

Frontiers of International Criminal Law and Justice

**Monday, 1 December 2025, 13:15-15:00,
The Hague, World Forum, 'Europe 1-2'**

A side-event (with lunch) to the 24th Session of the ICC Assembly of States Parties, convened by the Centre for International Law Research and Policy (CILRAP), sponsored by Korea, Norway and Sweden, co-sponsored by the European Anti-Fraud Office (OLAF), Stockholm Centre for International Law and Justice, Grotius Centre for International Legal Studies, Human Rights Law Centre (University of Nottingham), Institute for International Peace and Security Law of the University of Cologne, Coalition for International Criminal Justice (CICJ), European Center for Constitutional and Human Rights, and the Norwegian Helsinki Committee (NHC).

Statement by Adjunct Professor Gunnar M. Ekeløve-Slydal *Deputy Secretary-General, Norwegian Helsinki Committee; Director, CICJ*

Maybe I had unrealistic expectations about how much international criminal law ('ICL') can prevent war and violence, and how much support it can get from states. I started participating in the late 1990s. I was not alone in having expectations.

What did we overlook? My book, [*Norm Efficacy and Justification in International Criminal Law*](#), explores some of the main challenges to the norms. I also aim to suggest ways to address them.

I cite solid evidence that inter-state, intra-state, and domestic violence have decreased due to the spread of human rights norms. I discuss the English philosopher Jeremy Bentham's vision for international law. He proposed how criminal law should be shaped to achieve maximum impact.

The law must be understandable, translated, and disseminated. Commanders and soldiers must know it.

However, the concern now is that we face significant setbacks due to powerful actors ignoring international norms.

I discuss four ways to enhance their impact.

Firstly, the integrity and professionalism of ICL institutions and actors are crucial factors. It is more difficult to undermine the ICC if the Court and its representatives are seen as demonstrating high integrity and professionalism. I examine what the humanist Thomas More can offer in terms of principles for strengthening personal and institutional integrity. Some of his ideas remain surprisingly relevant, even though he died 500 years ago. He was beheaded in 1535 by King Henry VIII for refusing to submit to demands that conflicted with his principles.

Secondly, I argue that ICL norms require the support of many more stakeholders than we typically consider. I ask how religious leaders can make a difference. Religious ideology is, for good reasons, often seen as a source of hatred and violence. I try to show, however, that religious leaders can be part of the solution, even if they do not reference human rights or ICL norms. They have resources available to them to promote respect for the dignity of every person (universalism) and the duty of believers to live by these standards (individual duty).

Thirdly, I argue that ICC member states can do more. Clearly, they must fulfil their legal obligations. They have the primary duty to prosecute international crimes within their jurisdictions. However, they should invest in measures to address past crimes that undermine their credibility. I discuss Norway's efforts to confront past injustices against the Sámi and Romani populations, including the creation of truth commissions, individual and collective compensation schemes, and other measures. This may not be perfect justice, but Norway is acknowledging past abuses and the suffering of the victims through these actions. Doing so emphasizes the need for justice in ongoing violations wherever they happen. And Norway's credibility increases.

Fourthly, I examine some key philosophical assumptions of ICL. We heard Dr. Song Tianying problematize how, in the courtroom, the perpetrator is reconstructed as a rational agent. However, maintaining rational agency on the battlefield might be overly difficult. I ask a similarly difficult question: are perpetrators who are under orders to commit crimes still responsible for their actions? If they refuse, the consequences could be severe. It is an integral part of the Nuremberg legacy that superior orders are not a defense, but can only reduce punishment. This way, ICL places a heavy burden on everyone involved in conflict. I find, however, that Western humanist philosophies, especially existential philosophy, condone this conclusion.

I believe that discussions like these can engage more people to understand ICL and its potential to reduce violence.

ICL is a promising project aimed at preventing atrocity crimes precisely because it is teaching that war does not exempt individuals from moral and legal responsibility for wrongful actions. That is, of course, also a strong reason for leaders to refrain from illegal acts of war, which place people in desperate situations.