

Victim Participation in the Laurent Gbagbo Case before the International Criminal Court: A Test for Victims' Rights or a Procedural Failure?

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1. Round 1

1.1. Reviewer 1

Reviewer:

In the Introduction, the sentence “More than 7,000 victims were registered in this case” appears inconsistent with the later statement that “727 persons” were admitted or applied to participate. The article needs a precise distinction between total victims of the post-election violence, applicants for participation, admitted participating victims, and broader affected populations. The Coalition for the ICC reports that the views and concerns of 726 victims who applied to participate were to be presented throughout the trial, while other sources discuss broader casualty and displacement figures. Please standardize the figure throughout the manuscript and explain the evidentiary basis for each category.

In Section 2.3, Stage Five, the paragraph stating that “the Appeals Chamber ... overturned the acquittal judgment of Trial Chamber I and referred the case to another Chamber for reconsideration” is factually incorrect and must be substantially revised. The Appeals Chamber did not overturn the acquittal; it confirmed the Trial Chamber’s acquittal on March 31, 2021. This is not a minor chronological error but a major procedural misstatement that affects the article’s later analysis of retrial, final acquittal, victim frustration, and reparations. The section should be rewritten to reflect the actual appellate trajectory.

In Section 2.3, Stage Six, the paragraph beginning “After the case was remanded, the new Trial Chamber I began its review” should be removed or fully reworked, because it appears to describe a procedural sequence that did not occur in the ICC case as presented by official and reputable summaries. The article claims that Karim Khan requested acquittal in 2022 and that Trial Chamber II issued a final acquittal on November 11, 2022, followed by appellate confirmation in June 2023. These claims require very strong documentary support, and absent such support they should not remain in the manuscript. The correct analytical focus should be on the 2019 Trial Chamber acquittal and the 2021 Appeals Chamber confirmation.

In Section 2.2, the paragraph discussing Simone Gbagbo contains several serious inaccuracies and typographical problems, especially the sentence “Simone Gbagbo ... was surrendered to the Court in March 2015” and the phrase “in June 218.” Simone Gbagbo’s procedural history is distinct from Laurent Gbagbo and Charles Blé Goudé and should not be presented as if she was surrendered to the ICC and then released through the same procedural trajectory. This paragraph should either be carefully verified against ICC records or shortened to a footnote-style contextual remark, because the current formulation distracts from the central case and may mislead readers.

In Section 3.3.1, the sentence “At the confirmation of charges stage, which was held in 2011” appears chronologically incorrect, since the confirmation of charges proceedings for Gbagbo and Blé Goudé occurred later, with charges confirmed in 2014. Please correct this date and ensure consistency with Section 2.3, where the manuscript itself refers to June 2014 and December 2014. Internal chronological inconsistency is a significant problem in a legal article that depends on procedural sequencing.

In Section 4.1, the paragraph beginning “One of the most important interventions by victims’ representatives...” argues that victims’ representatives helped ensure that sexual violence charges were properly included. This is an important claim but should be framed carefully. The article should specify whether victims’ representatives actually influenced the legal characterization of charges, contributed to the evidentiary narrative, or merely reinforced arguments already advanced by the Prosecutor. These are different levels of influence, and overstating victims’ procedural impact could weaken the article’s later claim that participation was structurally limited.

Authors revised the manuscript and uploaded the document.

1.2. Reviewer 2

Reviewer:

In Section 2.1, the paragraph beginning “To understand the 2010–2011 crisis more deeply...” needs a stronger bridge between the political history of Ivoirité and the later legal classification of crimes against humanity. At present, the historical narrative is informative but somewhat descriptive; the article should explicitly explain how political exclusion, north–south polarization, and identity-based mobilization became legally relevant to the alleged elements of persecution, widespread or systematic attack, and civilian targeting. This would make the transition from political background to legal analysis more rigorous.

In Section 2.1, the paragraph stating that “the intensity and scope of violence in areas controlled by Gbagbo’s forces, particularly in Abidjan, were greater” requires more careful qualification. Because the article later criticizes the ICC for one-sided prosecution and exclusion of victims harmed by Ouattara-aligned forces, it must avoid appearing to reproduce the Prosecutor’s framing uncritically. Please clarify whether this statement reflects the Prosecutor’s theory, human rights reporting, judicial findings, or the author’s own assessment. The distinction is essential for maintaining analytical neutrality.

In Section 2.2, the paragraph beginning “The charges were based on the claim that Gbagbo and Blé Goudé...” should more clearly distinguish among modes of liability. The manuscript uses terms such as “ordered,” “encouraged,” “coordinated,” “command responsibility,” “indirect responsibility,” and “common plan” in close proximity, but these correspond to different doctrinal bases under the Rome Statute. The author should specify whether the analysis concerns Article 25(3)(a), Article 25(3)(b), Article 25(3)(d), command responsibility under Article 28, or a broader prosecutorial narrative. Without this doctrinal precision, the discussion of evidentiary failure remains legally underdeveloped.

In Section 2.3, Stage Three, the paragraph stating that “one of the fundamental weaknesses of the Prosecutor’s case was the absence of direct evidence of explicit orders” is important but should be expanded analytically. The article should explain whether the failure lay in proving the contextual elements of crimes against humanity, the existence of a common plan or policy, the nexus between the accused and direct perpetrators, or the mental element. These are distinct evidentiary failures, and separating them would strengthen the article’s central claim that victim participation could not remedy prosecutorial weaknesses.

In Section 3.1.1, the paragraph comparing “727 participating victims” with “more than 3,000 killed” and “more than 500,000 displaced” needs conceptual refinement. The article should not imply that the number of participating victims is expected to correspond proportionally to the total number of affected persons. Participation before the ICC depends on admissibility criteria, procedural timing, proof of harm, connection to charges, outreach, and security conditions. A clearer explanation of this gap would prevent the analysis from appearing purely numerical and would better support the claim that victim participation was structurally limited.

In Section 3.1.2, the paragraph stating that “approximately 45 percent of the participating victims were women” should be supported by a precise source or removed if the source cannot be verified. The manuscript makes several empirical claims about gender, age, ethnicity, and types of harm, but these are not always anchored in identifiable evidence. Since the article’s argument relies heavily on the representativeness and diversity of victims, the author should provide exact references for demographic figures, preferably from ICC Registry reports, victims’ legal representative filings, or official victim participation decisions.

In Section 3.1.3, the description of the victim application process is useful, but the paragraph beginning “The second stage was the completion of application forms” should include a more critical distinction between individual application systems and collective/application-light models used in ICC practice. The author argues that forms were complex and exclusionary, but this point would be stronger if connected to broader ICC debates on whether individualized participation procedures over-bureaucratize victim access. This would elevate the discussion from case description to procedural critique.

In Section 3.2.1, the paragraph explaining Rule 85 should be revised to distinguish clearly between “harm resulting from crimes within the jurisdiction of the Court” and “harm resulting from crimes charged in the specific case.” The manuscript sometimes moves between these two standards as if they were identical. For participation in a specific case, the connection to the charges and to the accused is crucial. Clarifying this distinction will help explain why some victims of the broader Ivorian crisis could not participate in the Gbagbo case, even if they were victims of serious crimes.

In Section 3.2.3, the paragraph on “two-sided victims” is one of the article’s strongest contributions, but it needs more doctrinal precision. The author should distinguish between prosecutorial selectivity, case admissibility, complementarity, evidentiary sufficiency, and political legitimacy. The current paragraph attributes exclusion primarily to political selectivity, but a stronger scholarly analysis would ask whether the ICC’s case-selection strategy was legally defensible yet normatively problematic, or whether it reflected a failure of even-handed justice. This distinction would make the critique more balanced and persuasive.

Authors revised the manuscript and uploaded the document.

2. Revised

Editor’s decision: Accepted.

Editor in Chief’s decision: Accepted.