

The ICC and Conflict Resolution



an 'agenda for peace' in the
'peace versus justice' debate

International criminal justice and the International Criminal Court (ICC)

brief history and background

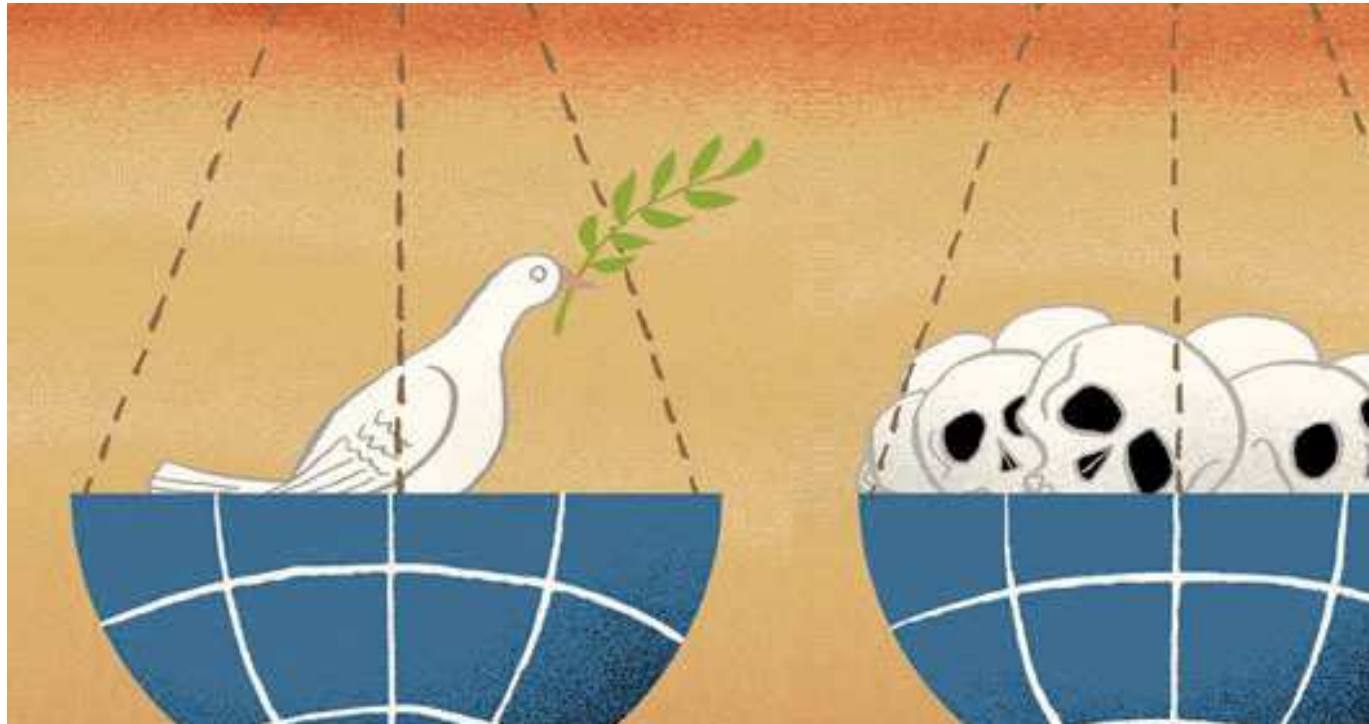
peace versus justice debate

the current debate

a way forward

new analytical
framework that
problematizes *peace*

- northern Uganda



Background / history

idea: hold individuals,
not states, accountable
Nuremberg and Tokyo
Cold War 'deep freeze'
not entirely accurate



End of Cold War

opportunity +
energy + guilt

CTY, ICTR, hybrid



Treaty-based court, jurisdiction (personal, territorial, and temporal)

193 member-states

organs - Registry,
Judges, OTP

Crimes (and one!)

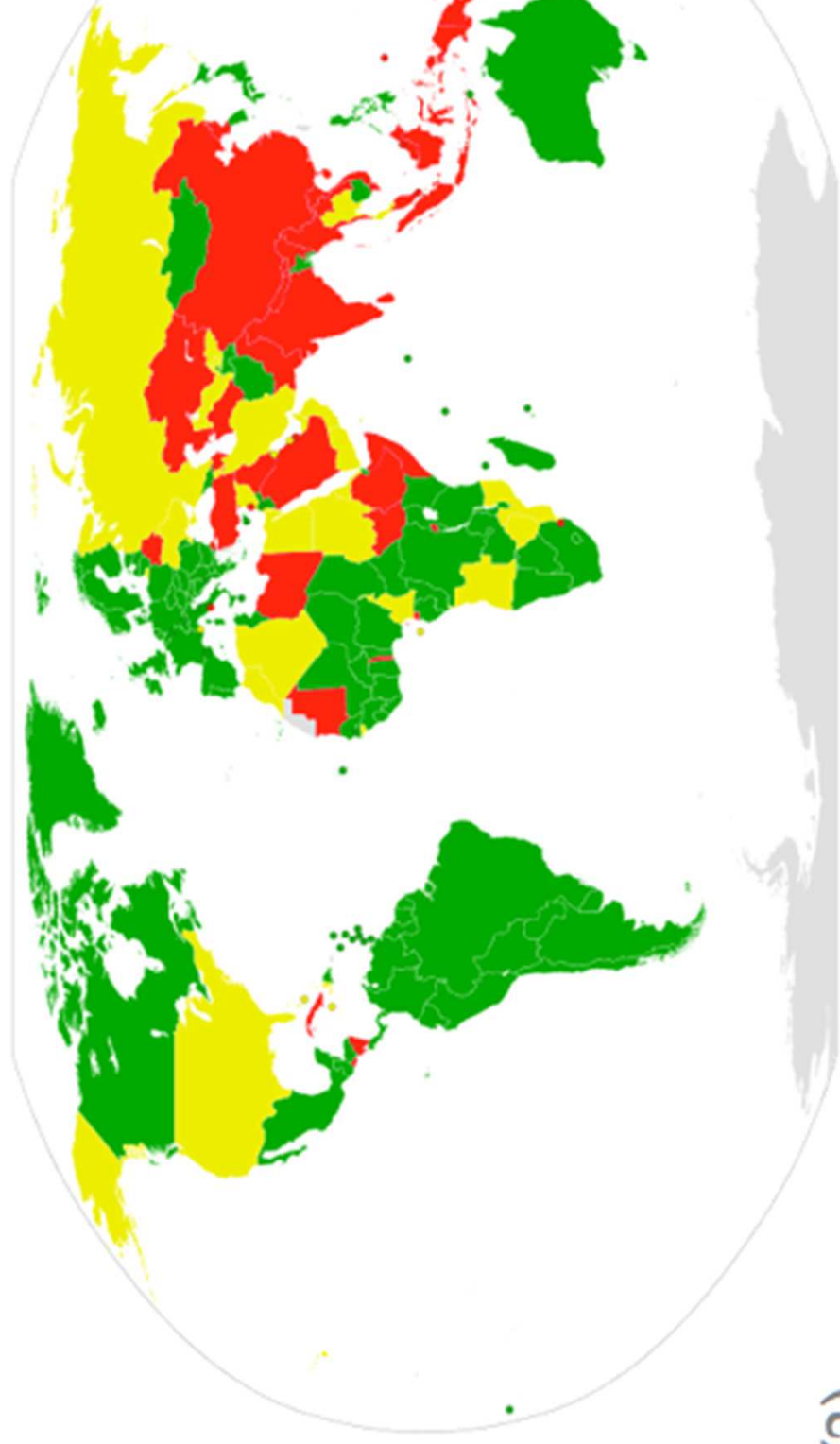
Trigger mechanisms

Official Investigations

Uganda, DRC, CAR (2),

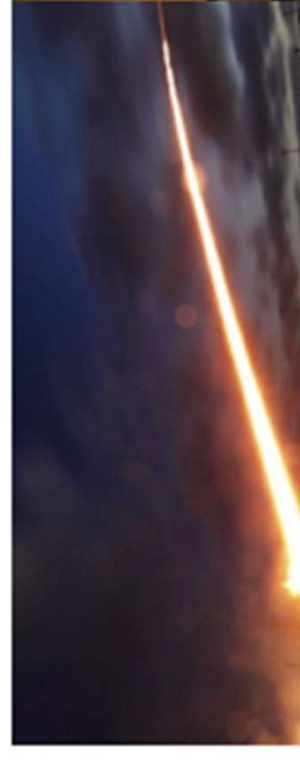
Darfur, Libya, Mali, Ivory Coast, Kenya

Preliminary Examinations





- ICC as 'first responder' to crises - built for conflict (3 reasons)
- ICC becomes active in ongoing conflicts (look at the record of interventions!)
- Result: Peace vs Justice Debate



Peace without justice

vs

no justice without peace

Impunity

Legal obligation

Prevalence

Legitimization

with

Practices

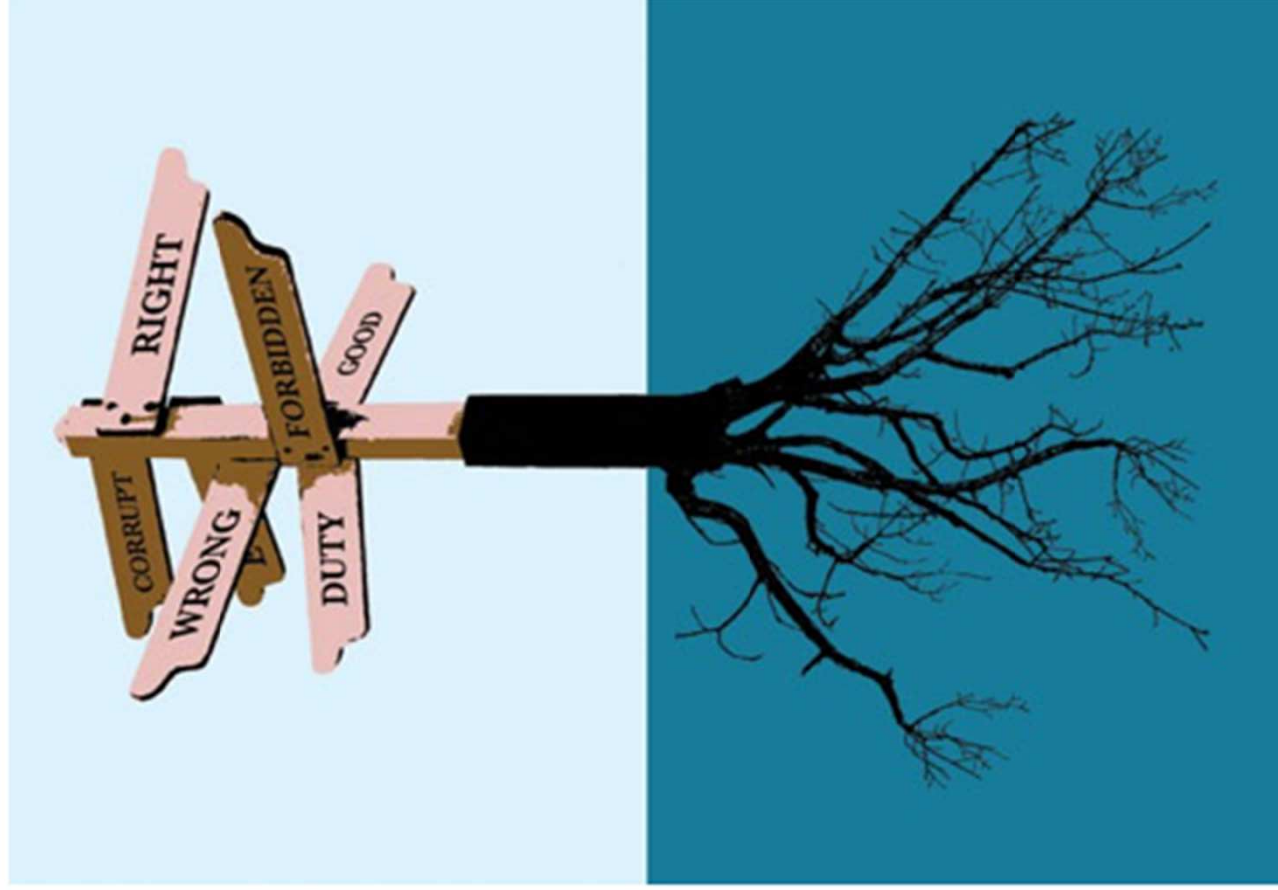
Increases Violence

Effect on negotiation

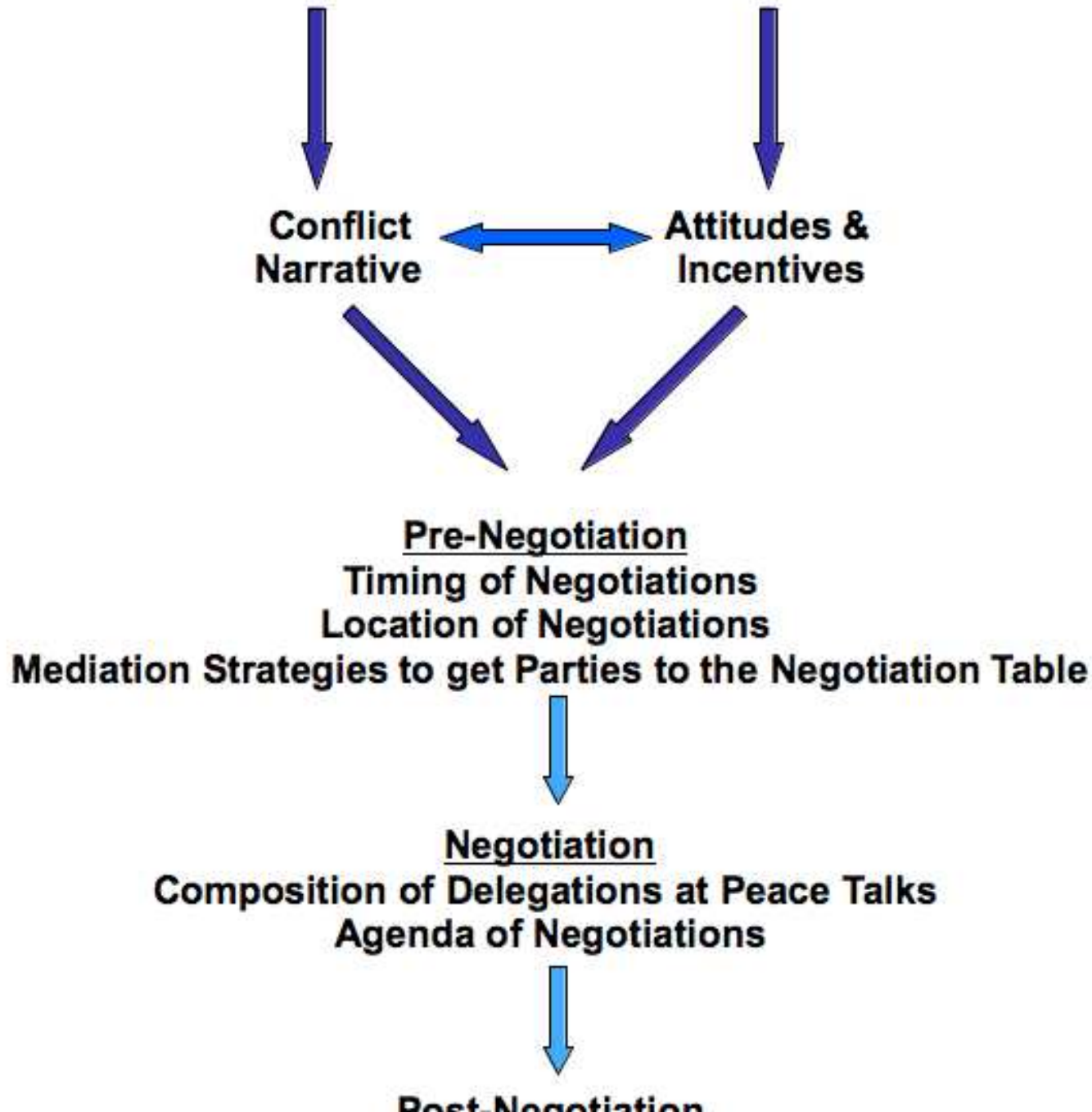
Divorced from local realities

Cost

"Seen to be done"



ICC Intervention into Ongoing and Active Conflict



causes and dynamics

greed and grievance

demonization - ('good'
versus 'evil')

individualization

causes, whether greed
or grievance made irrelevant

only the manner of conflict is relevant - atrocities /
humanitarianism

limitations on temporal jurisdiction



Attitudes and Incentives

Threat to their security

Respond to indictment with violence

humiliation / embarrassment

show of power (e.g. Bashir)

Rescue reputation, engage in peace process

But... what if non-indicted party commits to military victory?

e.g. GoU, Libyan opposition



I. pre-negotiation phase

Timing/Ripe Moments

mutually hurting stalemate

- complicated by one-sided interventions

Location of talks

where they take place (e.g. Juba)

Mediation strategies to
get the parties to the
negotiation table

who mediates?



Delegation composition

implications of who is part of negotiations?

- e.g. LRA delegation, Kony

Agenda of negotiations

confront justice head-on or not?

evade justice?



was it about peace?

assumption: peace negotiations always about peace?

- motivations
- e.g. northern Uganda

Post-conflict justice and accountability

how does ICC affect decision-making here?

extension of conflict



conclusions



empirical record is still weak

need to ask the right questions

move beyond 'peace versus justice'

ICC has real effects but we need
better tools for *how* to study effects
of ICC on conflict and peace
processes

accept the fact that effects are
mixed and causal claims are
problematic

don't be too close to the trees to miss the forest



thank you!

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