

THE IDEOLOGY OF THE INTERNATIONAL CRIMINAL COURT: HUMAN-CENTRISM, STRUCTURAL TENSIONS, AND TRANSNATIONAL CHALLENGES

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Abstract. The International Criminal Court (ICC) was conceived as a normative and institutional rupture with the sovereignty-centred tradition of international law: a permanent court grounded not in the will of states but in the inherent dignity of individuals and the imperative to protect victims of the most serious crimes. This article offers a comprehensive ideological analysis of the ICC - its foundational human-centred commitment, the structural tensions that beset its operation, and the transnational challenges that test the adequacy of its normative architecture. Drawing on the concept of criminal-law ideology developed in Ukrainian legal scholarship, and engaging with the Court's own jurisprudence, the Rome Statute's drafting history, and the broader framework of international, European and transnational criminal law, the article argues that the ICC embodies four interrelated ideological dimensions: (1) human-centrism as a legitimating axis that simultaneously grounds and overburdens the Court's claims; (2) complementarity as an ideological battleground where competing conceptions of justice, sovereignty and good faith collide; (3) contextual thresholds that create normative vacuums at the interface with transnational criminal law, excluding from the Court's reach forms of harm that are morally comparable to its core crimes; and (4) an individualistic responsibility paradigm that is structurally blind to the corporate, network and algorithmic actors that increasingly determine the conditions under which mass harm occurs. Each dimension is examined in depth, and a series of normative proposals is developed for re-articulating the Court's ideology in response to twenty-first century challenges.

Keywords: International Criminal Court; criminal-law ideology; human-centrism; complementarity; Rome Statute; contextual thresholds; transnational criminal law; European criminal law; corporate accountability; algorithmic governance; organisational fault; normative vacuum; penal populism; Ukrainian criminal-law doctrine.

1. Introduction: The Ideological Stakes of the International Criminal Court

The International Criminal Court is, before anything else, an ideological project. To say this is not to diminish it but to insist on taking seriously the normative commitments that animate its design, shape its jurisprudence and condition its relationship with states, victims and the broader architecture of international law. The Rome Statute of 1998 did not merely establish a new court; it encoded a particular vision of what justice demands in the aftermath of mass atrocity, who bears responsibility for the gravest crimes, and what role an international institution should play in a world still organised around sovereign states. Understanding the ICC requires understanding that vision - its content, its internal tensions, and the ways it is tested by a reality that has changed significantly since 1998.

The concept of criminal-law ideology, as elaborated in recent Ukrainian legal scholarship, provides a particularly productive analytical framework for this inquiry. Kolomiets defines criminal-law ideology as the system of coordinated criminal-law ideas, theories, concepts, provisions and principles, standing in a determined hierarchy and aimed at shaping both criminal legislation and the practice of its application.¹ This definition highlights two features of ideology that are essential for understanding the ICC. First, ideology is not merely descriptive or interpretive; it is normatively constructive - it shapes what legislators and judges consider possible, necessary or desirable within the domain of criminal law. Second, ideology operates at multiple levels simultaneously: in the formal content of legal rules, in the institutional self-understanding of courts and prosecutors, and in the broader public discourse through which legal institutions acquire or lose legitimacy.

In my analysis of the multilayered "criminal-ideological landscape," I identify multiple parallel ideological systems - the state's official criminal-law ideology, the professional ideologies of police, prosecutors and judges, the normative frameworks of supranational institutions, and the ideological systems of civil society, victims and perpetrators - that together constitute the normative context within which criminal law operates.² At the international level, several distinct ideological registers operate simultaneously: European integration criminal-law ideology, which implements EU principles and human rights standards; the autonomy-centred jurisprudence of the European Court of Human Rights; international humanitarian law and international criminal law, which shape conceptions of responsibility for war crimes and crimes against humanity; and the ideological frameworks of transnational organised crime and its hybrid collective actors

- multinational corporations, private military companies, illegal quasi-state formations and investment funds - which form what I call a "normative mosaic framework" that is binding on states but not always intelligible to citizens.³

This multilayered ideological landscape is the environment within which the ICC operates. Understanding the Court's ideological position requires attending not only to its own self-presentation - to the human-centred universalism encoded in the Rome Statute - but also to how that self-presentation interacts with, and is challenged by, the competing ideological logics of the states, organisations and communities that constitute its operating environment. The ICC's ideology is not a fixed foundation on which the Court's practice rests; it is a contested normative construction that is continuously produced and reproduced through institutional choices and the reactions those choices provoke.

This article pursues a systematic ideological analysis of the ICC along four principal dimensions. Section 2 examines the Court's foundational commitment to human-centrism - its historical origins, its institutional embodiments, and its inherent paradoxes. Section 3 analyses complementarity as an ideological battleground, showing how the formal principle of deference to national jurisdictions functions in practice as a site of structural tension between competing conceptions of justice, sovereignty and institutional responsibility. Section 4 examines the normative architecture of the Rome Statute - its contextual thresholds, gravity requirements and systematic exclusions - and the normative vacuums those create at the interface with transnational criminal law. Section 5 turns to the challenge of corporate, network and algorithmic actors, and the structural blind spot they reveal in the ICC's individualistic responsibility paradigm. Section 6 develops normative proposals for re-articulating the Court's ideology. A brief conclusion reflects on the broader significance of criminal-law ideology analysis for the trajectory of international criminal justice.

2. Human-Centrism as Foundational Ideology

2.1 The Historical Rupture: From State-Centrism to Human Dignity

The ICC's foundational ideology represents a normative rupture with the sovereignty-centred tradition that had dominated international law since the Peace of Westphalia. In the classical model, individuals appeared in international law primarily as objects of inter-state agreement rather than as independent bearers of rights and dignity.

Even the landmark prosecutions at Nuremberg and Tokyo, which established individual criminal responsibility as a principle of international law, remained ideologically ambiguous: they were created by the victorious Allied powers, addressed primarily to the leadership of defeated states, and framed in terms of crimes against peace and violations of the laws of war - categories that retained their anchor in inter-state conceptions of order and security rather than in the inherent worth of individual victims.

The ICC represents a different ideological orientation, one that had been developing through the human rights movement of the postwar decades and crystallised in the negotiations at Rome. The Preamble to the Rome Statute encodes this orientation directly: it recalls that millions of children, women and men have been victims of unimaginable atrocities that deeply shock the conscience of humanity, and affirms the determination to put an end to impunity for the perpetrators of these crimes. The referent is not state relations but human suffering; the normative ground is not inter-state obligation but the shared moral claim of humanity against those who commit mass violence.

Kolomiiets establishes that the worldview ideas constitutive of criminal-law ideology - philosophical, ethical, political, economic and sociological - shape not only the content of individual offences but the entire institutional architecture through which criminal justice is organised: the selection of subjects of responsibility, the modes of participation in crime, the purposes of punishment, and the procedural rights of various actors.⁴ Applied to the ICC, this analysis reveals that the Court's human-centred orientation is not merely rhetorical. It is embedded in concrete institutional choices that distinguish it structurally from all previous international criminal tribunals - most prominently the victims' participation regime, which grants independent procedural standing to those directly harmed, and the Prosecutor's mandate to act *proprio motu*, which asserts that accountability for mass atrocity cannot be wholly dependent on the political will of the governments that may themselves be implicated in the crimes.

2.2 The Paradox of Human-Centred Universalism

The ICC's human-centrism, however, is inscribed from the outset in an objectively conflictual field. The Court claims to represent the universal conscience of humanity while remaining structurally dependent on states for its very existence and operation. It has no independent enforcement machinery, no police force, and no power of compulsion over

sovereign governments. Its jurisdiction depends on ratification or Security Council referral; its investigations depend on state cooperation; its arrest warrants can only be executed by states that choose to honour them. The gap between the depth of the Court's normative claims and the narrowness of its operational leverage is not a contingent flaw; it is a constitutive feature of an institution that must coexist with, rather than supersede, the sovereign states on whose cooperation it depends.

This structural paradox generates the ideology of restrained universalism. The ICC asserts the moral unacceptability of impunity for the gravest crimes, yet explicitly acknowledges that the primary responsibility for prosecuting those crimes rests with states. It claims to speak for humanity, yet can only act in situations brought within its jurisdiction by state choices - through ratification, referral, or the contingent exercise of Security Council authority. The more consistently the ICC pursues its human-centred ideology - insisting, for example, on prosecuting high-ranking officials regardless of political status - the more sharply it encounters resistance from states for whom the Court looks like an instrument for the redistribution of symbolic and juridical power. Human-centred ideology simultaneously strengthens the Court's moral legitimacy in the eyes of the global public and complicates its operational position, because it calls into question the traditional mechanisms of inter-state loyalty on which practical effectiveness depends.

A further dimension of this paradox concerns the geographic distribution of ICC activity. The Court's case docket has been heavily concentrated on sub-Saharan Africa, generating a sustained critique that the ICC applies its universalist principles selectively, targeting relatively weak states while leaving the conduct of powerful ones beyond scrutiny. This critique has an ideological dimension: it suggests that the Court's human-centred universalism is conditioned by the geopolitical structure of global power, applied asymmetrically in ways that reflect rather than challenge existing inequalities of international influence.

2.3 Human-Centrism and the Reality of Victims' Engagement

A third dimension concerns the gap between victim-centred rhetoric and the actual experience of victims engaging with ICC processes. ICC proceedings are extraordinarily complex, typically extend over many years, and are conducted in The Hague - thousands of kilometres from the communities most affected by the crimes under adjudication. The

frameworks governing victims' participation are sophisticated but demanding: the requirement that victims apply for recognised status, specify their personal harm, and demonstrate a link to specific charges creates barriers that significantly limit the number and diversity of victims who engage meaningfully.

The reparations regime has faced even more severe practical difficulties. The Lubanga case saw implementation frustrated by the convicted person's indigence and the complexity of designing collective reparations for child-soldier recruitment. The Trust Fund for Victims operates on a resource base wholly inadequate to the scale of harm that ICC situations involve; it cannot plausibly provide meaningful redress to the hundreds of thousands or millions of individuals affected in situations such as Darfur or the DRC. When the ICC presents itself as a court that exists "for the victims," it risks generating expectations it cannot meet - and that failure can itself become a source of grievance and delegitimation.

3. Complementarity as Ideological Battleground

3.1 The Formal Architecture and Its Ideological Content

Complementarity is the structural principle that most directly expresses the ICC's self-understanding as an institution embedded in, rather than autonomous from, the system of national criminal justice. Article 17 of the Rome Statute provides that the Court shall determine a case inadmissible where the case is being investigated or prosecuted by a state which has jurisdiction over it, unless that state is unwilling or unable genuinely to carry out the investigation or prosecution. The Court is thus positioned as a backstop - a last resort for situations in which national justice has failed - rather than a primary tribunal with independent jurisdiction.

In my conceptual framework, complementarity may be understood as encoding a specific ideological answer to the question of where the legitimate authority to prosecute international crimes is located.⁵ That answer is neither straightforwardly internationalist nor straightforwardly nationalist, but hybrid and conditional: international prosecution is legitimate when, and only when, national justice genuinely fails. This conditionality creates a permanent normative pressure on states to maintain genuine accountability systems, while preserving their primary jurisdictional authority - and a permanent opportunity for states to manipulate the appearance of accountability in order to foreclose ICC jurisdiction.

The ideological significance of complementarity extends beyond its formal allocation function. By making national proceedings the primary vehicle of accountability, the Rome Statute affirms that justice for mass atrocity is best achieved by institutions that share the language, culture and institutional memory of the affected communities. This affirmation has a democratic dimension: it respects the self-determination of communities to address their own histories of violence. At the same time, it creates a structural vulnerability: precisely the situations in which mass atrocity has occurred are those in which national justice systems are most likely to have been captured by or complicit in the very conduct that requires accountability.

3.2 The Unwillingness and Inability Tests in Practice

The practical operation of the unwillingness and inability tests reveals the depth of this structural tension. In determining unwillingness, the Court must assess whether proceedings are taken to shield the accused, whether unjustified delay reflects bad faith, or whether proceedings lack independence or impartiality. Both tests require the Court to make highly sensitive and contestable judgments about the internal workings of sovereign states - judgments that inevitably carry political implications far beyond the specific cases to which they apply.

The Libya situation illustrates the full complexity. Following the fall of the Gaddafi regime, Libya argued that domestic proceedings against Saif al-Islam Gaddafi should displace ICC jurisdiction on complementarity grounds. The ICC Pre-Trial Chamber's prolonged assessment of whether Libya's fragmented post-revolution justice system - operating in a context of civil conflict, competing armed factions and institutional collapse - was genuinely able to investigate and prosecute a high-profile former regime figure revealed how demanding the complementarity test is in practice. The eventual finding of inability was contested by Libyan authorities and highlighted the inherently political character of assessments formally framed as legal determinations.

The structural paradox is most acute in situations involving state-sponsored atrocity. Where a government is itself responsible for or complicit in the crimes under investigation, the expectation that it will conduct genuine proceedings against its own officials is normatively justified but empirically unrealistic. The Court's complementarity test is designed to address this problem, but it does so by requiring precisely the kind of intrusive

scrutiny of state conduct that most governments resist as an infringement of their sovereignty - producing a permanent tension between the ICC's human-centred obligation to ensure accountability and the complementarity-based constraint on that obligation.

3.3 Complementarity and Divergent Criminal-Law Ideologies

A dimension of the complementarity problem that has received insufficient scholarly attention concerns the divergence between the ICC's criminal-law ideology and those of the national systems it interacts with. Kolomiiets demonstrates that even formally similar legal provisions may be applied in systematically different ways depending on the underlying ideological premises of the system in question - the assumptions about punishment's purpose, the relationship between individual and collective responsibility, and the proper scope of state authority over criminal matters.⁶ For the ICC, this means that assessing whether national proceedings are "genuine" requires understanding not only the formal content of national law but its ideological context - a demanding and inevitably contestable enterprise.

This ideological divergence is particularly acute in relation to the crime of aggression. The Rome Statute defines aggression as a "leadership crime" - one that can only be committed by persons exercising effective control over or directing the political or military action of a state - reflecting the historical lesson that aggressive war is a crime of political and military elite decision-making. National legal systems confronting the same conduct may, however, operate from different ideological premises. A state facing existential threat from invasion may consider it both normatively justified and practically necessary to hold accountable a broader range of actors: mid-level commanders who organised specific aggressive operations, political officials who facilitated aggressive policy, propagandists whose work was decisive in mobilising public support for aggression, and logistical enablers without whom aggressive war could not have been sustained.

These national prosecutions may reflect a genuine and principled commitment to accountability, consistent with the national system's own constitutional framework. But they operate from a premise - that responsibility for aggression extends beyond the narrow circle of those who exercise ultimate control - that is not captured by the ICC's strictly leadership-focused model. The result is a zone of doctrinal incommensurability: national convictions that the ICC cannot simply endorse without implicitly adopting a conception of the crime at

odds with its own Statute, yet which may well represent a sincere and competent accountability effort falling entirely outside the meaning of "unwillingness" or "inability" under Article 17.

A concrete illustration of this tension at the highest judicial level is provided by the 2024 judgment of the Grand Chamber of the Supreme Court of Ukraine in criminal proceedings against individuals convicted of crimes related to the planning, preparation, initiation, and waging of a war of aggression. The judgment - authored by Judge L. Kyshakevych - set a judicial precedent for cases involving crimes against peace, human security, and the international legal order, and required the Grand Chamber to engage deeply with national criminal law, international criminal law, international humanitarian law, and the case law of international tribunals simultaneously.⁷ Judge Kyshakevych's authorship of this precedent-setting decision attests to a level of expertise in the subject-matter jurisdiction of the ICC - particularly regarding the crime of aggression and related international legal assessments - that is directly relevant to the Court's own institutional needs. As the Statement of Ukraine in support of the candidacy of Judge Kyshakevych for election to the ICC notes, this judgment exemplifies the kind of sophisticated cross-system legal reasoning that effective ICC adjudication demands.⁸ Yet the judgment also illustrates the divergence problem identified above: the Ukrainian Grand Chamber's doctrinal construction of aggression liability - developed under conditions of active armed conflict and in response to a broad range of actors - may not map perfectly onto the ICC's strictly leadership-focused Article 8 bis framework, precisely because the two systems are animated by related but not identical criminal-law ideologies operating in response to the same underlying facts from different institutional vantage points.

Resolving this incommensurability requires not merely better technical coordination between national and international prosecutors, but a deeper engagement with the question of what criminal-law ideology should animate the ICC's complementarity assessments in a world of ideologically diverse legal orders. The Court must develop a principled account of how to relate to national legal systems that are genuinely committed to accountability but that understand the nature and scope of that accountability in terms different from those encoded in the Rome Statute.

3.4 Strategic Complementarity and Penal Populism

A further dimension concerns the risk that complementarity will be exploited through what I call penal populism - the deployment of criminal proceedings for political rather than accountability purposes. States facing ICC scrutiny have a structural incentive to create the formal appearance of complementarity-satisfying activity through proceedings not designed to achieve genuine accountability. By opening investigations, making arrests, or initiating trials against persons of secondary importance, governments can shield primary perpetrators from international scrutiny while appearing to comply with their accountability obligations. The Court's unwillingness test is designed to penetrate this formal appearance, but the evidentiary bar is high and the political costs of finding a state "unwilling" - amounting to a formal finding of bad faith - are substantial.⁹

The penal-populism dynamic also operates at the level of ICC case selection. The Prosecutor's decisions about which situations to investigate and cases to pursue are inevitably influenced by political pressures - from states that control the Court's budget, civil society organisations with advocacy priorities, and the reputational imperatives of an institution needing to demonstrate results. When case selection is driven by political expediency rather than principled accountability criteria, the result is a form of institutional penal populism at the international level that mirrors the pathologies of populist criminal justice at the national level.

4. Contextual Thresholds, Normative Vacuums, and the Architecture of Exclusion

4.1 The Ideology Encoded in Contextual Limitation

The most distinctive feature of the Rome Statute's substantive architecture is its insistence that the Court's jurisdiction extends only to conduct meeting demanding contextual requirements. Unlike national criminal law, which typically defines offences by reference to the conduct and mental state of the individual perpetrator alone, the Rome Statute requires that individual conduct be situated within a broader context - of armed conflict, of a widespread or systematic attack, of specific group-destroying intent, or of leadership-level decision-making - before it qualifies as an ICC crime. This contextualisation reflects a deliberate ideological choice about what makes certain crimes "the most serious crimes of concern to the international community as a whole."

The contextual requirements for each crime category serve specific functions. For crimes against humanity, the requirement of a widespread or systematic attack pursuant to a state or organisational policy marks the distinction between individually serious but isolated conduct and organised, policy-driven victimisation of civilian populations at scale. For war crimes, the nexus to armed conflict situates criminal responsibility within the framework of international humanitarian law. For genocide, the specific intent requirement captures the uniquely grave character of conduct aimed at the destruction of a human group as such. And for aggression, the leadership requirement and manifest-violation threshold are designed to reserve the crime for the highest-level abuses of state power. Taken together, these requirements embody a specific ideological image of international crime shaped by the historical experience of the twentieth century.

4.2 The Normative Vacuum and Its Dimensions

The ideological logic of contextual limitation creates, however, a normative vacuum of substantial dimensions. Many forms of harm widely perceived as grave - large-scale trafficking in persons, systemic forced labour organised through global supply chains, mass digital surveillance deployed to suppress political dissent, environmentally catastrophic industrial practices, algorithmically orchestrated campaigns of targeted violence - may not meet the specific contextual conditions of Articles 7 or 8, even when they affect millions of people and produce suffering comparable in scale and intensity to the harms the Statute was designed to address.

The relationship between the ICC's jurisdiction and the Palermo Protocol on trafficking in persons illustrates the structural character of this vacuum. The Protocol defines trafficking through a tripartite formula of act, means and purpose that requires no armed conflict, no widespread or systematic attack, and no policy directed against a civilian population as such. Directive 2011/36/EU on trafficking in human beings similarly operates without ICC-type contextual requirements, imposing positive obligations on EU member states to criminalise, investigate and prosecute trafficking through robust victim-centred frameworks. These instruments address the same fundamental harm - the treatment of human beings as instruments of exploitation - that lies at the heart of the ICC's crimes-against-humanity provisions, but through a different legal architecture. The result is a two-tier structure in which different legal regimes address different configurations of what may

be a unified pattern of organised harm, sending contradictory signals about which forms of mass exploitation the international community regards as most serious.

The fact that mass trafficking, systematic forced labour and other forms of large-scale exploitation remain beyond the ICC's reach is not merely a technical gap in the law. As I have argued in my recent work on the crisis of normativity in post-normal times, this signals the limits of states' willingness to subject economic and technological practices - many of which underpin their competitive position in the global economy - to international criminal accountability. Where international criminal justice threatens to touch the fundamental mechanisms of economic and technological domination, it encounters silent but highly effective political resistance. The universalist discourse of the ICC - about protecting human dignity, ending impunity, speaking for the victims - is in this light partially dependent on the structural configuration of global power.¹⁰

4.3 The Normative Minimum / Moral Maximum Tension

The normative vacuum at the ICC's jurisdictional periphery generates a structural tension between the Court's formal normative minimalism - defined by the Rome Statute's contextual categories - and the moral maximalism of expectations that has crystallised around it. Civil society organisations, human rights advocates, academic communities and significant portions of the global public increasingly regard the ICC as the institution that should respond to the full spectrum of the most serious violations produced by contemporary transnational structures of power: from ecocide to systematic digital abuses to supply-chain-enabled exploitation. These expectations are the logical extension of the human-centred ideology the ICC has embraced as its foundational legitimating narrative. The ideological and utopian dimensions of international criminal justice reveal themselves most acutely here: the Court's founding vision outpaces its institutional capacity, producing a permanent gap between normative aspiration and operational reach.¹¹

Managing this tension requires a more explicit engagement with the ideological premises that underlie the Court's jurisdictional choices: an engagement that acknowledges the historical conditionality of the Statute's categories, articulates principled grounds for the limits those categories impose, and identifies pathways for addressing - through non-ICC mechanisms, doctrinal development, or the catalytic pressure of ICC engagement - the forms of harm that currently fall outside the Court's formal reach.

4.4 The ICC's Normative Architecture as Historically Fixed

The deeper ideological problem is that the Rome Statute's normative architecture is historically fixed: it appeals to universal values but does so through a categorical apparatus formed by a specific era and a specific experience of mass violence. As I argue in considering the crisis of normativity that characterises post-normal times, the tension between the inherited normative framework and the demands of a changed reality is not resolvable by incremental adjustment alone - it requires a more fundamental reckoning with the ideological premises that govern the framework's application.¹² The model of international crime that informed the Statute's drafting - crime orchestrated by political and military elites, directed systematically against identifiable population groups, producing mass casualties and civilisational rupture - captured the defining catastrophes of the twentieth century with considerable accuracy. But it does not capture the defining configurations of harm in the twenty-first: diffuse, decentralised decision-making; mediation through market and technological structures; distribution across multiple jurisdictions and actor types; and the systematic exploitation of legal arbitrage to avoid accountability.

Addressing this historical fixity does not require abandoning the Statute's contextual architecture. It requires a committed program of interpretive development that reads the existing categories with sensitivity to evolving forms of organised harm - asking, for each contextual element, what purposes it was designed to serve and how those purposes are best served in a world where the morphology of mass atrocity has changed.

5. Corporate, Network and Algorithmic Actors: Structural Blind Spots

5.1 The Individualistic Responsibility Paradigm and Its Limits

The Rome Statute is built on an individualistic paradigm of criminal responsibility: its jurisdiction extends only to natural persons, and all the modes of liability it recognises are designed to attribute criminal conduct to identifiable human beings acting with the requisite mental state. In many contexts, this paradigm captures something morally important. It ensures that political and military leaders cannot escape responsibility by hiding behind institutional structures or diffuse chains of command, and it connects the

distinctive moral force of criminal condemnation to the personal choices of identifiable agents.

Yet as my analysis of new criminal-ideological actors makes clear, the contemporary landscape of serious harm is increasingly shaped by entities and systems that cannot be adequately captured within the individualistic paradigm.¹³ Transnational corporations, private military companies, illegal quasi-state formations, investment funds and other hybrid collective subjects form a normative mosaic framework that shapes the conditions under which serious harm occurs - generating forms of responsibility that are genuinely collective rather than merely aggregative, distributed across multiple human decision-makers in ways that make individual attribution both analytically misleading and practically insufficient.

5.2 Corporate Actors and the Accountability Gap

The problem of corporate complicity in international crimes has been a persistent challenge for scholars and practitioners of international criminal law. Private military and security companies have provided detention, interrogation and combat services in contexts characterised by systematic violations of international humanitarian law. Multinational corporations have supplied surveillance technology to authoritarian governments knowing it would be used to identify and persecute political opponents. Extractive industry companies have continued operations in conflict zones where their revenues financed atrocity crimes. Financial institutions have facilitated the movement and laundering of funds for actors responsible for mass violence. In each of these situations, the corporate actor as such - the entity that designed the products or services, allocated the resources, established the risk-management frameworks, and benefited from the arrangements - remains formally outside the ICC's jurisdictional reach.

At best, individual executives or managers may face prosecution as accomplices or superiors if evidentiary conditions can be satisfied - conditions that are difficult to meet when corporate decision-making is distributed across multiple individuals, committees and institutional levels. The result is a systematic accountability gap that sends a powerful and damaging ideological message: the organisational architectures that make atrocity possible - that supply the weapons, process the intelligence, finance the operations - escape the reach of the institution that claims to represent humanity's ultimate response to atrocity.

5.3 Network Actors and Distributed Responsibility

The challenge of corporate accountability is compounded by the proliferation of network actors - informal but highly organised networks of individuals and entities coordinating criminal activity across multiple jurisdictions without formal structures of incorporation or legal personality. Transnational trafficking networks, criminal organisations exploiting migrants and asylum seekers, armed groups shifting between political and criminal activities, and quasi-state formations exercising territorial control while engaging in systematic atrocity - all present challenges to the ICC's responsibility architecture that go beyond the corporate accountability gap. Network actors are particularly problematic because they combine distributed decision-making with the deliberate avoidance of legal structures that might create accountability. Applying the ICC's modes of liability requires either identifying specific individuals exercising sufficient control - practically impossible when networks are deliberately structured to obscure leadership - or extending doctrines in ways that may strain their conceptual foundations.

5.4 Algorithmic Governance and the Frontiers of Responsibility

The challenge of algorithmic governance represents a qualitatively new frontier of the distributed-responsibility problem. As machine-learning systems are deployed to make or heavily influence decisions about targeting in armed conflict, surveillance of political opponents, content moderation and information-environment management, the traditional relationship between human decision-making and harmful outcome is fundamentally transformed. When an algorithm systematically misidentifies members of a religious minority as security threats, leading to their detention and abuse, who bears criminal responsibility? The engineers who designed the system? The managers who approved its deployment without adequate bias assessment? The commanders who relied on its outputs without oversight? The political leadership that created the institutional environment for the system's deployment? Each of these actors may bear some moral responsibility; none may bear it in a way that clearly satisfies the ICC's existing modes of liability.

The ideological implication is stark. If the ICC's individualistic responsibility paradigm cannot be extended - even through creative doctrinal development - to capture the forms of responsibility that arise in algorithmic governance environments, the Court will be structurally unable to address what is likely to become one of the most important modalities

of organised harm in the twenty-first century. Algorithmically mediated targeting, repression and exclusion - conducted at scale, at speed, across multiple jurisdictions - will remain outside the reach of the institution that claims to speak for humanity's most fundamental values.

6. Re-Articulating ICC Ideology: Normative Proposals

6.1 Complementarity as Shared Responsibility in a Multilevel System

The first proposal concerns the conceptual re-articulation of complementarity. Rather than understanding it as a bilateral relationship - the ICC defers to national proceedings or substitutes for them - complementarity should be re-conceived as a principle of shared responsibility within a multilevel accountability system that encompasses not only the ICC and national courts but also regional mechanisms such as those created by the European Public Prosecutor's Office, TCL-based cooperation frameworks, hybrid tribunals, and other accountability instruments. The question is not only whether a particular state is willing and able to prosecute the specific conduct under investigation, but whether the constellation of regimes operating in a given situation collectively provides an adequate response to the full range of harm.

At the ideological level, re-conceptualising complementarity as shared responsibility would shift the Court's self-understanding from that of an apex institution that judges the adequacy of national justice to that of a catalyst and standard-setter within a networked accountability ecosystem. This shift would not diminish the Court's normative authority - indeed, it might enhance it - but it would require a more collaborative orientation in which the ICC sees its contribution as part of a larger whole rather than as self-sufficient.

6.2 Doctrinal Bridging at the ICL-TCL Interface

The second proposal concerns the development of a more systematic jurisprudence at the intersection of ICC crimes and TCL-addressed conduct. Without formally amending the Statute, the Court could do substantially more to develop the interpretive resources available within existing provisions to address patterns of harm that straddle the boundary between international criminal law and transnational criminal law. The concept of "organisational policy" in Article 7(2)(a) has been interpreted by ICC Pre-Trial Chambers

in ways that extend it beyond formal state structures to include non-state groups with sufficient organisation and cohesion. A further development of this concept could address situations in which organised criminal networks or corporate entities pursue systematic exploitation of civilian populations in ways that meet the attack threshold, even where those organisations are not primarily political or military in character.

6.3 Towards a Doctrine of Organisational Fault

The third proposal concerns the development, within the Court's existing personal jurisdiction, of a more systematic doctrine of organisational fault. The ICC cannot prosecute corporations or collective entities as such under the current Statute. But it can begin to articulate - through its judgments, policy papers, and engagement with national legal systems - how organisational structures, institutional incentives, design choices and risk-management failures condition individual criminal responsibility. In cases involving corporate executives or officials responsible for complex technological systems, the Court could more explicitly analyse how organisational design created foreseeable and unjustifiable risks of core crimes, informing the assessment of knowledge, *dolus eventualis* or wilful blindness in the context of aiding and abetting or superior-responsibility liability. Such a developing doctrine would serve the broader catalytic function of setting normative standards for organisational conduct in conflict-affected environments.

6.4 Ideological Transparency in Prosecutorial Decision-Making

The fourth proposal concerns the need for greater transparency in the ideological premises that inform prosecutorial and judicial choices. My analysis of penal populism highlights the risk that criminal-law ideology at any level will be captured by political or institutional interests that distort its accountability function.¹⁴ For the ICC, this risk takes the form of politically motivated situation selection, geopolitically conditioned case prioritisation, and the construction of legal narratives that serve the Court's institutional interests rather than the demands of impartial accountability. Greater ideological transparency would require the Office of the Prosecutor to make its value commitments and prioritisation criteria more explicit - articulating not only what the Office will do but why, and against what alternative courses of action the chosen course was weighed.

7. Conclusion: The Living Ideology of the International Criminal Court

The ICC's ideology is not a fixed inheritance from the Rome Conference of 1998. It is a living normative construction, continuously shaped and reshaped by the Court's institutional practice, the reactions of states and civil society, and the evolving landscape of serious harm to which the Court aspires to respond. The four dimensions identified in this article - human-centrism, complementarity, contextual limitation, and individualistic responsibility - each embody genuine normative insights while generating structural tensions and limitations that become more apparent as the twenty-first century develops its distinctive configurations of organised violence and exploitation.

The concept of criminal-law ideology - as Kolomiiets has elaborated it in Ukrainian legal doctrine, and as I have extended and applied it in my own work - provides analytical resources for understanding these tensions that go beyond the doctrinal frameworks typically deployed in international criminal law scholarship. By treating the ICC not simply as a legal institution operating under a treaty but as an ideological project encoding specific value commitments, institutional choices and normative priorities, this approach reveals the degree to which the Court's apparent doctrinal certainties rest on contestable premises that can, and should, be subjected to critical scrutiny and ongoing revision.

The normative proposals developed in Section 6 - re-conceptualising complementarity as shared responsibility, developing jurisprudential bridges at the ICL-TCL interface, articulating a doctrine of organisational fault, and demanding greater ideological transparency in prosecutorial decision-making - are contributions to an ongoing conversation about the direction of the ICC's ideological development. That conversation must involve not only the Court's own institutions but states, civil society organisations, academic communities and, above all, the communities most directly affected by the crimes that the ICC was created to address.

In a world where mass harm is increasingly produced through mechanisms of organised power that transcend the individual, the state and the territorial boundaries of any single jurisdiction, the adequacy of international criminal justice's ideological framework bears directly on whether the most fundamental values of the Rome Statute - the protection of human dignity, the end of impunity, justice for victims - can be effectively institutionalised. The ICC's ideology must evolve with that world, or it risks becoming a monument to twentieth-century concerns in a twenty-first-century landscape.

Notes

- ¹ Kolomiets Yu. Yu. Kryminalno-pravova ideolohiia v yurydychnii doktryni ta kryminalnomu zakonodavstvi Ukrainy [Criminal-Law Ideology in Legal Doctrine and Criminal Legislation of Ukraine]: dys. ... dokt. yuryd. nauk: 12.00.08. Odessa: National University "Odessa Law Academy", 2020. 521 p. URL: <https://hdl.handle.net/11300/12429>; <https://dspace.onua.edu.ua/server/api/core/bitstreams/d1f418c6-2ed1-4f01-8bd2-59a9d8628c3f/content>
- ² Tuliakov V. Ideolohiia, penalnyi populizm i yakist kryminalnoho zakonu [Ideology, Penal Populism and Quality of Criminal Law] // Naukovi zapysky NaUKMA. Yurydychni nauky. 2026. URL: <https://ekmair.ukma.edu.ua/server/api/core/bitstreams/65e62dcb-93a6-46ac-aafd-00a49a0af151/content>. P. 142.
- ³ Ibid. P. 143.
- ⁴ Kolomiets Yu. Yu. Op. cit. P. 45–63.
- ⁵ Tuliakov V. Ideolohiia, penalnyi populizm i yakist kryminalnoho zakonu [Ideology, Penal Populism and Quality of Criminal Law] // Naukovi zapysky NaUKMA. Yurydychni nauky. 2026. URL: <https://ekmair.ukma.edu.ua/server/api/core/bitstreams/65e62dcb-93a6-46ac-aafd-00a49a0af151/content>. P. 142.
- ⁶ Kolomiets Yu. Yu. Op. cit. P. 63–89.
- ⁷ Grand Chamber of the Supreme Court of Ukraine, criminal proceedings concerning crimes related to the planning, preparation, initiation and waging of a war of aggression (judgment authored by Judge L. Kyshakevych, 2024). For the institutional context see: Statement of Ukraine in Support of the Candidacy of L. Kyshakevych for Election as a Judge of the International Criminal Court, ICC-ASP/EJ2026/UKR-ST-ENG (2025). URL: https://asp.icc-cpi.int/sites/default/files/asp_docs/ICC-ASP-EJ2026-UKR-ST-ENG.pdf
- ⁸ Statement of Ukraine in Support of the Candidacy of L. Kyshakevych for Election as a Judge of the International Criminal Court, ICC-ASP/EJ2026/UKR-ST-ENG (2025). URL: https://asp.icc-cpi.int/sites/default/files/asp_docs/ICC-ASP-EJ2026-UKR-ST-ENG.pdf
- ⁹ Tuliakov V. Ideolohiia, penalnyi populizm i yakist kryminalnoho zakonu [Ideology, Penal Populism and Quality of Criminal Law] // Naukovi zapysky NaUKMA. Yurydychni nauky. 2026. URL: <https://ekmair.ukma.edu.ua/server/api/core/bitstreams/65e62dcb-93a6-46ac-aafd-00a49a0af151/content>. P. 142.. P. 143–144; Fris P. L. Kryminalno-pravova ideolohiia i kryminalno-pravova polityka [Criminal-Law Ideology and Criminal-Law Policy] //

Pravo Ukrainy. 2020. No. 2. P. 52–66. URL:

https://pravoua.com.ua/storage/files/magazines/files/article-pravo_2020_2-s3.pdf

- ¹⁰ Tuliakov V. Ideolohiia ta utopiia: kryminalno-politychni refleksii kryzy normatyvnosti v postnormalni chasy [Ideology and Utopia: Criminal-Political Reflections on the Crisis of Normativity in Post-Normal Times] // Aktualni problemy yurysprudentsii VI. Kryza normatyvnosti i pravo: tezy dop. Mizhnar. kruhloho stolu (m. Lviv, 19 liut. 2026 r.) / uklad.: N. Satokhina. Kharkiv, 2026. P. 71–77. URL: <https://hdl.handle.net/11300/32298>

¹¹ Ibid.

¹² Ibid.

- ¹³ Tuliakov V. Ideolohiia, penalnyi populizm i yakist kryminalnoho zakonu [Ideology, Penal Populism and Quality of Criminal Law] // Naukovi zapysky NaUKMA. Yurydychni nauky. 2026. URL: <https://ekmair.ukma.edu.ua/server/api/core/bitstreams/65e62dcb-93a6-46ac-aafd-00a49a0af151/content>. P. 142. P. 143.

- ¹⁴ Tuliakov V. Op. cit. (2023). P. 143–144.

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