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The International Criminal Court: What kind of participation for the victims?

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Abstract

This thesis discusses the victim participation scheme at the ICC. But it aims first at setting the global context in which it occurs and starts by reviewing the functions of international criminal justice. It determines that the central objective of ICJ is to vindicate the rule of law in societies affected by mass atrocities. It is necessary that the ICC complies itself with rule of law principles in order to fulfil this function. Victim participation will assist the Court in its mission by securing the Court's legitimacy and acceptance of the outcome of the trials among the affected populations.

Bearing in mind this function, the analysis of the Court's jurisprudence is conducted in order to determine whether the participatory regime is satisfactory. Two challenging areas are tackled. On one hand, it appears that the current participatory regime infringes several defence rights. Several fundamental principles of the rule of law are not respected. On the other, the current scheme is inadequate to meet victims' expectations. These shortcomings originate mainly from the vagueness of the regulatory framework and an overtly victim-friendly attitude of the Court, which fails to prioritize the different interests at stake. These issues jeopardize the ICC's capacity to reach its primary goal. Consequently, it is highly advisable to rethink the participatory regime.

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