

account of cyber conflict quickly becomes outmoded (p. ix). This may be true of books that attempt to provide a snapshot of current events, and there is a respect in which Lucas's work is already behind the times since our conversations have become consumed—for the moment—by Russian cyber intrigue. But other books are successful as foundations upon which later works can build. *Ethics and Cyber Warfare* manages to be both. Accessible,

lucid, and brimming with insight, members of the academic, military, and intelligence communities would do well to read it carefully.

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Justice in Conflict: The Effects of the International Criminal Court's Interventions on Ending Wars and Building Peace, Mark Kersten (New York: Oxford University Press, 2016), 280 pp., \$99.95 cloth, \$45 paper.

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In his 1938 poem “The Embassy,” W. H. Auden sketches the contrast between two connected scenes: diplomats exchanging views over a well-manicured lawn while “armies waited for a verbal error / With all the instruments for causing pain.” In what former UN Secretary-General Ban Ki-moon has referred to as today’s “age of accountability,” a new actor joins this crowded stage of diplomats, politicians, armies, and victims: the International Criminal Court (ICC).

As a controversial feature of international conflict resolution, the Court’s establishment made the “peace vs. justice” debate permanent. Proponents of the Court’s role within conflict argue that its interventions have beneficial effects on generating peace in both the short and long terms, while others contend its deleterious effects undermine attempts to resolve conflict. Though neither the first nor the only scholar to bemoan the limits of this stale and

oversimplified debate, Mark Kersten offers a refreshing contribution to the growing literature on the politics of international criminal justice.

Arguing that we need to rethink *how* we analyze the ICC in conflict, Kersten provides a framework that focuses on the varied and nuanced—and sometimes null—effects of ICC interventions. Eschewing facile praise or indictment of the ICC’s role during conflict, he contends “it is essential not to over-read or overstate the effects of the Court by inappropriately isolating ICC decisions and ascribing causal effects to them” (p. 193). Based on case studies and impressive access to key decision-makers, Kersten delves into the ICC prosecutor’s fluid and at times contorted relationship with the peace processes in northern Uganda and in Libya. Specifically, he describes in detail how the ICC’s arrest warrants asserted a one-sided narrative about

which parties may be criminally responsible—actions that cast shadows on alternative understandings of the war and obscured the responsibility of other parties.

For example, Kersten shows how the ICC arrest warrants against the Lord's Resistance Army (LRA) in Uganda arguably reinforced the narrative of "the LRA being the only bearers of guilt," thereby legitimizing the Ugandan government's position. Similarly, arrest warrants against then-President Muammar Qaddafi and his entourage "bolstered widespread perceptions of the conflict as a one-sided revolution between 'good' opposition forces and an 'evil' regime," thereby legitimizing military intervention and regime change in Libya (p. 74).

Considering whether this ultimately derailed the peace processes in these two countries, Kersten examines the impact of the ICC's indictments on several elements of the negotiations, including the selection of the agenda, timing, location, and mediator, as well as the composition of delegations and the overall viability of the talks. Offering a *via media* through the peace vs. justice debate, Kersten notes that the ICC complicated conflict resolution in Uganda and Libya, but he acquits the Court from bearing responsibility for the ultimate failure of the talks in both cases.

Regarding the Juba peace talks between the Ugandan government and the LRA, Kersten echoes other studies in noting that the ICC's arrest warrants against LRA commanders imposed the particularly thorny questions of justice and accountability on the agenda and disincentivized senior LRA commanders from participating. Kersten then delves deeper into these findings by using interviews with high-level negotiators to analyze the delegates' true intentions heading into the negotiations. He concludes

that both sides were being somewhat disingenuous and that neither was "fully committed to a comprehensive peace" (p. 15).

Similarly, regarding efforts to resolve the 2011 Libyan civil war, Kersten notes that the ICC's arrest warrants against Qaddafi and his entourage may have contributed to "preventing the emergence of a mutually hurting stalemate and the creation of a ripe moment conducive to peace talks" by emboldening the rebels toward military victory. Here again, Kersten then qualifies this conclusion, arguing that it was "not clear that official peace talks between the [National Transitional Council] and the Qaddafi regime were ever a feasible way to end the war—for reasons other than the ICC intervention" (p. 16).

Unlike other studies that simply lament the ICC's tendency to entrench rather than transcend a conflict's dynamics, Kersten goes further and seeks to understand *why* the ICC has the impact (or nonimpact) that it does. To this end, he dedicates the penultimate chapter to bringing the ICC Office of the Prosecutor (OTP) into sharper focus. Through interviews with former and current ICC officials, he analyzes the OTP's decisions as a function of its own institutional interests, including its need for "cooperation for case-building, cooperation for enforcement of arrest warrants, and its desire to be perceived as a relevant and effective institution" (p. 184).

Kersten's careful analysis undermines the OTP's insistence that it is a purely legal actor that does not take anything else into account. In line with his analytical rather than normative perspective, Kersten argues that the OTP's pragmatism, as it strives to build its legitimacy as a prosecutorial body, should not be condemned offhand as simply "political." Rather, the OTP should be viewed as an ambitious yet

constrained actor, operating in today's politicized and fragmentary infrastructure of international criminal justice. While not groundbreaking, treating the OTP as a prosecutorial body with interests and constraints is not a common feature of comparable studies. Kersten's approach should encourage other scholars to do the same.

The book joins several other studies of the ICC in Uganda, but it is one of the few studies of the Court's impact in Libya. The case selection of the Uganda-Libya dyad is both enlightening and limiting. On one hand, the dyad generates rich comparative findings, as in both situations the ICC controversially issued arrest warrants against high-level leaders in the midst of political mediation efforts—well before weapons were silenced and, most importantly, prior to any dénouement. On the other hand, Kersten's analytical framework is principally tailored to a particular set of cases in which the OTP's indictments were issued against one side in the midst of war, establishing "targeted" and "non-targeted" parties. In a sense, the book's subtitle—*The Effects of the ICC's Interventions on Ending Wars and Building Peace*—unnecessarily overstates the book's ambition. Rather, the book provides a sharp and insightful analysis of a more specific topic: the effects of the ICC's arrest warrants on the evolution and viability of peace negotiations.

As a result, the framework's specificity limits its direct applicability to other types of situations, such as in Côte d'Ivoire, Kenya, and Mali, where the OTP did not

issue arrest warrants until after a resolution, however tenuous, was reached. In that the framework tends to conflate ICC interventions with ICC indictments, it elides the impact of the variety of steps taken by the OTP, ranging in intensity from issuing public declarations, opening preliminary examinations, and launching investigations, to requesting arrest warrants and trying accused individuals. Nevertheless, the book's underlying commitment to in-depth empirical scrutiny—identifying the explicit and implicit motives, contradictions, and consequences of applying justice within conflict—can be adapted to other sets of cases and can help generate fruitful findings.

Kersten's nuanced analysis depicts the ICC as a conflicted court acting in conflict zones. Through an engaging and accessible style, he convincingly shows that the implications of pursuing "during-conflict justice" are varied and fluid, rather than dichotomous and deterministic. With the rising chorus of calls for international criminal justice in various countries, ranging from Syria to Israel/Palestine to Colombia, Kersten urges readers to maintain a healthy skepticism when categorical, and often ideological, assertions are made regarding both the positive and negative effects of ICC interventions.

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