

Emerging threats to the rule of law and democracy

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After 1989, my generation believed in a more peaceful, democratic, and secure world.

We heard talk of the "end of history," the triumph of democracy, and a world governed by international trade and the rule of law.

Those were the 1990s—a time of hope for an international rule-of-law order.

Three decades later, the disappointment is profound.

We had hoped for a world organized around key principles: equality before the law, legal certainty, and respect for human rights.

Yet today, we find ourselves in a dangerous world, marked by a return to the rule of the strongest and the rule of the wealthiest—a world where boundaries, whether legal or planetary, are being challenged.

And yet, for nearly a century, we have succeeded in building an international order founded—at least in parts—on the rule of law.

We have international organizations, multilateral treaties, and courts to enforce international law.

The International Criminal Court represents the crowning achievement of this legal order.

It protects civilians and wounded military personnel during armed conflicts.

Above all, it ensures that no crime that shocks the human conscience goes unpunished.

However, this evolution towards an international rule of law is now questioned.

Some states are calling for limits to be placed on the case law of the European Court of Human Rights.

Others are withdrawing from international organizations in the name of a return to a mythologized sovereignty.

Moreover, some states are choosing to launch direct attacks on organizations dedicated to protecting the vulnerable, leveraging their domestic law and their economic might.

This upending of the hierarchy of norms calls into question the long-term viability of the international system.

International criminal justice has never been easy. And it will never be easy. There are challenges that will never disappear:

- Gathering evidence in war zones is very difficult.
- Large scale crimes, with hundreds or thousands of victims, require lengthy investigations.
- There are also the challenges of working in multiple languages, with different cultures, and the hybridisation of legal systems.

But today, the challenges reach another level: we face real threats and attacks.

I. The threats to the ICC and the international legal order

The threats come from multiple sources, and target not only the evidence (A), but also the Courts (B), and the judges (C).

A. Threats against the evidence

The threats against witnesses are not new.

We have seen protected witnesses being prevented from testifying because they had been intimidated.

Others have been bribed, so they lied or provided false evidence.

Some were even killed to make sure that the crimes remained unpunished.

To prevent this, we created robust Witness Protection Sections that can relocate witnesses if they are at risk.

But today, the threat is not only to the witnesses: it is also to the evidence itself that poses a risk, with the digitalisation of evidence.

In the future, we will probably see attempts to generate fake evidence, or to produce evidence with a wrong date or a wrong location.

This could be aimed at exonerating an accused or a group during a trial.

It could be to plead that a crime has been committed in response to another, for example to plead self-defence.

But it could also be to invent crimes that were not committed.

This could be done to shame a party to a conflict, for example to cut financial or diplomatic support, or the transfer of ammunitions.

B. Threats against the Court

The threats today are also directly targeted at the Courts.

Pressure on States to stop cooperating with the ICC is not new.

A certain number of agreements were signed at the request of the United States in the 2000's to prevent some States Parties to cooperate with the ICC in case an investigation was related to a US person.

But today, there are pressures on all States Parties to leave the ICC.

We saw recently that at the request of the United States, Venezuela and Chad said that there were leaving the Rome Statute.

We have seen however that after Hungary announced its intention of leaving the Rome Statute, it eventually decided to cancel its withdrawal.

The threats against the Court are not only political.

We have been the target of several cyberattacks and espionage.

There was a Brazilian intern who was in fact working for an intelligence service.

These operations are aimed at preventing justice from being done : To protect those who refuse accountability.

C. Threats against the judges and prosecutors

Some countries are now not only targeting the institution: they are directly attacking the judges and prosecutors of the Court.

There has been online campaign against certain judges, with fake pictures or even fake webpages for each of us.

Some current and former judges and prosecutors have also been convicted and sentenced in absentia by a Court in Moscow in 2025.

The reason is that issuance of arrest warrants in the Ukraine Situation was an act of “judicial terrorism”.

For my colleagues who face these threats, it means that they need to evaluate the risks for every travel, because they could be sent to a prison in Siberia for more than a decade.

The attacks against us also come from an ally of Europe.

We are now 9 judges and 4 prosecutors to have been put on the sanctions list by the United States.

This usually applies to terrorists, drug dealers, and dictators from authoritarian regimes.

Today, in the middle of that list, you have ICC judges and prosecutors.

I was placed under sanctions on 20th August 2025. No notification was given.

The consequences of the US sanctions for my colleagues and myself were immediate.

Firstly, we are prohibited from travelling to the United States.

Secondly, the assets we hold in the United States have been frozen. This has happened to several of my colleagues, including at the United Nations Bank.

The third aspect of the sanctions is the most severe: no US individual, no US company—including its subsidiaries—nor any of its employees may provide us with a service, nor receive a service from us.

In practice, the three areas most affected in our daily lives are banking, digital services, and healthcare.

The use of my bank account has been restricted.

I can no longer carry out transactions with a 'US Nexus' – that is, with a US person – in dollars, or in a currency that uses the dollar for conversion.

In practice, I am barred from banking outside the Euro zone.

But what I hadn't anticipated before the sanctions was the virtual disappearance of all my means of payment, because in Europe, we have almost no payment cards left that aren't American.

I discovered that in France, there are no longer any, because even though we still have a payment network, banks no longer issue cards that are not co-branded with Visa or Mastercard.

As there is no alternative to American credit cards, it is impossible to obtain a credit card as a sanctioned individual.

It is therefore difficult, and sometimes even impossible, to carry out everyday tasks such as booking a train ticket or renting a car.

We do not yet have a digital euro, and European alternatives such as WERO are still in the testing phase, so I am often unable to pay in shops or for online services.

Furthermore, some banks are over-compliant.

Several of my European colleagues have had their bank accounts closed within 24 hours after being placed under sanctions.

Furthermore, many banks, even in Europe, refuse transfers to or from individuals subject to sanctions.

We are therefore sometimes unable to make or receive a bank transfer, even though the transaction is within Europe and has no connection to the United States.

Being subject to sanctions means living in a state of constant uncertainty.

A payment that goes through today may be blocked tomorrow.

The sanctions also have a big impact in the digital sphere.

Our Amazon, Airbnb, PayPal, Gmail, and many other accounts have all been blocked or cancelled.

When we make a booking on these platforms, it is usually put on hold, as has happened to me with Booking.com, or cancelled, as has happened to me with Expedia.com.

This practice is not limited to American companies or their subsidiaries.

Some European companies also refuse to provide their services because they comply with US sanctions lists.

I have also stopped shopping online, because if the postal company is American, it will block the parcel. This has happened to me with UPS.

Some of my colleagues have lost access to their phones.

Others have had their voice assistants suddenly stop working.

This is the case with Amazon's Alexa, which stops responding to you when you are subject to sanctions.

In fact, we are living a bit like we did in the 1990s, before the digitalisation of our lives.

We have also discovered that the sanctions do not apply only to ourselves. They also apply to our families.

This is the case with the travel ban, which applies to spouses and children.

If you have children who live in or travel to the United States to work or study, they are denied entry or can be deported.

And if you have family members who are US citizens, they face criminal prosecution of up to 20 years' imprisonment if they assist you, unless you obtain a temporary licence from the US Treasury.

It is one thing to be sanctioned for one's actions. It is quite another for my loved ones who could face imprisonment because of the decisions I have made.

It is all the more difficult given that the sanctions are not time-limited.

It will be up to the US government to decide.

As I am at the start of my term at the ICC, the sanctions could remain in place for a decade.

II. What do these attacks tell us about international justice and international law today?

We now often hear in the media about the collapse of the world order, of the decline of international law.

However, we should not idealize the past (A). If it is true that there is a dynamic against international justice today (B), it is not uniformed and it has different degrees and components (C).

A. There has never been a golden age of international law

Firstly, we must dispel a myth: there has never been a period when international law was fully respected by all States.

International law has been violated before: we can take the example of the war in Iraq.

International law is also not always very prescriptive, so there are disputes about what is allowed and what is forbidden.

And, more importantly, no branch law is ever fully respected.

Just because offences are committed does not mean that criminal law no longer exists.

However, it is true that today we have the impression that international law is collapsing, notably because some states are less committed to international law.

And what is new is that they don't hide anymore: they say it.

What is in fact contested today, is the progress towards an international rule of law.

B. The process towards an international Rule of Law

The march towards an international rule of law is a long road, fraught with pitfalls.

There are periods of rapid progress, and periods of regression: this is what we are currently experiencing.

We lived through an incredible period in historical terms, the 1990s and the early 2000s.

At the global level, we have re-established international criminal justice with the ICTY and the ICTR; we have established the ICC and international investigative mechanisms for Syria, Iraq and Myanmar.

In fact, we have brought law and justice to areas of society where this was not necessarily the case: the awarding of public contracts, the financing of election campaigns, serious human rights violations, wars...

What was once governed by lawlessness, cronyism, chaos or violence is gradually being regulated by the rule of law.

It is a slow and difficult process, but it is happening.

It is this process towards an international rule of law that is questioned today.

C. The dynamics against the development of an international rule of law

Today, we are witnessing a movement of rejection of international law and multilateral institutions.

It is driven by two dynamics: imperial and libertarian.

The imperial dynamic is the return of the Empires that want to re impose the rule of the strongest.

And we see it everyday : the empires strike back.

This is a return to managing international relations through force.

A world where there are overlords and vassals.

The libertarian dynamic is different; it is the rule of the richest.

This is a return to managing world affairs based exclusively on wealth and financial interests.

This is not done in the interest of the many, but just for the fortune of the few.

The international rule of law stands in opposition to this dual dynamic.

It is the law which provides a minimum framework for international relations.

Law is supposed to constrain both force and money.

Law is meant to reinstate equality between subjects.

And it is often aimed at protecting those who are the weakest.

This is precisely why multilateral institutions are under attack.

The US sanctions follow these dynamics.

They are aimed at influencing judges' decisions.

They are aimed at altering the course of justice, so decisions are no longer made on the basis of law and facts, but on the basis of threats and punishment.

This is a system of domination through fear.

A judicial system where judges do what is expected of them because they are threatened or afraid, is the characteristic of authoritarian regimes.

If we accept this, it will result in a justice system that is no longer independent, let alone impartial.

But it is not the time to give up on the law.

III. Which responses to the threats against the international rule of law?

We need to react in different ways: personal resilience (A), institutional response (B) and European emancipation (C).

A. Personal resilience

The first thing we need to do is to stand.

We need to keep calm and carry on.

This is not the first time the international order has been attacked.

We must continue to do our work, as lawyers, detached from political considerations.

We must hold on, like a ship in a storm.

We must bring the ship, the crew, and the passengers safely back to port.

We should not bend to the pressure.

Otherwise, democratic judicial systems will collapse.

And trust will disappear: with the victims, with the member states, with the general public.

The international world order would go back to power to the powerful, which is exactly the opposite of what we have created with the process towards an international rule of law.

But resilience does not mean entering the political arena.

Judges must stay out of politics.

They shall not comment on their cases.

They shall not look for vengeance.

We simply need to continue to do our jobs.

B. Institutional response: The possible avenues with the current legal framework

But to stand in this difficult environment, we need support.

We first need support from the member States of the ICC.

They need to reiterate support for the Court and refuse to be blackmailed by foreign powers.

We also need support from the European Union.

There is a tool that has not yet been activated: it is the blocking statute.

The EU Blocking Statute (Regulation 2271/96) protects EU companies from the extraterritorial effects of foreign sanctions, particularly from the US.

It is time to activate it.

It would give a clear signal of what Europe stands for.

And we also need support from civil societies.

From Universities, civil societies organizations, and law societies.

Your invitation today is a strong message to support the ICC.

I very much thank you for expressing such a commitment to international justice.

C. European emancipation

And finally, I will talk not as a judge of the ICC, but as a European, who come from the region in the continent that is closest to Ireland: Brittany.

We need to stand together, as Europeans, and we need to build the tools of our independence for the XXIst century.

We must rebuild sovereignty in key sectors: digital and banking.

Because without digital and banking sovereignty, there will be no more legal sovereignty.

Digital technology is essential because algorithms have the potential to destroy our democracy by generating constant conflict and imposing narratives.

So we must challenge monopolies and create interoperability between stakeholders.

We need portability of our digital identity.

We cannot be prisoners of certain companies that have the power of life or digital death over us.

We also need financial sovereignty.

We need European alternatives for payments.

WERO is coming, and we need other innovations of this kind.

We also need a digital euro because we need a public currency, accessible to all.

This is a prerequisite for ensuring the integration of the most vulnerable in our society.

And we need legal innovation.

In the face of an attack on law and justice, we also need more law and more justice.

The legal response must also integrate different branches of law: international criminal law, public international law, competition law, EU law, contract law...

We must invent new branches of law, starting with European sovereignty law, which would be a new branch of competition law.

We must also strengthen access to the courts to prevent economic operators from using contractual freedom to get rid of their customers.

The market will not always naturally provide the solutions.

It is up to the law to impose them when it's needed.

Regaining sovereignty will take time: but we must start now.

Conclusion

We need to stand firm on democracy and on the rule of law, for the future generations.

Despite the threats that the international legal order is facing, I remain optimistic.

If we are under attack, it is because international justice matters.

And every day, it matters more and more to civil societies.

And first and foremost, it matters to the victims.

We face head winds. But we will stand firm.

There might be no perfect international rule of law yet. But we are making it, day by day.

It's not the moment to give up.