good ICC would look like...If you look at the strategic plans of the ICC and the Office of the Prosecutor, you would see that the performance indicators are mostly metrics related to internal function... 'How quickly did you get to this point or that point?' 'How many convictions did you get?' 'How many arrests did you get?' That's certainly one way of measuring the ICC. It's not a bad way of measuring the ICC, but I think in the long-term, if you want to measure the ICC, you have to start studying the deterrent impact, as well. So, a 'good' ICC – or a functioning, effective ICC – would be an entity that is carrying out...effective, efficient, and fair investigations and prosecutions. That also, at least in the long-term, can have some measurable impact on the environments in which it operates (R3, Office of the Prosecutor).

Evaluating the Court in ways besides number of convictions was a sentiment largely held across Defence, Chambers, and OTP, as symbolised by another respondent:

I am aware of all the criticisms about number of convictions, the length of the trials – of course, there are many things to be improved. But I think that's quite a limited view of what the Court is doing, and I think one should have a more comprehensive view of some of the things the Court triggers. I think for example – one example is what's happening in Colombia. I think that's a good example...I think [the Court] raises awareness. In my view, what the Court is doing should be considered in all its spectrum, and not just being related to number of convictions, for example. (R2, Chambers)

Outside of this, there was divergence. Perhaps because of their different conceptualisations of the goals, as well as the considerable variability between cases at the ICC, there was also very little consensus on how effective the Court is today. Two respondents (one in Defence, one in Chambers) thought the Court was, overall, effective given the limitations and time it takes for an institution to improve, four others (two in Defence, one in OTP, one in Chambers) thought it was ineffective, and three others still (one in Chambers, one in OTP, one in Defence) stated that it was unclear and probably too early

to tell. On the subject of how to monitor this effectiveness, there was some divergence.

Generally, respondents agreed that the ICC's number of convictions was an inappropriate measure of the Court's effectiveness. Respondents displayed consensus on the deeper role of the ICC, for example, in norm-building, in encouraging domestic processes to take on cases, and in providing independent and impartial trials where domestic courts could or would not. One respondent declared that, if the ICC were truly effective, it would not have any cases at all, echoing the thoughts of Luis Moreno-Ocampo, the ICC's first prosecutor. Others asserted that, even in the case of a non-conviction, if a trial was fair, the ICC had done an effective job.

While respondents often agreed that using one measure (most often, convictions) would not offer a true account of the Court's effectiveness, there was divergence on what to include. Some respondents (one in OTP, one in Defence, and one in Chambers) opted to evaluate the Court in part based on the presence of reconciliation and stability in the country, and whether people involved in the situation described themselves as having felt better for the intervention. According to one respondent, the presence of fair trials themselves could help further reconciliation. Two respondents in Defence mentioned the evaluation of the trials as fair, independent, and impartial as the most important metric, much as in the same vein as a standard domestic court.

Others still thought that evaluating the effect of other less tangible factors was important: one respondent in Chambers, for example, thought the ICC's effect in international norm-building and pressuring parties to come to an agreement, such as in the case of Colombia, was an often-neglected aspect of its effectiveness as an international court. The interviews suggested that practitioners largely wanted a nuanced, holistic evaluation of the ICC and its role in the international order. However, there was not consensus on whether the primary evaluation metric should be the presence of fair trials, the encouragement of domestic response to atrocities, the speediness or conviction records of trials, or some combination of all of these.

3.6 *Reasons to Hope for the Future*

Despite the lack of consensus on whether the Court was effective and how to evaluate its effectiveness in the future, respondents often had hope for its continued improvement. They remembered the oft-cited greatest strength of the Court – its very existence – and drew inspiration from the fact that it was permanent and had the potential to be improved upon. They recognised the Court's youth and the possibility of it learning from and improving upon its

past. One respondent offered a perspective that was representative of these ideas, stating,

Well, it's a permanent court, so I think it's never too late [to improve]. And of course it's going to be slightly difficult, because probably your best time to have done this would've been at the beginning. But, you know, it might take time, but it's a permanent court. I think it's just a matter of chipping away, chipping away. And eventually it will happen (R7, Defence).

Later in the interview, the respondent again made an observation looking to the potential of the ICC and its improvement in the future, again representing the thoughts of five other respondents: 'But I think the mere fact you have a court – I think you can't underestimate that. I think as a notion itself, it's terribly powerful, and I think people underestimate the impact of there being an ICC' (R7, Defence).

4 Conclusions

Respondents' perspectives contained several converging and diverging themes on the effectiveness of the ICC. Their assessments of the ICC's primary goals were fairly diverse: ending impunity was a clear theme, but a somewhat contentious one for those who did not agree on its prioritisation as such. Likewise, a host of other primary goals were mentioned: providing justice for victims, capacity-building and supplementing domestic processes, conducting fair and impartial trials, and, in one case, promoting stability in the situation country.

Most respondents agreed on the ICC's greatest strength and weakness. These were its very existence (both as a foundational tool for improving international law and a symbolic tool to encourage norm-building and pressure domestic change) and its reliance on state cooperation, respectively. While reliance on state cooperation was the most-cited biggest weakness, though, respondents also mentioned several internal issues. These include hiring and firing processes (i.e., the process of electing judges, the difficulty in letting go of unproductive employees) and a lack of transparency in trials (e.g., during the pre-trial phase or in judgments). Defence respondents often also described structural disadvantages against Defence as a weakness.

When discussing how to measure the effectiveness of the Court, respondents agreed that convictions could not be the sole measure of ICC effectiveness; though, there were divergent ideas on how effective it was and how to

measure that effectiveness. When asked how they would evaluate the ICC, respondents stated that evaluations should include an amalgamation of indicators, with some naming a few examples. There was a clear need to define the short- and long-term goals of the ICC, as well as a means of evaluating its performance, since the goals and means of evaluation determine what the ICC should prioritise.

Regarding recommendations for improvement, there was a distinct theme advocating for changing the Rome Statute on several fronts (e.g., disconnecting reparations from convictions, enforcing universal jurisdiction) and improving capacity-building efforts. Respondents from Defence generally also wanted to see a removal or amendment of the pre-trial phase and improved resources for Defence into the Court.

Some of these themes have been observed in the literature. McDermott,³⁴ for example, has detailed disadvantages against Defence counsel; state cooperation is a major issue often cited in the international law literature;³⁵ and the ICC's potential complementarity effect,³⁶ for example, have all been mentioned in the literature. Some authors³⁷ have also discussed issues like the judges' electoral process and the potential implications it has on the Court. The expert report³⁸ has covered several of these issues, exploring issues related to both human resources and Court proceedings.

However, respondents also provided unique insight into weaknesses of the internal functioning of the Court, for example, in its potential to maintain entrenched employees. They also provided insight into which strengths and weaknesses manifested on a day-to-day basis and how. Finally, respondents were able to offer several insider perspectives for improving the Court, for example, through their first-hand comparisons of its functioning and the functioning of other international tribunals, such as the ICTY and ICTR. Their perspectives both mirror some sentiments in the literature and provide new perspectives for understanding the Court.

The practitioner perspectives documented and analysed in this study contribute to scholarly and practitioners' understanding of the Court. Respondents largely painted a picture of a court that is still learning and

34 McDermott, *supra* note 30.

35 E.g., Antonio Cassese, 'Is the ICC Still Having Teething Problems?', 4(3) *Journal of International Criminal Justice* (2006) 434–441; see also, Courtney Hillebrecht and Scott Strauss, 'Who Pursues the Perpetrators?: State Cooperation with the ICC', 39(1) *Human Rights Quarterly* (2017) 162–188.

36 Dancy and Montal, *supra* note 8.

37 E.g., OSJI, *supra* note 10; Independent Expert Review, *supra* note 13.

38 Independent Expert Review, *supra* note 13.

features several weaknesses; though, powerful by merit of its very existence and with the potential to improve. Practically-speaking, they mentioned several clear implications for moving forward. Respondents' insights suggest that considering what amendments to the Rome Statute would look like and exploring ways to mandate state cooperation, for example, could improve the Court's effectiveness. Academically, these perspectives provide insight into the strengths and limits of an international court, as seen through the eyes of its employees, and provoke questions about what its role should be on the international stage.

This study faces some limitations that merit discussion. First, there might be sample bias present in the study. As noted in the Methodology section, respondents were gathered through snowballing after initiating one of the author's networks. This means that we have explored a network of people in the ICC, who may or may not have opinions that reflect ICC practitioners more generally. Second, the sample size of this study is considerably small. This again limits generalisability: it is unclear whether the themes documented in this study are reflective of most ICC practitioners' perspectives. Results should therefore be considered exploratory. Despite these limitations, the study provides a unique perspective into the day-to-day workings of the Court. It also is one of the first documentation of practitioners' insights into the effectiveness of the ICC. This is an important perspective to include in discourse on the ICC, given practitioners' daily interactions with the Court and its operations.

It is important to take into account the perspectives of those who work at the ICC. Court personnel are instrumental in its day-to-day functioning; thus, the way they see and evaluate the system is, to an extent, determinative of how the system operates. The fact that personnel's perspectives diverge on one of the most fundamental questions about the Court ('What is its main goal?') raises questions about the Court's efficacy, how it runs on an every-day basis, and how to improve upon it. Analysing the individual perspectives of practitioners, their divergences, and their convergences is important not only for conceptualising the Court's goals and missions, but also for developing more workable solutions to many of the challenges the Court faces. An important avenue for future research is to systematically examine staff's perceptions among larger groups of ICC practitioners. This would allow researchers to see whether our exploratory findings hold against a larger and more representative sample size. We believe that our study has provided an important first step to incorporating these crucial perspectives in scholarly and practitioners' discussions on the ICC, its functioning, challenges, and possibilities.

Appendix A – Interview Topics

1. DEMOGRAPHICS
 - a. Respondent's organ
 - b. Duration of respondent's employment
 - c. Job responsibilities
2. MEANING OF 'EFFECTIVE'
 - a. Primary goals of the ICC? (*e.g.*, justice, peace, complementarianism)
 - b. Primary duties of the ICC? Of respondent's office?
 - c. What does an effective ICC look like?
3. HOW EFFECTIVE CURRENTLY
 - a. How effective is respondent/respondent's office/the ICC at completing their duties?
 - b. Successful example of the ICC/respondent's office/respondent's working effectively?
 - c. Example where the ICC/respondent's office/respondent's might have needed improvement? What does respondent think went wrong?
4. HELP OR HINDER EFFECTIVENESS
 - a. Biggest/most notable asset?
 - b. Biggest/most notable obstacle?
 - c. In respondent's opinion, how does ___ affect the ICC/how well does the ICC deal with ___? Does respondent think it helps or hinders the ICC/respondent's work, or doesn't affect it?
 - i. POLITICAL
 1. External political context
 2. State support
 3. State cooperation (*e.g.*, when ICC gets a case/when it can investigate)
 4. Investigating non-state and/or state actors
 5. Internal procedures
 - ii. HOW CORE COURT ACTIVITIES ARE BEING CONDUCTED
 1. INVESTIGATIONS
 - a. Evidence gathering (*e.g.*, cross-cultural nature of work, witness intimidation/tampering, protecting witnesses)

- b. Witness interactions
 - c. Service distribution (financial, physical, and psychological)
 - 2. TRIALS
 - a. Fair trial
 - b. Evidence assessment
 - c. Sentencing
 - d. Cross-cultural challenges
 - iii. TRANSITIONAL JUSTICE PROCESSES
 - 1. Post-conflict tensions – does ICC affect these?
5. SUGGESTIONS FOR EFFECTIVENESS
- a. What does respondent think should happen to make the ICC more effective?