


## COMMENTARY

# From The Hague to the margins: The ICC, feminist geopolitics and alternative legal futures

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## Abstract

The International Criminal Court (ICC) was established to deliver impartial and universal justice, yet its operations are shaped by geopolitical interests and legal formalism, limiting its inclusivity and effectiveness. This commentary draws on feminist geopolitics to critically examine how the ICC's structural ambiguities constrain but also create opportunities for rethinking justice. By foregrounding intersectionality, structural violence and alternative legal frameworks, we propose ways to make international justice mechanisms more responsive to local contexts and marginalised communities. Moving beyond critique, we outline concrete reforms, including expanding the ICC's mandate, decentralising justice processes, and integrating survivor-led approaches. In doing so, we call for a more geographically attuned and socially equitable approach to global justice. We also argue that geographers—especially those working in legal, political and feminist subfields—can play a critical role in illuminating the spatialities of international justice, uncovering power asymmetries, and advancing more inclusive legal imaginaries. Their interventions help expose and challenge the uneven geographies of accountability that shape institutions like the ICC.

## KEYWORDS

feminist geopolitics, International Criminal Court, legal geography, legal pluralism, postcolonial justice, structural violence

## 1 | INTRODUCTION: A GEOPOLITICAL AND LEGAL CHALLENGE

International justice has long been a contested arena, shaped by power asymmetries, colonial legacies, and competing claims to universality. The ICC, positioned as a cornerstone of international criminal law, has faced mounting critiques regarding its selective prosecutions, geopolitical entanglements, and structural exclusions. While its mandate purports to transcend state sovereignty, its reliance on cooperation from state actors limits its ability to act impartially. The ICC's

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focus on prosecuting crimes in African nations while avoiding interventions in Western contexts has led to accusations of neo-colonialism and selective enforcement (Arora, 2020; Schneider, 2020).

Legal geography provides crucial insights into these tensions, highlighting how law operates through territorialised power structures that both reinforce and contest existing hierarchies (Blomley, 2002; Delaney, 2016; Gill & Hynes, 2021; Griffith et al., 2022). The ICC's authority is often wielded unevenly, with its legal reach constrained by the political will of powerful states. This results in cases where state actors leverage international justice mechanisms to advance national political agendas rather than to uphold a genuine commitment to justice (Jeffrey & Jakala, 2014). Furthermore, jurisdictional limitations mean that powerful Western actors evade accountability, reinforcing legal geographies of impunity (Carpenter, 2006; Enloe, 2015; Shepherd, 2006).

Feminist geopolitics, in turn, challenges dominant state-centric frameworks, foregrounding the embodied, intersectional and power-laden nature of justice mechanisms (Dowler & Sharp, 2001; Fluri, 2011; Pratt & Rosner, 2012). Drawing on Black feminist scholarship, intersectionality highlights how race, gender and class co-produce legal marginalisation and exclusion (Crenshaw, 1991; Faria et al., 2020). We are mindful of critiques that caution against the dilution or whitening of intersectionality—rooted in Black feminist thought—as it is taken up in academic disciplines such as geography (Hopkins, 2017). Recognising these tensions, a feminist geopolitical lens invites us to examine whose experiences and grievances are recognised in legal discourses and how these institutions reinforce global inequalities (Hyndman, 2003; Schenk, 2019). The ICC, for example, has struggled to engage meaningfully with survivors and affected communities, often prioritising legal technicalities over lived realities. This commentary builds on these perspectives, arguing that international justice must be understood not as a fixed legal regime but as a dynamic and contested field shaped by spatial and political contingencies.

As geographers writing for a geographical journal, we aim to foreground how the ICC's legal interventions are deeply embedded in spatial relations and geopolitical configurations. Rather than treating the ICC as a neutral legal body, we view it as a spatial actor whose authority is constituted and contested through the uneven geographies of international law. Legal, political and feminist geographers are especially well positioned to trace how international justice regimes materialise across space, reproduce colonial hierarchies, and interact with situated practices of justice. By drawing attention to these spatial dynamics, we seek to contribute to ongoing geographic debates about power, accountability and the uneven terrains of global governance.

## 2 | FEMINIST GEOPOLITICS AND THE ICC: PROBLEMATISING UNIVERSALITY

Feminist geopolitics problematises the ICC's claim to universality by revealing how legal institutions reproduce hierarchies of power and exclusion (Chappell, 2010). While the Rome Statute explicitly recognises gender-based crimes, prosecutions remain inconsistent, and survivor testimonies are often mediated through legal logics that prioritise state and prosecutorial imperatives over lived realities (Allsopp, 2017; Gentry & Sjoberg, 2015). The ICC's ability to address crimes of sexual violence has been undermined by evidentiary challenges, gender biases among prosecutors, and the broader reluctance of legal systems to take gender-based crimes as seriously as other forms of violence (Enloe, 2004; Henry, 2014).

The ICC's interventions also rest on the artificial separation between 'international' and 'domestic' legal spheres (Chappell, 2010; Klosterkamp & Jeffrey, 2024). This division reinforces colonial legacies by positioning certain states—often in the Global South—as requiring external legal oversight, while largely exempting powerful Western states from scrutiny. Moreover, the ICC's procedures tend to marginalise alternative justice mechanisms that are deeply rooted in local traditions, limiting the ability of affected communities to participate in shaping legal outcomes. By focusing on the everyday lived experiences of those affected by international legal decisions, feminist geopolitics urges us to move beyond dominant narratives of justice and accountability toward more pluralistic and situated understandings.

## 3 | RETHINKING JUSTICE BEYOND LEGAL FORMALISM

A key contribution of legal geography to feminist geopolitics is the insistence that law is not a fixed entity but a dynamic process embedded in spatial and social relations (Cuomo & Brickell, 2019; Faria et al., 2020). This perspective enables a rethinking of international justice that challenges rigid legal formalism—that is, a narrow focus on established legal

procedures and texts to the exclusion of social, political and ethical considerations—and embraces alternative legalities. Three key shifts are necessary for a more just international legal framework.

### 3.1 | Decentring Legal Formalism

The ICC's rigid reliance on legal precedent and proceduralism marginalises those without access to formal legal institutions. Alternative forms of justice, including truth commissions, reparative justice models and survivor-led initiatives, should be given greater legitimacy in global justice frameworks (Edström & Dolan, 2019; Jakala & Jeffrey, 2017). For example, in post-genocide Rwanda, the *Gacaca* courts provided a form of community-based justice that operated outside of traditional legal formalism, facilitating reconciliation in ways that the ICC could not. While these initiatives came in for their own criticism for external involvement (see Oomen, 2005), recognising multiple legalities would create space for more inclusive and context-sensitive justice mechanisms (Moffett, 2015).

### 3.2 | Emphasising Structural Violence

The ICC's focus on individual criminal accountability often overshadows the structural and systemic forms of violence that enable mass atrocities. Feminist geopolitics calls for an expanded conception of justice that includes economic exploitation, colonial histories and gendered oppression as integral to international legal interventions (Carpenter, 2006; Klosterkamp, 2021; Shepherd, 2006). For instance, the ICC's failure to prosecute corporate actors who fund armed conflict—such as multinational mining companies operating in the Democratic Republic of the Congo—illustrates the limitations of a purely criminal justice approach. Addressing structural violence requires shifting from a punitive justice model to one that actively works to dismantle the conditions that sustain global injustices (Madlingozi, 2010).

### 3.3 | Embracing Justice as a Relational Process

Justice cannot be understood as a static outcome of legal rulings; rather, it must be an ongoing, relational process (Hyndman, 2019; Koopman, 2011; Pain, 2009). A feminist geopolitical approach insists on centring the voices and experiences of those directly affected by international legal interventions (Carpenter, 2006). The ICC's evolving engagement with the Russian war on Ukraine presents a case in point. While the court has swiftly issued arrest warrants and emphasised the legal accountability of Russian leadership, scholars argue that such actions reinforce a selective and politicised application of international law and evidence (Klosterkamp & Jeffrey, 2024). The differential treatment of conflicts—where justice is more readily pursued in cases involving geopolitical adversaries rather than allies—demonstrates the need for a justice framework that is less bound by Western-centric legal imperatives and more attuned to broader global inequities.

Yet the relationality of justice also demands that we examine the accessibility of these processes. Many survivors and witnesses struggle to engage with distant, bureaucratic legal institutions that feel disconnected from their everyday lives. These institutions often prioritise procedural legitimacy over responsiveness to victims' needs, leading to perceptions of alienation and symbolic justice (Kendall & Nouwen, 2013; Moffett, 2015). Furthermore, international legal frameworks frequently cast survivors in passive roles, limiting their agency and participation in shaping justice outcomes (Madlingozi, 2010). This underscores the importance of grounding international justice in situated, participatory practices that reflect survivors' lived realities rather than abstract legal ideals (Klosterkamp & Jeffrey, 2024).

## 4 | CONCLUSION: TOWARD A MORE INCLUSIVE INTERNATIONAL JUSTICE

The ICC stands at a crossroads, facing both legitimacy crises and demands for reform. Feminist geopolitics provides a critical toolset for rethinking justice beyond the constraints of legal formalism, foregrounding alternative legalities, and embracing more inclusive mechanisms of accountability. By highlighting the transformative power of such toolsets, this

commentary calls for geographers, legal scholars and policymakers to challenge the ICC's selective applications of justice and reimagine international legal frameworks beyond their current limitations.

While geographers may not directly shape the operational policies of the ICC, they hold a crucial role in examining and reshaping the spatial imaginaries through which international justice is conceptualised and practiced. Legal, feminist and political geographers can offer empirically grounded and theoretically rich analyses that uncover how justice processes are shaped by and contribute to uneven geographies of power (Hiemstra & Conlon, 2021; Jacobsen, 2020). Through ethnographic research, spatial analysis and participatory methodologies, geographers can critically illuminate the exclusions embedded in international legal frameworks and contribute to alternative imaginaries of justice that centre marginal voices (Brickell et al., 2024; Hynes et al., 2020). In this sense, geographic scholarship becomes a vital tool not just for critique but for envisioning and articulating new forms of transnational accountability.

The challenge we identify for transforming the ICC is thus not merely one of institutional reform but of rethinking what justice means in an interconnected yet profoundly unequal world. A truly transformative vision of international justice demands dismantling entrenched power imbalances, foregrounding historically marginalised voices, and embracing justice as an iterative and relational process. Pathways for change also require a commitment to participatory justice, where affected communities are not passive recipients but active architects of legal frameworks. In total, we propose four areas of reform in line with feminist geopolitics, which are well positioned to enhance international justice:

- a. *Strengthening local participation*: Feminist geopolitics underscores the importance of involving affected communities in justice processes, not merely as witnesses but as active participants. This could include community-led truth-telling initiatives or reparative justice frameworks tailored to local needs. Expanding the ICC's engagement with survivor-led movements, community-based legal practices, and alternative justice frameworks would foster more equitable and context-sensitive accountability mechanisms.
- b. *Expanding the ICC's mandate*: While the ICC focuses on individual culpability for war crimes, we argue for a broader mandate that addresses systemic injustices such as economic exploitation and environmental harm. This expansion would align international law with the lived realities of affected populations, recognising structural violence as a key factor in conflict. War crimes and crimes against humanity are often deeply connected to economic and environmental conditions, including resource extraction, land dispossession and climate-induced displacement. Expanding the ICC's jurisdiction to prosecute actors responsible for systemic human rights violations—such as transnational corporations engaged in exploitative labour practices or governments facilitating ecological destruction—would strengthen international justice frameworks and address deeper structural causes of violence.
- c. *Incorporating intersectional analyses*: Prosecutorial strategies must account for the intersecting dimensions of oppression, such as race, gender and class, that shape victims' experiences. For example, addressing how displacement disproportionately impacts women, children and/or marginalised groups could inform more nuanced reparations and rehabilitation efforts (Carpenter, 2006; Enloe, 2004; Maučec, 2021). Gender-based violence is not an isolated phenomenon but often interwoven with economic precarity, racial discrimination and geopolitical marginalisation. A more intersectional prosecutorial strategy would ensure that legal interventions do not merely recognise individual acts of harm but also the broader structures that perpetuate cycles of violence and exclusion. This would require training prosecutors and judges in intersectional methodologies and embedding survivor-centred, gender-sensitive approaches within ICC proceedings.
- d. *Decentralising justice processes*: Beyond The Hague, establishing regional tribunals or local justice mechanisms can bridge the gap between global institutions and affected communities. Decentralisation not only increases accessibility but also fosters trust and legitimacy within local populations. Many survivors and witnesses struggle to engage with distant, bureaucratic legal institutions that feel disconnected from their everyday struggles. Regional tribunals, hybrid courts and community-based justice initiatives can provide more immediate and culturally responsive mechanisms for adjudicating crimes. Such structures could be modelled after previous successful efforts, such as the Gacaca courts in Rwanda or hybrid courts in Sierra Leone, which combined international legal norms with local customs and reconciliation practices. By embedding justice processes within communities, decentralisation fosters more meaningful participation, enhances accountability and ensures that international legal norms resonate with lived realities.

Taken together, strengthening local justice infrastructures, expanding alternative legal forums, decentralising justice processes and embedding intersectional analyses into prosecutorial strategies are essential steps toward a more just and equitable international legal order. If embraced, these reforms could transform the ICC into an institution that genuinely upholds the principles of justice while acknowledging the diverse realities of those it serves.

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## DATA AVAILABILITY STATEMENT

This commentary does not rely on original datasets. All sources cited are publicly available and referenced in the bibliography. Any additional materials or literature consulted in the development of the argument are available from the authors upon reasonable request.

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