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ARTICLE

A polycentric system of international criminal justice: reconfiguring accountability in a transforming global order

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Abstract

The global order is undergoing significant transformations with far-reaching implications for international criminal justice. These shifts pose an existential challenge to core crimes accountability while re-shaping its pursuit. As the liberal order recedes, the International Criminal Court (ICC) faces a crisis driven by absolute sovereignty's reassertion, weakened multilateral governance and increasing political and coercive pressures from powerful states. Simultaneously, these developments promote decentralised accountability, fostering the emergence of a polycentric system of international criminal justice. Trends in re-nationalisation, hybridisation and regionalisation align accountability with a more pluralistic, fluid global order. In this context, the ICC is not obsolete but requires a redefined role. While no longer the apex of international criminal justice, its existence remains crucial to addressing the risks of decentralised accountability. The Court, particularly its Office of the Prosecutor, should reconfigure strategies around positive complementarity, repositioning itself as a co-ordinating hub within this polycentric system.

Keywords: international criminal justice; crisis; polycentricity; decentralised accountability; core international crimes; global order

1. Introduction

The contemporary world is frequently described as an era of permacrisis. Emerging shifts in the global order precipitate a period of instability and devastating armed conflicts. Core international crimes around the world are on the rise, and thus, accountability remains a vital tool in ending violence and maintaining international peace and security. Nevertheless, the emerging global order challenges the functioning and survival of the international criminal justice system.

Yet, international criminal justice has been historically forged by global crises. This unveils its inherent connections with the realm of political dynamics. The present crisis of international criminal justice may also serve as the catalyst for revolutionary change and further progress (Powderly 2019, pp. 3–4). However, it is necessary to uncover the underlying political and social realities to unblock the catalyst potential of this crisis.

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The present article analyses the impact of emerging global shifts on the system of international criminal justice, both at the global and decentralised levels. The purpose is to investigate possible connections that may exist between ongoing transformations in the global order and evolutionary trends we observe in the domain of accountability for core international crimes, namely the re-nationalisation, hybridisation and regionalisation of investigations and prosecutions for genocide, war crimes and crimes against humanity. Accordingly, the article takes on the perspective of the *role of power within the law* rather than addressing the power of the law in shaping global politics and states' behaviour. In addition, to uncover the political and social realities behind the above research questions, the article embraces an interdisciplinary methodology combining legal and international relations analyses.

This article begins by examining the function of the crisis narrative within international criminal justice, emphasising the need to avoid framing the field in terms of perpetual crisis and to differentiate between ordinary and extraordinary crises (Section 2). It then turns to current shifts in global power dynamics, identifying key characteristics of the emerging international order (Section 3) and analyses how these transformations may generate an extraordinary crisis for the International Criminal Court (ICC) (Section 4.1). At the same time, the article explores how ongoing transformations in the global order may also enable the rise of decentralised accountability and foster the evolution of international criminal justice into a polycentric system (Section 4.2). The final section reconceptualises international criminal justice as a sub-system of the broader global order and considers how it might adapt in order to ensure its resilience and ongoing development in a world increasingly characterised by sovereignty, pluralism and fluidity (Section 5). Although it considers a wide range of actors beyond the ICC, the present analysis focuses primarily on judicial actors and prosecutorial authorities. The investigation of the role of other actors, primarily non-governmental organisations, in this emerging polycentric system of international criminal justice is left as an avenue for future research.

2. International criminal justice and the crisis narrative

The notion of permacrisis – understood as an extended period of instability and insecurity resulting from a series of catastrophic events – presents multidimensional links with international criminal justice.

The current situation of permacrisis is a direct consequence of ongoing shifts in the global order. Periods of transformation in the global order – like the one we live in today – generally exacerbate instability by undermining previous power structures. In turn, instability paves the way to the outbreak of recurrent crises. These crises, especially when in the form of armed conflicts, lead to the commission of heinous acts of violence, including core international crimes, as is evident in Palestine, Ukraine, Sudan and, unfortunately, many other situations. Victims of these atrocities deserve justice, and their quest to obtain it renews the centrality of international criminal justice.

In addition, the narrative of a permanent crisis has long permeated international criminal justice. On the one hand, international criminal law has been forged in global crises, from World War II through the Rwandan genocide to the war in Ukraine (Powderly 2019, pp. 3–4). On the other hand, however, the crisis narrative has also been progressively normalised in the field. The idea of crisis as the driving force of progressive development of international criminal justice has been joined by a narrative of perpetual legitimacy crisis. The international criminal justice project has progressively become the target of criticisms of neocolonialism, double standards and low efficiency, which all address, rightly or instrumentally, internal shortcomings to the enforcement of international criminal law (Vasiliev 2020). Such a normalisation of the crisis narrative in international criminal justice risks leading to a sense of *crisis fatigue*, to a static and unproductive rhetoric, a defensive posture that negates transformations (Charlesworth 2002, p. 377; Powderly

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2019, pp. 3–4). The serialisation of crises weakens the perceived urgency of situations requiring action and leads to treating every moment of rupture as an isolated event, to the detriment of sustained, long-term solutions (Vasiliev 2020, p. 636).

As Powderly emphasises (Powderly 2019, pp. 8–10), it is paramount to distinguish between *ordinary* and *extraordinary* critiques of international criminal justice. In this perspective, ordinary critiques concern the legitimacy of the international criminal justice project and thus have internal roots. Conversely, extraordinary criticisms are rooted in shifts in the external landscape, signifying a radical transformation of the sociopolitical context within which international criminal justice operates. Extraordinary critiques only deserve the crisis label to avoid transforming the crisis narrative into a permanent and thus static and unproductive rhetoric. Only by properly distinguishing can the extraordinary crises' potential as a catalyst for development be unleashed.

To achieve this objective, it is essential to situate international criminal justice in its political and social context, so as to uncover the deep roots of its crises and identify innovative avenues for further development. An interdisciplinary perspective is therefore required. This article responds to calls for international criminal law scholarship to move beyond the mere dissection of legal norms and to engage with the normative and political forces that shape international criminal justice (van Sliedregt 2016, p. 5). Mindful of the theoretical, epistemological and conceptual tensions involved (Dunoff and Pollack 2013, pp. 11–21), the present analysis seeks to integrate international relations and international law inquiry within the study of international criminal justice.

Sections 3 and 4 operate an asymmetrical trade between the two disciplines (Dunoff and Pollack 2013, p. 10), privileging the application of international relations theories and methods to the study of international criminal justice, treated here primarily as an object of investigation. Against this backdrop, the article argues that emerging shifts in the global order are progressively eroding the liberal foundations of the international system and therefore constitute an (extraordinary) crisis for international criminal justice, one that may dictate a reconfiguration of the entire system of international criminal law's enforcement. Section 5 then develops the *pars construens* of the analysis by examining how legal doctrines, particularly the principle of complementarity, may be mobilised to respond to the systemic reconfigurations driven by contemporary power dynamics.

3. Emerging shifts in the global order

The global order can be understood as a multilayered system consisting of an international (or global) level (called *international system* in the English School, Bull 1977) and one or multiple orders (*international societies* in the English School's parlance). An international order could be defined as a cluster of sovereign states with shared values, norms and interests, which are expressed through the creation and maintenance of shared norms, rules and institutions (Buzan 2012). Several orders are nested within an overall international system, characterised by a degree of social relations whose intensity and institutionalisation depend on the polarisation among its component orders at a certain historical moment (Flockhart 2016, p. 17). The international system is currently undergoing a profound transformation.

The current shift would represent only the third transformation of the global order in the last two centuries (Flockhart 2016, p. 19). Starting in the late eighteenth century until World War II, the global order was multipolar as more than two great powers populated the world. From the ashes of World War II, a bipolar configuration of the global order emerged. The Cold War embodied a confrontation between two major powers – the United States of America and the Soviet Union – exercising considerable influence and control over members of their respective spheres of influence. With the collapse of the Soviet Union, only the American-led liberal order survived and attracted the membership of numerous other states. This marked the inception of a

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short-lived period of unipolarity, during which the international system witnessed the predominance of a single order. Consequently, the liberal order became synonymous with the international system as a whole (Sakwa 2023).

However, the global order did not reach a stage of permanent stability at the end of the twentieth century. Already in the first years of the new millennium, the liberal international order started witnessing the first signs of contestation. These challenges progressively gained salience to the extent that the present moment is characterised by an open discourse surrounding the crisis of the liberal order. The crisis of the liberal order has deep roots in long-term and structural changes in the global economy and politics (Acharya 2017, p. 272). According to the former European Union (EU) High Representative for Foreign Affairs and Security Policy, three dynamics are transforming the global order: (i) wider distribution of wealth in the world, (ii) the willingness of states to assert themselves strategically and ideologically and (iii) the emergence of an increasingly transactional international system, based on bilateral deals rather than global rules (Borrell 2023). The emergence of a vast number of rising powers, both at the global and regional levels, is the primary factor undermining the coincidence of the liberal order with the overall international system. As stated by Zakaria, the 'post-American world' is 'not ... a world defined by the decline of America but rather the rise of everyone else' (Zakaria 2008). In the emerging new global order, 'countries in all parts of the world are no longer objects and observers, but players in their own right' (Zakaria 2008, p. 3).

Global shifts are primarily the consequence of profound economic transformations. A host of formerly regional powers and other sovereign states began to set out their designs on the international system and developed extraordinarily rapidly on the back of the American-led liberal order. Their mighty economic growth has significantly narrowed the gap with the United States of America and the Global North, although residual disparities persist. Furthermore, the crisis of the liberal order is fuelled not only by a wider distribution of wealth across the globe but also by growing concerns about globalisation as a pillar of the American-led economic model. The ills of globalisation, whether real or perceived, led to a mounting demand to protect domestic markets (Alcaro 2018, p. 8). Governments around the world retracted from free trade and started passing protectionist policies. Protectionism is on the rise, as only in 2024 did global trade barriers triple in value (Von der Leyen 2025).

The contestation of the liberal order is not only economic but is multidimensional. A critical fault line for the survival of the liberal order is the contest of ideas – that is, of its normative component. Liberal values are increasingly contested, both from within the West and from outside. The internationalist vision inherent in the liberal order is pushed back by the resurgence of nationalism, while the universal understanding of the most fundamental human rights is undermined by relativistic approaches. Democracy is also under pressure (Acharya 2017, p. 274). Internally to the West, the challenge comes from populist movements gaining traction at the domestic level and threatening the stability of long-standing democracies (Ginsburg 2020, p. 259). From the outside, the emergence or consolidation of illiberal and authoritarian regimes signals that the peak of the democratisation wave is well behind (Acharya 2017; Alcaro 2018).

The transformation of the global order is still an ongoing process. Hence, it is difficult to anticipate the exact configuration of the international system of tomorrow. Nevertheless, the ongoing shifts in global politics and economics give a sense of the characteristics of the emerging global order.

The international system of tomorrow will be marked by diffusion of power (Burke-White 2015, pp. 17–19). An increasingly large number of states already have sufficient power to influence global affairs and an even more significant regional influence. Power distribution will be, in any case, far from equal among states (Sakwa 2023, p. 30). Power will also be disaggregated because different types of power are shifting independently (Burke-White 2015, pp. 19–22). The profound economic transformations have not been matched by an equally rapid shift in military or soft power. The United States of America and Europe retain a significant soft power advantage and a

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somewhat military superiority, which counterbalance the (economic) power shifts from West to East. As explained by Burke-White, disaggregation of power 'serves an equalizing function in the emerging structure' by ensuring that no state or international order can dominate across all issue areas (Burke-White 2015, p. 22). Consequently, middle- and non-power states may assume a leading role on a specific issue, provided that either they manage to gain a comparative power advantage by mobilising their resources on that particular issue or greater powers do not challenge their leadership (Burke-White 2015, pp. 22–24).

A retrenchment toward an absolute conception of sovereignty – understood as the reaffirmation of exclusive state authority over territory and population and the concomitant rejection of external interference – will also characterise the emerging international system (Ginsburg 2020, p. 231). Rising powers, most notably China and Russia, have increasingly resisted initiatives aimed at expanding exceptions to state sovereignty and to the principle of non-intervention. In 2022, these two great powers reaffirmed their commitment to a reconfigured global order in which the core values of sovereignty and territorial integrity are accorded primacy over democracy and human rights considerations.[1]

This reassertion of absolute sovereignty does not entail a complete withdrawal from international co-operation (Ginsburg 2020, pp. 247–50), but it significantly weakens co-operation at the global level. Moreover, insofar as emerging powers, with their values and interests, complement rather than replace traditional ones, their growing prominence in the international system contributes to an increasingly pronounced pluralism, including within the domain of international law (Burke-White 2015, p. 25). This trend is further reinforced by the absence of a shared set of normative preferences even among emerging powers themselves, including those grouped within the BRICS (Labuda 2025, p. 590). Under these conditions, universalistic projects – most notably human rights and democratisation – will suffer greatly under the combined pressure of particularism and the resurgence of absolute sovereignty (Butler 2018, p. 14; Ginsburg 2020, p. 259). The cumulative effect of these dynamics is a gradual shift toward a decentralised international system (Kupchan 2012, p. 3), structured around multiple regional and cross-regional hubs of co-operation among like-minded states, rather than a fully integrated international order.

As observed, ongoing global shifts come along with a resurgence of particularistic national interests, which can take the form of sovereigntist impulses (Laïdi 2014, p. 351). Accordingly, the emerging international system is placing multilateralism on a more precarious footing as a lack of consensus characterises almost every issue.[2] As noticed by Borrell, 'with the increase in the number of participants in the game, the response is not strengthening the rules governing the game but rather these rules are progressively running out of steam' (Borrell 2023). The crisis of multilateralism entails collective action problems, primarily for the provision of public goods (Butler 2018, pp. 20–21) such as international criminal justice. In addition, the progressive retreat from collective action at the global level undermines the functioning of existing international organisations, like the ICC. States are likely to disagree on the priorities these institutions shall pursue and the processes for pursuing these objectives (Laïdi 2014, p. 351). Therefore, international organisations risk being dismantled for lack of funding or surviving as empty shells deprived of any direct impact.

Another prominent feature of the global order to come is fluidity. The reconfiguration of power structures in global affairs will not lead to the recreation of rigid spheres of influence. Emerging international orders are not blocs or fixed political entities but rather informal and evolving factions (Ikenberry 2024, p. 122). Competition on the global and regional levels will occur in a fluid environment (Butler 2018, p. 15). For one, geography is no longer a dominant factor, as

[1]Russia and China (2022); Russia and China (2016).

[2]A study conducted by Acharya, Estevadeordal and Goodman (2023) confirms the present crisis of multilateralism. Based on the classification of more than 33,000 treaties signed between 1945 and 2017, these authors concluded that while the pace of treaty signing increased steadily until 2005, it has considerably slackened between 2006 and 2017 (Acharya *et al.* 2023).

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globalisation and technological advancement foster the emergence of cross-area partnerships and coalitions (Mishra 2023). Further, these coalitions will diverge depending on the subject matter, leading to the emergence of issue-specific sub-systems (Burke-White 2015, p. 29), and their membership will evolve over time.

To sum up, despite the challenges in predicting how ongoing shifts will transform the international system, it is possible to anticipate that the emerging global order will be (i) post or less American; (ii) less liberal, as it sets aside the universalisation of liberal values; (iii) characterised by power diffusion and disaggregation, a retrenchment of absolute sovereignty and the resurgence of pluralism. Consequently, the emerging international system (iv) will be decentralised, and will (v) challenge multilateralism but (vi) promote the emergence of partnerships of variable geometry, which could open new opportunities for co-operation. For the purposes of this article, what is important to emphasise is that while an international system nesting all states will endure, it will be based on minimal principles and institutions. Given the shrinking international system, co-operation will rarely be possible at the global level but could flourish within issue-specific sub-systems (Burke-White 2015; Borrell 2023). Sub-systems could emerge at the regional level or involve cross-continent partnerships of like-minded states. The following sections first depict the consequences of global shifts on the international criminal justice system, at both global and decentralised levels (Section 4), and then outline how international criminal justice should readjust to a transformed context, behaving as a sub-system of the emerging global order (Section 5).

4. Challenges to international criminal justice in a transforming global order

The global shifts outlined in the preceding section have far-reaching implications for the structures of international law. As Ginsburg persuasively argues, liberal international law is under assault, and the twenty-first century is likely to witness the consolidation of what he terms '*authoritarian international law*', namely a conception of international law oriented toward preserving the survival and extending the reach of authoritarian regimes (Ginsburg 2020). Such a transformation does not occur abruptly, but rather unfolds through a process of normative and institutional change through 'layering'. Authoritarians are not withdrawing from the international system in an isolationist manner. Rather, they aim to repurpose existing norms and institutions by gradually sedimenting ideas associated with an alternative international order (Ginsburg 2020, pp. 256–57). Another strategy consists in promoting alternative institutional or normative frameworks. This tendency is clearly exemplified by the establishment of the Trump-sponsored Board of Peace, a new entity that blends elements of an international organisation with those of a private conglomerate. Operating on the basis of a statute not fully grounded in international law, the Board purports to replace the UN in its key function of mediating international crises. Indications that authoritarian international law is gaining broader acceptance at the global level can be found in the growing tendency of established democracies to retreat from core tenets of liberal international law and to increasingly promote authoritarian narratives, most notably the reassertion of absolute sovereignty (Ginsburg 2020, p. 259).

Unsurprisingly, the disruptive effects of the emerging global shifts are felt with particular intensity in international criminal justice, given its close entanglement with political dynamics (Bosco 2014, pp. 1–2). International crimes are often attributable to forms of state criminality, and pursuing accountability for these crimes before an international court or the courts of a third state inevitably encroaches upon the sovereign prerogative to exercise criminal jurisdiction. As discussed above, at the substantive level, international criminal justice is affected by a broader retreat from human rights driven by these global shifts, of which international criminal law constitutes the most far-reaching enforcement mechanism. At the institutional level, courts and tribunals are likely to be among the international institutions most directly exposed to the adverse

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consequences of the evolving global system. The emerging authoritarian approach to international law is indeed characterised by increasing resistance to third-party adjudication, coupled with a preference for negotiated and transactional arrangements (Ginsburg 2020, p. 225). Against this background, the present section investigates the impact of emerging global shifts on international criminal justice, both at its global and decentralised levels.

4.1. An existential threat to the International Criminal Court

First and foremost, these shifts undermine the universal level of enforcement of international criminal law represented by the ICC. The ICC was established at the height of liberal internationalism, at a time when the protection of individuals from the most heinous crimes and the promotion of a more human-centric international order were key normative commitments (Stahn 2023a, p. 563). The Court indeed stands as a challenge to a state-centric system of international law and the dictates of *realpolitik* (Stahn 2023b, p. 72). Yet, this challenge remains inherently fragile, as the Court is structurally intertwined with global politics. The ICC is a giant without arms and legs, as it depends on state co-operation and funding – primarily from its states parties – for its operation. In other words, the ICC cannot deliver except for the continuous support of states. In this sense, the ICC is ill-equipped to resist, let alone to transform, power asymmetries (Stahn 2023a, p. 568; Vasiliev 2020, p. 629). Consequently, shifts in national interests and foreign policy priorities may significantly undermine the Court's functioning, if not its very survival, without the Court being in a position to influence them. The Court is thus exposed to emerging global shifts. All that remains for the Court is to adapt its practices and strategies in order to mitigate – rather than overcome – the political pressures that shape its operating environment. The Assembly of States Parties (ASP) could, in principle, provide political coverage to the Court's action; however, it has thus far proved largely ineffective in fulfilling this role (Stahn 2023a, p. 588).

Opposition to the ICC is not a new phenomenon but has accompanied the Court since its inception. At the Rome Conference in 1998, states opted for an independent court with broad jurisdictional reach, at the cost of disregarding the sovereignty concerns of major powers and, in doing so, sacrificing their support (Fehl 2004, pp. 378–80). As a result, several major powers, including the United States of America, Russia and China, have chosen not to ratify the Statute. In this respect, the ICC represents a peculiar international organisation in that it did not emerge as the product of major powers' interests (Bosco 2014, pp. 5–8). Given that major powers are generally unwilling to empower or consistently support an institution over which they exercise no control, their response has largely taken the form of strategies of marginalisation aimed at ensuring that the ICC remains weak and ineffective (Bosco 2014, pp. 12–13, 177–80).[3] From the outset of its operations, the Court has therefore faced significant challenges. Nevertheless, the current global scenario testifies to an escalation of the challenges to the Court, which now appear more existential than ever. Indeed, voices openly discussing the ICC's possible death are growing louder (Cruvellier 2025).

In early 2025, President Trump adopted an executive order (re-)imposing sanctions on the ICC (The White House 2025). This is not the first time, as the first Trump administration already did so in 2020. The previous sanctions regime targeted then-Prosecutor Bensouda and another senior prosecution official. Reversing a policy of *engaged exceptionalism* (McGonigle Leyh 2022, p. 348) toward the Court under the Biden administration, the United States of America came back strong against the ICC in 2025, reacting to what, according to President Trump, are 'illegitimate and baseless actions targeting America and our close ally Israel' (The White House 2025). Similar coercive measures against ICC personnel have also been adopted by Russia in clear retaliation for

[3]For example, consider the 'American Servicemembers Protection Act' (2002) and the so-called 'Article 98 Agreements' concluded by the United States government.

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the arrest warrants issued against Russian officials by the Court in the context of the Ukraine situation.

The United States sanctions regime is more worrying than the previous one for two reasons. First, it has a broader scope, potentially allowing the imposition of sanctions not only on ICC personnel but also on any physical or legal person who has, even loosely and indirectly, supported the activities of the Court (Hovell 2025). Consequently, entities that provide the Court with technologies and services are also liable to sanctions.[4] Given the essential role of American software in the day-to-day operation of the Court and the centrality of American banks in worldwide financial transactions, the executive order establishes a legal framework that confers upon the United States of America, a state non-party, the power to make the Court fail. The new sanctions regime appears to constitute an even more direct attack on the Court than the policy of active marginalisation pursued by the United States of America during the ICC's initial years of existence (Bosco 2014, p. 12). Second, the new sanctions regime follows a similar prior legislative initiative by Congress.[5] The so-called 'Illegitimate Court Counteraction Act' raises serious concerns as it received bipartisan support in the House of Representatives.[6] Not only the Republicans but large sectors of American politics are now opposing the Court. It is by no means certain that current sanctions are only a temporary challenge to be reversed by the next administration.

States parties' responses to the new United States sanctions regime targeting the ICC are also a cause of concern. Following the adoption of the executive order, only seventy-nine of the 125 states parties appended their endorsement to a declaration denouncing the coercive measures against the Court.[7] While this group included France, Germany and the United Kingdom, several key supporters of the Court – such as Japan, Italy and South Korea – were notably absent. The United States's policy of actively marginalising the Court in the early 2000s ultimately failed, largely because it could not secure the support of other states. In fact, some major powers that are states parties actively countered United States efforts (Bosco 2014, pp. 178–80). Today, however, the prospects for a collective defence of the Court appear weaker, raising the risk that the new United States attack could achieve greater effects.

Simultaneously, several states parties are directly undermining the effectiveness of the ICC's decisions. Following the issuance of arrest warrants against Israel's Prime Minister Netanyahu and former Minister of Defence Gallant, some of the Court's most prominent supporters, including France, Italy and Germany, publicly signalled their unwillingness to arrest the suspects should they enter their territory, invoking personal immunities. Hungary subsequently declined to arrest Netanyahu during his presence in its territory and announced its intention to withdraw from the Rome Statute. Likewise, Mongolia, another state party, failed to arrest President Putin during an official visit to Ulaanbaatar. In early 2025, Italy also failed to surrender to the Court Osama Elmasry Njeem, a Libyan national suspected of core international crimes, despite his presence in the Italian territory. Further indications of waning political support emerge from recent voting patterns among ICC states parties. Beginning in 2023, the UN General Assembly was, for the first time, compelled to resort to a vote to adopt the annual resolution supporting the Court.[8] These resolutions were adopted with a number of votes in favour lower than the total number of states parties to the Statute (115 in 2023, 113 in 2024 and 94 in 2025). While the ASP has thus far continued to adopt its resolutions by consensus, the risk of this crisis diffusing into that forum cannot be discounted.

[4]In October 2025, it was reported that the ICC had decided to stop using Microsoft Office for its internal work environment due to possible service disruptions imposed by United States sanctions.

[5]US Congress (2023–2024).

[6]See Roll Call 242 for Bill H.R.8282, available at https://clerk.house.gov/Votes/2024242 (accessed 5 January 2026).

[7]Joint Statement (2025). In December 2025, the ASP was then able to adopt by consensus a resolution condemning 'any threat, attacks, incitement or interference thereto, including sanctions and measures of a similar effect, against the Court' (ASP 2025).

[8]UN General Assembly Resolutions A/RES/78/6, A/RES/79/6 and A/RES/80/6.

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At the macro level, the aggression against Ukraine has further disrupted relations between Russia and Western members of the UN Security Council, consolidating the Council's block and foreclosing the possibility of new referrals to the ICC involving states non-parties. In the foreseeable future, the Court is therefore likely to be confined to cases involving crimes committed on the territory of, or by nationals of, states parties, thereby sidelining much of its universalist ambition.

The challenges outlined above should not be viewed in isolation, nor as a contingent or transitory dip in states' support for the Court driven by domestic considerations. Rather, they are the consequence of times of geopolitical upheaval pointing toward a transformation in the world order. The ICC was created and grew in times of liberal internationalism. Today, by contrast, the liberal order is in retreat, increasingly contested not only from the outside but also from the inside. Its retreat undermines the prospects of the ICC's survival. As discussed above, the emerging global order is marked by a crisis of liberal values and a progressive retrenchment in absolute sovereignty, which in turn fuels growing resistance to international courts, including the ICC, whose investigations and prosecutions are often perceived as illegitimate interferences in a state's internal affairs. The related crisis of multilateralism exacerbates the situation by undermining the functioning of existing international organisations (IOs) and by hindering their capacity to reform and enhance resilience in the face of global instability. In the ICC's context, the crisis of multilateralism curtails the prospects of strengthening the role of the ASP as the political organ protecting the Court's judicial activities. In this sense, the ICC is confronting an (extraordinary) crisis, one that calls into question not only its legitimacy, but also its authority and even its continued existence.

The fact that current challenges to the ICC have now reached the level of existential threat is not surprising considering that the Court emerges as an IO at high risk according to an analysis model for IOs' death. Eilstrup-Sangiovanni elaborates four hypotheses on IOs' death through empirical data: (i) risk of death increases during major shifts in international power balances; (ii) IOs dealing with political matters (security, judicial matters, trade etc.) are more prone to die and most affected by geopolitical shocks; (iii) IOs that have a narrow mandate are more vulnerable; and (iv) younger IOs (less than thirty years of existence) have higher mortality rates (Eilstrup-Sangiovanni 2021). Applying this model to the ICC, the picture is not reassuring. The ICC is a relatively young institution (around twenty years) with a highly political and relatively narrow mandate. The protective effects of its large – although not universal – membership risk being partially cancelled by ongoing shifts in the global order (Eilstrup-Sangiovanni 2021, p. 298). In addition, the crisis of liberal values undermines the (perceived) collective utility of its core business, namely accountability for core international crimes. Thus, ensuring the survival of the ICC is a daunting task despite the Court benefiting from a pioneering effect (Eilstrup-Sangiovanni 2021, p. 292), being the first and only permanent, and potentially universal, institution dedicated to accountability for atrocity crimes.

Given ongoing transformations in the global order, the ICC cannot expect a serious and consistent commitment to co-operation from almost any state in the near future. A realistic outlook sees states willing to co-operate with The Hague only on an ad hoc basis, for situations that align with their national interests and foreign policy priorities (Mégret 2021). Although at times described as an example of solidarity justice, the Ukraine situation is no exception. With only a few deviations,[9] this situation has been referred to the ICC by EU Member States, states heavily linked to the EU (e.g. EU candidate states or Schengen Area) and/or belonging to the Global North.[10] From the perspective of Europe, accountability for core international crimes perpetrated on Ukrainian territory (especially if by Russians) serves the goal of limiting Russian westward expansionism and as an *ex post facto* justification for the Union's involvement in the country. On the contrary, the situation in Palestine has been referred to the Court only by states

[9]The exceptions are the referrals by Colombia and Costa Rica (2 March 2022) and by Chile (1 April 2022).

[10]The list of the referrals to the ICC of the situation in Ukraine is available on the dedicated page on the Court's website: https://www.icc-cpi.int/situations/ukraine (accessed 5 January 2026).

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from the Global South. These patterns reveal the increasing polarisation of attitudes toward the ICC (Stahn 2023a, p. 565).

The pursuit of national interests through international criminal justice is not a novel phenomenon; however, it is gradually gaining strength, coinciding with the re-emergence of a more absolute conception of sovereignty. A growing number of states perceive the Court's jurisdiction as an encroachment on their sovereignty and are therefore willing to support it only where their interests are not at stake. A more state-centric view of the international system will also entail a new emphasis on immunities, primarily personal immunities. Consequently, arrest warrants issued against high-ranking officials will likely remain unexecuted. The new United States sanctions regime will also compel the Court to reconsider its operational structures to be able to stay in business despite the end of American *engaged exceptionalism*.

4.2. Decentralising accountability for core international crimes

The global order is moving toward decentralisation and polycentricity, as outlined in Section 3. As outlined in the previous section, the emerging shifts in the international system pose new and serious challenges to the central enforcement of international criminal law before the ICC. The present section untangles the effects of ongoing transformations in power balances on the international criminal justice system as a whole.

Nowadays, it is possible to observe three major evolutionary trends in international criminal justice, progressively moving accountability for core international crimes away from the central and global level toward decentralisation. First, re-nationalisation: despite the illiberal turn in many countries, domestic jurisdictions are generally assuming a more prominent role in investigating and prosecuting core international crimes (TRIAL International 2025; Ubéda-Saillard 2023, p. 439). Second, hybridisation: *sui generis* and ad hoc jurisdictions or investigative mechanisms are being established to address specific situations (Ubéda-Saillard 2023, p. 439). Third, regionalisation of the fight against impunity. There are still no regional courts with jurisdiction to try core international crimes,[11] but regional institutions or more informal partnerships at the regional level are assuming a critical role in promoting accountability. The EU is a leading example in this perspective, not only for the Genocide Network but also for the multiple and innovative justice initiatives launched following the Russian aggression against Ukraine. However, regional developments are not limited to the European context. The African Union's Special Envoy on the Prevention of Genocide and Other Mass Atrocities has recently assumed duty, and similar efforts are underway in the Pacific region under the auspices of the Justice and Accountability Network Australia.

Taken together, these evolutionary trends result in a diverse array of actors entering the international criminal justice landscape. Accountability for core international crimes is thus progressively evolving into a polycentric system, in which multiple courts, mechanisms and institutions at various levels have overlapping jurisdiction and operate without a fixed hierarchy or unifying legal framework (Burchard 2011, p. 167). This configuration results in a *regime complex* in international criminal justice (Sirleaf 2016, pp. 704, 743–46). Regime complexes create opportunities for regime shifts, namely an attempt to alter the status quo and to move activities from one international venue to another (Helfer 2004, p. 14). Accountability for core international crimes is progressively shifting away from an international court, the ICC, no longer perceived as the apex of the system, toward a plurality of international, regional and national mechanisms, institutions and courts. The distinctive feature of this regime shift lies in the fact that it is not confined to international actors, as the emerging polycentric configuration assigns a central role to domestic actors.

[11]The so-called Malabo Protocol would confer jurisdiction over core international crimes to the African Court on Human and Peoples' Rights. The Protocol, however, has yet to enter into force (African Union 2014).

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None of these phenomena is unprecedented (Labuda 2025, pp. 608–609; Langer and Eason 2019). However, previous peaks in national, hybrid and regional accountability were reached at a time when the ICC was not yet operational. Since 2002, the ICC was perceived for many years as the sole centre of the international criminal justice architecture, serving as a sort of panacea for all core international crimes committed worldwide thereafter (Stahn 2023a, p. 569). Today, the evolutionary trends of re-nationalisation, hybridisation and regionalisation are entering an era of renewed centrality, despite the existence of the ICC. Indirectly, the (extraordinary) crisis of the ICC, threatening its very survival, accelerates the shift away from the central level of enforcement and strengthens the drive toward decentralised accountability.

However, these emerging trends in international criminal justice are not merely an indirect reaction to the ICC's crisis but also a direct reflection of global governance dynamics. The global order is progressively turning into a decentralised and polycentric system. Power is diffusing, eroding the putative American unipolarity and leading to the emergence of multiple great and middle powers capable of shaping global affairs and exerting significant regional influence. Power is simultaneously disaggregating, as different types of power – economic, military and soft – are shifting independently of one another (Burke-White 2015, pp. 19–22). The ongoing reconfiguration of power structures does not entail the reconstitution of rigid spheres of influence. Rather, the emerging global order is characterised by fluidity in alliances and partnerships. Disaggregation further promotes asymmetrical distributions of power, with power asymmetries developing on an issue-specific basis (Burke-White 2015, pp. 22–24). Coalitions thus vary depending on the subject matter, and leadership roles may also be assumed by middle and non-power states.

Accordingly, the global order is increasingly characterised by issue-specific sub-systems with variable geometry membership (Burke-White 2015, p. 29). Such a fluid configuration of the global order might present new opportunities for co-operation (Mishra 2023, p. 63). As mentioned above, co-operation will become more challenging at the global level but could flourish within issue-specific sub-systems through regional or cross-continent partnerships of like-minded states. As scholars have argued, when state interests diverge and uncertainty increases, smaller '*clubs of cooperation*' are likely to emerge (Keohane and Victor 2011; Sirleaf 2016, p. 742). The progressive re-nationalisation, hybridisation and regionalisation of international criminal justice should be understood as a direct consequence of these global dynamics. These evolutionary trends in international criminal justice represent fluid and flexible mini-lateral solutions in the face of the crisis of multilateralism. The Joint Investigation Team (JIT) for Ukraine, established under the auspices of Eurojust following the Russian aggression of 2022, exemplifies a sub-global, fluid, yet effective partnership for advancing international criminal justice. By extending the EU principle of mutual recognition and relying on a flexible, ad hoc structure, the JIT enables advanced judicial co-operation and has facilitated the support of key actors otherwise ambivalent toward international criminal justice and the ICC, most notably the United States of America.

Furthermore, decentralised accountability for core international crimes better aligns with several other prominent features of the emerging global order. Contrary to the ICC's jurisdiction, the exercise of criminal jurisdiction over core international crimes by domestic courts represents a manifestation rather than an infringement of the sovereignty of the state. The exercise of criminal jurisdiction over conducts perpetrated on their territory or by their nationals is a classical sovereign function. Thus, domestic accountability better aligns with the more absolute conception of sovereignty that is emerging. Furthermore, extra-territorial titles of jurisdiction, frequent in the domain of international criminal law, also assert sovereignty as they empower the state to expand its sovereign prerogatives to events and persons beyond its borders (Cryer 2005, p. 987). In other words, extra-territorial jurisdiction represents an external projection of sovereignty. Similarly, regional or hybrid accountability initiatives are also less intrusive on state sovereignty compared to a court established at the global level and operating from the Netherlands. Regional and hybrid frameworks, indeed, give more leeway to states to accommodate their preferences stemming from

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a more absolute conception of sovereignty.[12] Finally, decentralisation and polycentricity promote pluralism in international criminal justice. Sub-global accountability frameworks allow for better adjustment to region-specific perspectives on justice, punishment and reparations, and foster ownership of justice efforts by victims' communities (Mishra 2023, p. 63; Turner 2007, p. 988).

5. A sub-system of international criminal justice into the future

Emerging shifts in the global order have a profound impact on international criminal justice. However, as outlined in the previous section, the picture is not only one of a destructive effect on the accountability system for core international crimes. While ongoing transformations in the power structures trigger a crisis for the ICC, they simultaneously promote the re-emergence of decentralised accountability and advance the transformation of international criminal justice into a polycentric system.

International criminal justice would benefit from a reconfiguration for the fight against impunity for the most heinous crimes to continue despite the more adverse global context that is emerging. The system of international criminal justice needs to confront the serious challenges that ongoing transformations in global political dynamics are giving rise to if it wants to unblock this crisis's catalyst potential for further development. In this perspective, it is useful to understand international criminal justice as a sub-system of the global order, as it reflects the same macro-dynamics: a shrinking global level and a progressive evolution into a polycentric system, offering opportunities for co-operation through issue-specific, ad hoc and flexible partnerships.

Global shifts are precipitating a crisis for the ICC. In the foreseeable future, there is no reasonable prospect that the Court will succeed in realising the universalistic vision of international criminal justice underpinning its Statute. The Court remains a less-than-universal institution, considering that its 125 states parties exclude several major powers and represent less than half of the world population. The Court could be granted universal jurisdiction via the UN Security Council's referrals, but this is unlikely in the foreseeable future, given the polarisation surrounding every activity by the Court. The ICC might continue to investigate the crimes allegedly perpetrated by nationals of states non-parties on the territory of a state party, but prospects of arresting and prosecuting these perpetrators are and will remain thin because of the growing phenomenon of non-co-operation. The Rome Statute's co-operation framework is facing serious challenges as states seem willing to co-operate with the Court only on an ad hoc basis, for situations or cases that align with their national interests and foreign policy priorities. Overall, the ICC will face increasingly severe challenges to its operations, including the effects of the United States sanctions regime. The Court will have to confront numerous obstacles before a case is prosecuted before its chambers, and its impact will thus likely be reduced. Against this backdrop, understanding the ICC as primarily 'the court of its states parties' would help to anchor it on solid grounds, namely sovereign national interests (Mégret 2021). In turn, this would equip the Court with a more robust foundation to navigate the turbulent times ahead.

Meanwhile, it is critical to promote a proactive, rather than defensive, attitude toward emerging global shifts. As anticipated, the international criminal justice project could preserve its relevance and further grow through ad hoc and flexible partnerships at the sub-global level, which represent opportunities for issue-specific enhanced co-operation. These mini-lateral solutions are promising alternatives to the crisis of multilateralism at the global level and the resulting collective action problems (Burke-White 2015, p. 39; Borrell 2023). International criminal justice as a global public good could continue to be provided as a 'single best-effort good'. These are goods that a single actor or group of actors can still provide in a consent-based structure of the international system (Butler 2018, p. 20; Krisch 2014). Power diffusion, disaggregation and asymmetries allow even

[12]For example, the Malabo Protocol would enshrine personal immunities of senior African officials (Art. 46A bis), deviating from Art. 27 of the Rome Statute.

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small- and medium-power states to assume a leading role in the sub-system of international criminal justice (Burke-White 2015, pp. 23–29).

However, the proliferation of centres of activity – national and hybrid courts, and regional initiatives – risks fragmenting international criminal law as a result of its application by heterogeneous jurisdictional bodies in the absence of formal co-ordination. However, the concern with fragmentation may be overstated. It may be more accurate to speak of a diversification of international criminal law, a condition that is inherent to international law given the absence of a single legislator. Provided that fundamental unifying principles are preserved, such diversification may thus be regarded as a sign of vitality rather than a threat to the unity of international criminal justice (Lattanzi 2012). Moreover, the institutional fragmentation generated by polycentricity can be mitigated through the strengthening of existing, or the creation of new, frameworks of co-operation and co-ordination among the courts and other accountability mechanisms operating at the international, regional and national levels (Colorio 2025). Polycentricity will inevitably intensify substantive fragmentation within this branch of international law. While preserving concordance on core norms of international criminal law remains essential, a reduced degree of concordance should not necessarily be perceived as a weakness. On the contrary, greater flexibility may enhance the system's acceptance and legitimacy across diverse legal, political and regional contexts (Savelsberg 2020, p. 228).

In addition, the peculiar sub-system of international criminal justice cannot afford to completely sideline, or worse, let die, the global level of enforcement represented by the ICC. First, decentralised accountability for core international crimes comes with its own shortcomings. Accountability before domestic and hybrid courts entails the risk of an over-focus on low-level perpetrators (especially from non-state actors) to the detriment of the responsibilities of those in the leadership. Not only political unwillingness but also personal immunities stand in the way of accountability for those highest in command before domestic courts. A further risk associated with decentralised accountability lies in the possible political (ab)use of universal jurisdiction (Langer 2011), a concern reflected in critical narratives that depict its exercise by Global North states as a form of *legal colonialism*. International criminal justice thus risks dissipating its counter-hegemonic potential through the persistence of double standards in its enforcement (Labuda 2023, pp. 9–10, 19). In addition, core international crimes are crimes that, by definition, offend humanity as a whole and not only the immediate victims.[13] Only the ICC, with its potentially universal jurisdiction, provides the necessary anchor to a universalistic vision of the fundamental rights international criminal law stands to protect.

In light of the foregoing, the ICC must reconfigure its role to preserve its long-term viability and relevance. Although the Court is ill-equipped to transform global political dynamics, the manner in which it responds to political pressures remains highly consequential. The Court does, in fact, retain the capacity to mobilise its own institutional resources so as to mitigate the effects of such pressures and preserve its authority (Bosco 2014, pp. 17–20). Rather than positioning itself as the centre of the system, the Court should operate as one hub within an increasingly polycentric architecture of international criminal justice. To this effect, it is critical for the ICC to embrace complementarity as the primary means through which to redefine its role within a transformed global order (Cruvellier 2025). Indeed, complementarity constitutes the most effective instrument at the Court's disposal for projecting the legal and moral values enshrined in the Rome Statute beyond its own adjudicatory activity (Luban 2013, p. 511). Such norm projection is critical, given that the future of international criminal justice will increasingly depend on the willingness of domestic and regional actors to engage meaningfully in accountability efforts.

From this perspective, the Court should, first and foremost, reconsider its understanding of the admissibility test under Article 17 of the Rome Statute as requiring 'same person, same conduct'.

[13]See, for example, *Prosecutor v Erdemović* (Judgment) IT-96-22 (7 October 1997) Separate Opinion of Judges McDonald and Vohrah, para 21 (ICTY).

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The ICC system would benefit from a more co-operative, or radical, conception of complementarity, under which the Court would refrain from declaring a case inadmissible as long as a state is making a genuine effort to bring an ICC suspect to justice (Heller 2016; Stahn 2023a, pp. 571–72).[14]

In any case, the reconfiguration of the ICC's role in a transforming global system should begin with its Office of the Prosecutor (OTP). While the authority of international courts and tribunals generally derives from their judicial decisions, this is less the case for international *criminal* courts and tribunals, such as the ICC, where authority depends to a greater extent on prosecutorial strategies (Levi *et al.* 2018, p. 361). As the organ of the Court responsible for deciding whether to open an investigation and against which suspects to request the issuance of arrest warrants, the OTP is at the focal point of external pressures. It is therefore also within the OTP that political dynamics are most acutely felt within the Court (Hagan *et al.* 2006, p. 591). Accordingly, the OTP plays a critical role in shaping the future trajectory of the Court in the face of emerging global shifts.

The OTP should advance positive complementarity by leveraging the legal instruments provided by the Statute that allow for empowering polycentricity and transforming the Office into a hub for decentralised accountability efforts, functioning as an effective partner for national authorities (Stahn 2023a, pp. 569–72). An essential tool to that end is *reverse co-operation* under Article 93(10), which encompasses the assistance, including evidentiary support, that the Court can provide to national authorities investigating and prosecuting core international crimes (Gioia 2011). Interestingly, such an approach would echo the initiatives and strategic choices already undertaken by the OTP of the ad hoc tribunals for Rwanda and former Yugoslavia. In the early 2000s, political pressures on the ad hoc tribunals, coupled with a shift in United States support under the Bush administration, prompted the Prosecutor to implement a strategic and organisational reconfiguration of the Office (Hagan *et al.* 2006, pp. 592, 609). Central to this process was the adoption of the *completion strategy*, aimed at concluding all trial work within a specified timeframe while transferring remaining cases and investigative materials to national jurisdictions. This illustrates how changing political circumstances surrounding international criminal justice can catalyse a transition of accountability from the international to the domestic level – a dynamic that is increasingly observable today, albeit on a broader scale, as a consequence of emerging global shifts and the resulting (extraordinary) crisis confronting the ICC.

A more systematic and structured use of reverse co-operation would, first and foremost, allow the ICC to reinforce international criminal justice initiatives that are gradually developing at a decentralised level. The OTP, particularly in relation to certain situations, possesses evidence that, if shared, could be highly valuable to other actors within the polycentric system. In this manner, the ICC could progressively position itself as an international organisation capable of embedding and providing the supporting structures for a *vertical transnational network* of international criminal justice, which, in turn, could enhance *horizontal co-operation* among its various actors (Turner 2007, pp. 999–1006). Reverse co-operation also incentivises the ICC, domestic jurisdictions and other international criminal justice mechanisms to enter into co-ordination frameworks and joint action networks in order to facilitate and streamline a two-way exchange of information and evidence. In turn, co-ordination may help prevent polycentricity in international criminal justice from developing into a turf battle among the various actors involved but rather promote division of labour, thereby helping close accountability gaps for perpetrators of the most heinous crimes (Sirleaf 2016, pp. 758–60; Turner 2007, pp. 999–1006). In turn, reverse co-operation may also benefit the OTP's own investigations and prosecutions. National authorities may develop a relationship of trust with the ICC by receiving information and evidence

[14]The admissibility decision in the *Beina* case is a step in the right direction. *Decision on the Central African Republic's challenge to the admissibility of the case against Edmond Beina* (Pre-Trial Chamber), ICC-01/14-217-Red, 12 September 2025.

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for their own accountability efforts, and in turn become progressively more willing to co-operate with the Court.

A positive development in the direction of the reconfiguration of the OTP's strategies along the lines outlined above is already discernible in the *Policy on Complementarity and Cooperation,* published in April 2024 (ICC-OTP 2024). The new policy aims at 'a paradigm shift in [the OTP's] relationship with national authorities and other accountability initiatives' (Khan 2024). In the Prosecutor's vision, the ICC should transform from 'the apex of international criminal justice' to 'a hub at the centre of our collective accountability efforts' (Khan 2024). To this end, the Office should strive to establish itself as 'a strong and effective partner for national authorities, providing prompt and impactful assistance' (Khan 2024). This strategic vision is, in truth, not entirely novel. Already the Court's first Prosecutor articulated a conception of the OTP centred on positive complementarity; however, that vision largely failed to translate into sustained practice (Colorio 2025). By contrast, Prosecutor Khan appears aware that the fault lines of the emerging international system risk paralysing the Court, and has accordingly promoted the operationalisation of a model in which the ICC commits itself to supporting national, hybrid and regional initiatives for the repression of core international crimes. A tangible indicator of this shift can be found in the increasing number of requests for assistance received by the OTP in recent years (ICC-OTP 2025, p. 64). As van Sliedregt has observed, the *justice hub paradigm* constitutes the 'right and logical next step' for the OTP to harness emerging trends in international criminal justice and to carve out a realistic and sustainable role for the Court in the future (van Sliedregt 2024).

Should the OTP successfully transition into a justice hub, the ICC's authority profile will emerge transformed. To date, the ICC has maintained a robust extensive authority, characterised by deep recognition and normative support from the broader legal field, particularly civil society. Conversely, it has consistently faltered in securing narrow and intermediate authority, struggling to elicit compliance from investigated states and failing to mobilise *compliance partners* – such as domestic judicial and executive authorities (Vinjamuri 2016). Repositioning the Court as a justice hub focused on reverse co-operation may risk alienating its traditional civil society base, potentially eroding its extensive authority. However, this strategy offers a viable pathway to bolstering narrow and intermediate authority, at least among states parties, facilitating operational efficacy without necessitating subordination to the major powers' control (Levi *et al.* 2018, pp. 356–57).

Beyond the internal reconfiguration outlined above, states and other supporters of the Court should also temper their expectations regarding the ICC's potential deliverables. It is advisable to ask the Court to deliver only what is feasible in a state-centric international system (Mégret 2021). Otherwise, the ICC risks being declared failed or dead before its time.

In conclusion, it is foreseeable that, in the future, a sub-system of international criminal justice will need to rely on decentralisation and polycentricity for its continuous consolidation and growth. Nevertheless, it is submitted that a role for the ICC should be preserved. The Court will serve a symbolic unifying function, maintaining the international criminal justice system as one. However, at the operational level, the Court should continue functioning as one of the many centres of activity within a polycentric system.

6. Conclusion

The erosion of the liberal international order – marked by the diffusion and disaggregation of power, the reassertion of a more absolute conception of state sovereignty and the rise of normative pluralism – is re-shaping the conditions under which international criminal accountability operates. This article has examined the effects of these emerging global shifts on the system of international criminal justice, identifying both destabilising and generative dynamics. Rather than signalling the demise of international criminal justice, these shifts point toward its reconfiguration into a polycentric system.

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On the one hand, emerging shifts precipitate an (extraordinary) crisis for the ICC. On the other, they promote the expansion of decentralised accountability for core international crimes, thereby fostering the emergence of polycentricity in international criminal justice. The analysis thus confirms that a crisis of the ICC does not necessarily amount to a crisis of international criminal justice writ large. Decentralised accountability mechanisms – whether domestic, regional or hybrid – offer significant opportunities to extend the reach of international criminal justice and to mitigate some of the political constraints faced by the ICC. They represent ad hoc and flexible frameworks for enhanced co-operation and may be driven not only by major powers, but also by small- and medium-power states.

At the same time, decentralised accountability risks exacerbating the selective enforcement of international criminal justice. In addition, in the absence of adequate co-ordination, decentralisation may transform institutional diversification into a source of fragmentation rather than a means of closing accountability gaps.

Against this background, the article has argued that preserving the long-term viability and relevance of the ICC remains essential. The Court retains the potential to safeguard the unity of the international criminal justice project and to serve as a linchpin for strengthening existing – or developing new – frameworks of co-ordination for the investigation and prosecution of core international crimes across multiple levels. To fulfil this function, however, the ICC must reconfigure its role: not as the apex of the system, but as one – albeit a key – hub within a polycentric architecture of international criminal justice. Embracing a more radical understanding of complementarity and committing to reverse co-operation emerge as the most promising avenues for the OTP to carve out a realistic and sustainable role for the Court within the transformed international system.

The emerging polycentric system of international criminal justice is far from an ideal scenario. Impunity for core international crimes will continue to be the rule, and double standards will remain in place. However, the present analysis is meant to be a realistic rather than an idealistic assessment of the present and foreseeable future of international criminal justice. The global context in turmoil leaves little room for more optimistic projections. Whether more favourable times for international criminal justice will re-emerge remains an open question. The hope is that they will, but it is too early to anticipate when and at what cost.

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