



International Law and Global Security: Reassessing the Role of the International Criminal Court in the Pursuit of Accountability

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Abstract

In an international system where crimes against humanity, genocide, and war crimes frequently escape sanction, the International Criminal Court (ICC), referred to throughout this article by its operational designation, the International Criminal Court (ICC), has emerged as the principal permanent institution mandated to prosecute the gravest offenses of international concern. Yet more than two decades after the entry into force of the Rome Statute, the Court's contribution to global security remains sharply contested. Drawing on structured interviews and focus group discussions with scholars and practitioners of international law, human rights, and security, and a systematic review of doctrinal and empirical literature, this article examines the function, achievements, and constraints of the Court. Anchored in constructivist international relations theory, the analysis finds that the Court's principal difficulties are political interference from powerful non-States Parties and permanent members of the United Nations Security Council, chronic resource constraints, an unresolved tension between the complementarity principle and state sovereignty, and persistent perceptions of selective justice in its case docket. At the same time, the Court has secured convictions of genuine deterrent and normative value, expanded victim participation in international

proceedings, and catalysed domestic legal reform in several jurisdictions. The article argues that reforms to case-selection transparency, arrest-warrant enforcement mechanisms, and the Security Council's referral and deferral powers are necessary if the Court is to fulfill its promise as an instrument of global security rather than of selective accountability.

Keywords: International Criminal Court, International Law, Global Security, Complementarity, State Sovereignty

1. Introduction

The International Criminal Court (ICC) was established by the Rome Statute of 1998, which entered into force in 2002, as the first permanent treaty-based institution empowered to prosecute individuals for genocide, war crimes, crimes against humanity, and, since 2018, and the crime of aggression (Rome Statute of the International Criminal Court, 1998; Assembly of States Parties, 2017; Schabas, 2011). Its creation marked a watershed in the evolution of international law: for the first time, individual criminal responsibility for the most serious violations of international humanitarian law could be pursued by a standing international tribunal rather than by ad hoc courts convened after the fact, as had been the case with Nuremberg, Tokyo, the International Criminal Tribunal for the former Yugoslavia, and the International Criminal Tribunal for Rwanda (Cassese & Gaeta, 2013; Werle, 2009).

The Court's jurisdiction is deliberately circumscribed by the principle of complementarity, under which it may act only where national jurisdictions are unwilling or genuinely unable to investigate or prosecute (Rome Statute of the International Criminal Court, 1998, art. 17; Stahn & El Zeidy, 2011). This design was intended to reconcile the exercise of supranational criminal jurisdiction with respect for state sovereignty while ensuring that impunity is not the default outcome when domestic systems fail. In principle, complementarity strengthens the rule of law at both the domestic and international levels by positioning the Court as a court of last resort rather than a substitute for national justice systems (Kress, 2005; Schabas, 2010).

In practice, however, the Court's record has been the subject of persistent controversy. It has secured a comparatively small number of convictions relative to the scale of atrocity it was designed to address, has been criticised for the geographic concentration of its docket, and continues to depend on the voluntary cooperation of states for the execution of arrest warrants and the enforcement of its orders (Rothe & Collins, 2013). It has also been the target of overt political resistance, including non-cooperation and withdrawal threats from both States Parties and non-parties (Knottnerus & Van der Volder, 2015; Voeten, 2020). These tensions form the empirical and analytical starting point for this article, which investigates how the Court's function and influence are perceived by those who study and practise in the fields of international law, human rights,

and global security, and how the doctrinal and institutional design of the Rome Statute constrains or enables the Court's contribution to global security.

The ICC represents a notable advance in the institutionalisation of international justice, yet it confronts obstacles that diminish its efficiency and constrain its capacity to fulfil its mandate. These obstacles are both internal and external in origin. Internally, the complementarity principle itself limits the Court's reach: it may act only where domestic systems are unwilling or unable to prosecute, a threshold that is often difficult to establish and that leaves substantial room for states to forestall the Court's jurisdiction through nominal domestic proceedings (Stahn & El Zeidy, 2011). Externally, the Court possesses no independent enforcement arm; it depends entirely on states to execute arrest warrants, and several high-profile suspects, including sitting or former heads of state, have evaded apprehension for years despite outstanding warrants, eroding both the Court's authority and the broader credibility of international criminal law (Akande, 2004; Rothe & Collins, 2013).

Compounding these structural constraints is the recurring charge that the Court's case selection and prosecutorial practices reflect political calculation rather than purely legal criteria. The Court's institutional relationship with the United Nations Security Council, which may refer situations to the Court and may also defer investigations or prosecutions for renewable twelve-month periods under Article 16 of the Rome Statute, creates a channel through which the interests of the Council's permanent members, several of which are not parties to the Rome Statute, can shape the Court's docket and operational latitude (Rome Statute of the International Criminal Court, 1998, art. 16; Fairlie, 2011). It is against this backdrop that the present study investigates the function and influence of the Court in advancing international law and global security by assessing the challenges the Court faces in the implementation and enforceability of its rulings, if political interference affects the Court's autonomy, fairness, and capacity to deliver justice, and to what extent, and in what respects, the Court is perceived as biased in its selection of cases involving states.

2. Literature Review

2.1 Conceptual Clarification

2.1.1 Jurisdiction under the Rome Statute

The Court's jurisdiction is bounded along four dimensions: subject-matter (the crimes of genocide, crimes against humanity, war crimes, and aggression), temporal (crimes committed after 1 July 2002, or after a state's accession), territorial (crimes committed on the territory of a State Party, or by its nationals), and personal (natural persons rather than states) (Rome Statute of the International Criminal Court, 1998, arts. 5–8, 11–12, 25; Schabas, 2010). A State Party referral may trigger jurisdiction, a Security Council referral acting under Chapter VII of the UN Charter, or a *proprio motu* investigation initiated by the Prosecutor with the authorisation of the Pre-Trial Chamber (Rome Statute of the International Criminal Court, 1998, arts. 13–15). Each trigger mechanism carries distinct

political implications: Security Council referrals, for instance, can extend the Court's reach to non-States Parties such as Sudan and Libya (Akanke, 2003; UN Security Council, 2005, 2011) but also import the Council's geopolitical dynamics into the Court's docket.

2.1.2 The Complementarity Principle and State Sovereignty

Complementarity is often described in literature as the Rome Statute's central innovation and its central vulnerability (Kress, 2005; Stahn & El Zeidy, 2011). Proponents argue that it preserves state sovereignty by making national prosecution the default and international prosecution the exception, thereby incentivising states to strengthen domestic accountability mechanisms rather than ceding jurisdiction outright. Critics counter that the standard for establishing a state's unwillingness or inability to prosecute is imprecise and contestable, permitting powerful states to insulate their nationals from scrutiny through nominal or dilatory domestic proceedings (Stahn, 2012), while weaker states with less developed judicial systems become disproportionately exposed to the Court's jurisdiction. This asymmetry is central to enduring debates over whether complementarity, as currently designed, can genuinely function as intended across states of unequal capacity.

2.1.3 Selective Justice

A recurring theme in the literature is the concept of selective justice: the concern that the Court's choice of situations to investigate and of individuals to prosecute within those situations follows patterns that cannot be fully explained by the gravity of the underlying crimes alone (El Zeidy, 2008; Heller, 2009). Selective justice critiques point variously to the geographic concentration of the Court's early docket in African states (Knottnerus & Van der Volder, 2015), to the absence of investigations into nationals of major powers that are not parties to the Statute (Fairlie, 2011), and to the Court's reliance on state and Security Council referrals that can themselves be politically motivated. Whether these patterns reflect genuine bias, the practical constraints of jurisdiction and cooperation, or simply where the gravest crimes have in fact occurred remains a live methodological and normative question addressed by the empirical studies reviewed below.

2.2 Institutional and Legal Architecture

The Court comprises the Presidency, the Judicial Divisions (Pre-Trial, Trial, and Appeals Chambers), the Office of the Prosecutor, and the Registry, supported by dedicated units for victim participation and reparations, witness protection, and outreach (Rome Statute of the International Criminal Court, 1998, arts. 34–43; Cryer et al., 2010). Its procedural architecture such as arrest warrants, confirmation-of-charges hearings, trial, sentencing, and appeal, closely tracks the due-process guarantees found in major human rights instruments, while its victim-participation regime, allowing victims to present views and concerns at relevant stages of proceedings and to claim reparations, is frequently cited as distinguishing it from earlier ad hoc tribunals (Rome Statute of the International Criminal Court, 1998, arts. 68(3), 75; Schabas, 2011). Since its establishment, the Court has opened

investigations into situations across Africa, the Americas, Asia, and Europe, including the Democratic Republic of Congo, Uganda, Darfur/Sudan, Libya, Kenya, Côte d'Ivoire, Mali, the Central African Republic, Georgia, Bangladesh/Myanmar, Afghanistan, Palestine, the Philippines, Venezuela, and Ukraine (International Criminal Court, n.d.), and has secured convictions in a limited but symbolically significant number of cases, including that of Thomas Lubanga Dyilo for the conscription and use of child soldiers in the Democratic Republic of Congo (Prosecutor v. Lubanga Dyilo, 2012).

2.3 Global Security Concerns in the Design of the Rome Statute

2.3.1 The Security Council's Power over the Crime of Aggression

Article 39 of the UN Charter empowers the Security Council to determine the existence of an act of aggression before measures are taken to restore international peace and security (Charter of the United Nations, 1945, art. 39), and the Kampala amendments to the Rome Statute (adopted in 2010 and activated in 2018) preserve a significant role for the Council in triggering the Court's jurisdiction over aggression (Review Conference of the Rome Statute of the International Criminal Court, 2010; Assembly of States Parties, 2017; Politi, 2012). Where the Council has made no determination within six months, the Prosecutor may proceed only with the authorisation of the Pre-Trial Chamber, and the Council retains the capacity to defer any resulting investigation under Article 16. Critics argue that this arrangement effectively subordinates the Court's jurisdiction over the crime of aggression to the political will and veto dynamics of the Council's five permanent members, a concern intensified by the use of the veto in relation to Syria, Sudan, and Ukraine (see, for Syria, UN Security Council, 2014), and that it prevents the Court from acting proactively to restrain an ongoing act of aggression (McDougal, 1997; Politi, 2012).

2.3.2 Independence and the Security Council's Power of Deferral

Article 16 of the Rome Statute allows the Security Council to request the deferral of an investigation or prosecution for a renewable period of twelve months (Rome Statute of the International Criminal Court, 1998, art. 16; Schabas, 2010). While intended as a safeguard against interference with ongoing peace and security operations, the provision has been criticised as a structural channel through which permanent members can shield allies or their own nationals from scrutiny, thereby compromising the Court's independence and its perceived impartiality (Cassese et al., 2002; Fairlie, 2011). The interaction between Article 13(b) (Council referral), Article 16 (Council deferral), and the complementarity regime creates what several scholars describe as an asymmetric relationship in which the Council can expand the Court's reach when convenient and contract it when inconvenient.

2.3.3 Sovereignty, Legitimacy, and Concerns over Institutional Overreach

A further strand of the literature interrogates whether the concentration of prosecutorial power capable of indicting sitting heads of state represents a legitimate evolution of international law or a potential instrument of overreach, particularly given the absence of

any check on the institution comparable to domestic separation-of-powers arrangements (Akande, 2004; Voeten, 2020). These concerns are amplified by the observation that authoritarian regimes elsewhere have instrumentalised domestic criminal justice systems to suppress opposition, raising the theoretical possibility, however remote in practice, that a powerful international judicial body could likewise be captured or misused. Such concerns are counterbalanced in the literature by the argument that the complementarity principle, judicial review through the Pre-Trial and Appeals Chambers, and the Assembly of States Parties provide meaningful institutional checks, even if these checks are unevenly applied in practice (Rome Statute of the International Criminal Court, 1998, arts. 82, 112; Schabas, 2010).

2.3.4 Regional Responses: The African Union and the Malabo Protocol

Tensions between the Court and the African Union culminated in the adoption of the Protocol on Amendments to the Protocol on the Statute of the African Court of Justice and Human Rights (the Malabo Protocol), which would extend the jurisdiction of a regional African court to international crimes covered by the Rome Statute (African Union, 2014). Scholars have characterised the Malabo Protocol variously as a genuine African solution to African problems, reflecting legitimate concerns about the geographic concentration of the Court's docket and a preference for regionally embedded justice mechanisms (Abrahamsen, 2020), and as a defensive response to the Court's prosecution of sitting African heads of state (Knottnerus & Van der Volder, 2015). The Protocol's contested provision granting sitting officials immunity from prosecution has drawn particular criticism as being in tension with the accountability objectives that both the Rome Statute and the African Court system nominally share (African Union, 2014, art. 46Abis; Gaeta & Labuda, 2016). The relationship between a strengthened regional court and the ICC, whether complementary, competitive, or a genuine regime complex, remains an open and consequential question for the future architecture of international criminal justice on the continent.

2.4 Empirical Studies

A growing body of empirical scholarship has sought to test, rather than merely assert, the Court's contribution to deterrence, violence reduction, and accountability. Smeulers *et al.* (2015) conducted an empirically grounded evaluation of the Office of the Prosecutor's situation-selection practice and found that case selection tracked the gravity of the underlying crimes more closely than allegations of geographic or political bias would suggest, concluding that the process was broadly consistent with legal rather than purely political criteria. Ford (2020), synthesising quantitative evidence across conflict-affected states, found that the prospect of ICC investigation exerted a measurable deterrent effect on political and military leaders, with states under scrutiny exhibiting reductions in mass violence, and concluded that violence prevention constitutes one of the Court's most significant, if underappreciated, achievements.

Hörtnagl (2020), employing a mixed-methods design combining negative binomial regression with qualitative process tracing in the case of Darfur, Sudan, found that initial court interventions were associated with reduced civilian fatalities, but that subsequent arrest warrants produced more ambiguous results once major powers failed to sustain enforcement pressure, suggesting that the court's deterrent effect is conditional on continued international political support rather than a fixed institutional property. Ishimwe (2025), through comparative case analysis spanning the Lubanga, Ntaganda, and al-Bashir proceedings as well as the Court's engagement with the situation in Ukraine, similarly found that successful prosecutions reinforce international norms against atrocity crimes, but that the deterrent effect varies substantially with the level of state cooperation and enforcement capacity available in each context. Weerdesteijn and Holá (2020), examining the Court's relationship to the Responsibility to Protect doctrine, concluded that the Court functions as a preventive mechanism by raising the expected costs of committing international crimes, while cautioning that this preventive function remains contingent on cooperation from states and international organisations.

In all, this empirical literature converges on the finding that the Court contributes to global security through the deterrence of atrocity crimes, incremental reductions of violence in specific conflict situations, the reinforcement of international norms against impunity, and support for conflict prevention through the credible threat of legal sanction. At the same time, it identifies recurring limitations: the absence of independent enforcement mechanisms, dependence on inconsistent state cooperation, susceptibility to political interference from powerful states, selective execution of arrest warrants, and considerable variation in deterrent effect across different conflict settings. These findings frame the empirical puzzle this article investigates through primary qualitative data: how do those who study and practise international law and security themselves perceive the balance between the Court's achievements and its structural constraints?

2.5 Theoretical Framework

2.5.1 Liberal Institutionalism

Liberal institutionalism holds that international institutions, by reducing transaction costs and stabilising expectations of behaviour, can foster durable cooperation among self-interested states operating in a less anarchic environment than realist theory suggests (Keohane, 1984). On this account, the Court is valuable to states because a standing institution obviates the recurring costs of negotiating ad hoc tribunals, and states commit to the Rome Statute when doing so aligns with their material self-interest, notwithstanding the sovereignty costs involved. This perspective illuminates why a critical mass of states, particularly small and middle powers, chose to legalise their commitment to a permanent court, but is less able to explain why powerful states with the greatest capacity to shape institutional design have simultaneously been among the Court's most persistent non-participants or antagonists.

2.5.2 Rational Choice Theory

Rational choice theory explains outcomes as the product of goal-seeking action by identifiable actors operating under specifiable constraints, whether material, institutional, or interdependent (Koremenos et al., 2001). Applied to the Rome Statute negotiations, this approach can account for why states designed particular features of the Court's jurisdictional and triggering mechanisms to protect their interests, but it is comparatively silent on the normative question of what the Court's design ought to have been, and it struggles to explain why materially weaker states were able to secure a treaty design that in some respects constrains the interests of more powerful states. Because it treats actor identities and preferences as fixed rather than historically and socially constituted, rational choice offers a partial but incomplete account of the Court's institutional history.

2.5.3 Constructivism

Constructivism directs attention to the ideational and normative structures that shape state identity and interest, treating the international system as socially constructed rather than given (Reus-Smit, 2013). On this view, anarchy is not a fixed structural condition but, in Wendt's (1999) formulation, "what states make of it": the Rome Statute and the Court exist because a coalition of states arrived at a shared, inter-subjective understanding that an international criminal justice norm was appropriate and worth institutionalising. This lens is particularly well suited to explaining the negotiating success of middle and weaker powers in the Rome Statute process, a coalition whose interests and identities cannot be reduced to a fixed, material calculus and to explaining why states have subsequently reaffirmed, resisted, or withdrawn from the Court's jurisdiction at different points in its institutional life, as shifts in identity and normative commitment, not merely material interest, shape state behaviour toward the Court.

2.5.4 Relevance of Constructivism to the Study

Constructivism's attentiveness to the role of legal norms in constituting state identity and interest makes it a natural bridge between international relations theory and international law scholarship, both of which converge on the proposition that actors, interests, and social structures are contingent products of interaction around shared norms (Brunnée & Toope, 2010; Reus-Smit, 2013). This theoretical orientation underpins the present study's analytical stance: the Court's effectiveness, legitimacy, and contested legitimacy alike are treated not as fixed institutional properties but as outcomes of an ongoing, contested process of norm construction among states, international organisations, civil society, and affected communities, a process in which political interference, resource constraints, and perceptions of bias are best understood as struggles over whose understanding of international criminal justice will prevail.

3. Materials and Methods

This study adopted a qualitative research design combining historical and descriptive methods, on the premise that the research questions, concerning perceptions of institutional effectiveness, political interference, and bias, are best addressed through the structured elicitation of expert perspective rather than through purely doctrinal or quantitative analysis. Primary data was collected through structured interviews and a focus group discussion with a purposively selected sample of participants possessing demonstrable expertise in international law, human rights, and global security, drawn from legal practice, academic research, and human rights advocacy. This purposive approach was chosen to ensure that respondents could speak with informed authority to the Court's mandate, jurisprudence, and operational challenges, rather than to achieve statistical representativeness.

Secondary data were drawn from a wide range of scholarly and documentary sources, including peer-reviewed journal articles, academic monographs, the Rome Statute and its associated instruments, Assembly of States Parties documentation, and reputable web-based and journalistic publications, which together provided the doctrinal and empirical grounding against which primary responses were interpreted. Data from the structured interviews and focus group discussion were transcribed verbatim and analysed using thematic and content analysis (Braun & Clarke, 2006), involving the systematic identification of recurring patterns, categories, and themes in participant responses, organised around the study's three research questions and objectives. This iterative process of coding and theme development allowed emergent findings to be triangulated against the empirical and doctrinal literature reviewed in Section 2.

The study acknowledges several limitations. Access to certain categories of information, including material held by international agencies and states under confidentiality or security classification, was constrained, limiting the granularity of some institutional detail available for analysis. Financial and time constraints associated with a doctoral research timeline also shaped the scale of primary data collection. Notwithstanding these constraints, established procedures for ensuring the validity and reliability of qualitative findings, including triangulation across primary and secondary sources and systematic thematic coding, were applied throughout. On ethical grounds, participation was voluntary and based on informed consent, no participant was exposed to emotional or physical harm in the course of data collection, and the confidentiality of participant identities and responses was preserved throughout the research and reporting process.

4. Results and Analysis

The qualitative analysis of interview and focus group data yielded four principal thematic clusters: perceptions of the Court's effectiveness, the challenges and limitations that constrain its mandate, perceptions of bias and fairness in its operations, and the Court's

engagement with affected communities, victims, and witnesses. Each is presented below with reference to the specific patterns identified in participant responses.

4.1 Perceptions of Effectiveness

Participants generally demonstrated sophisticated familiarity with the Court's mandate, jurisdictional architecture, and procedural machinery, and drew on this expertise to offer a differentiated assessment of its effectiveness rather than a uniformly positive or negative verdict. Most participants acknowledged the Court's notable achievements in securing convictions for grave international crimes, citing the prosecution of Thomas Lubanga Dyilo, convicted for conscripting and using child soldiers in the Democratic Republic of Congo (Prosecutor v. Lubanga Dyilo, 2012), as a case that both delivered individual accountability and drew sustained international attention to the broader problem of child soldiering, with attendant effects on subsequent prevention efforts. Participants characterised such prosecutions as carrying substantial symbolic and normative weight, communicating a broader message of non-tolerance for atrocity crimes even where the volume of successful prosecutions relative to the scale of global impunity remains modest.

At the same time, participants tempered this assessment with recognition of the Court's continuing institutional development needs, emphasising the importance of sustained cooperation from governments and international partners, ongoing investment in institutional capacity, and expanded outreach and collaboration with national governments and civil society organisations. Several participants underscored the need for a balanced and nuanced approach to evaluating institutional effectiveness, one that neither dismisses the Court's genuine accomplishments nor overlooks the structural obstacles that continue to limit its reach and called for continued dialogue among stakeholders to address these obstacles constructively.

4.2 Challenges and Limitations

Participants converged strongly around three categories of constraint on the Court's effectiveness: political interference, resource limitations, and jurisdictional and enforcement gaps. Political interference, particularly from powerful states, was consistently identified as the most consequential obstacle, manifesting through refusal to cooperate with court proceedings, withdrawal of support, and efforts to undermine the court's credibility, especially from states that are not parties to the Rome Statute or that have a vested interest in shielding their own nationals or allies from scrutiny.

Resource constraints were identified as a further significant limitation: participants noted that the Court frequently operates with an insufficient budget and personnel relative to the scale of its mandate, which impedes its capacity to conduct comprehensive investigations, ensure the fairness and thoroughness of trials, and provide adequate support to victims and witnesses. Enforcement gaps compounded these difficulties; participants highlighted the recurring failure to execute arrest warrants, particularly in conflict-affected regions where state authorities lack either the willingness or the operational capacity to

apprehend suspects, while the Court's jurisdictional limitations, which preclude prosecution of non-state actors or of crimes committed in the territory of non-States Parties absent a Security Council referral (Rome Statute of the International Criminal Court, 1998, arts. 12–13), were seen as leaving substantial categories of atrocity beyond the Court's reach.

4.3 Perceptions of Bias and Fairness

A majority of participants expressed the view that perceptions of bias in the Court's case selection and prosecutorial strategy are both real and consequential, tracing these perceptions to several interlocking factors: an apparent concentration of prosecutorial attention on particular regions or conflicts while others receive comparatively little scrutiny; the Court's structural dependence on referrals from states or the UN Security Council, which can shape its docket in ways that are difficult to disentangle from the political interests of the referring party; and a perceived disparity in how the Court approaches cases involving powerful states compared with those involving smaller or less influential states, suggesting an inconsistency in the Court's practical, if not formal, approach to pursuing international crimes.

Participants were emphatic that such perceptions of bias, whether or not fully substantiated, carry material consequences for the Court's credibility and legitimacy: they can erode confidence in the Court's capacity to dispense justice impartially, discourage victims and witnesses from cooperating with its proceedings, and undermine the Court's standing as a trusted mediator of international justice in its relationships with member states, international organisations, and civil society. Addressing these perceptions through greater transparency in case-selection criteria and in the designation of judicial and prosecutorial personnel was widely regarded by participants as a precondition for the Court to reassert its legitimacy as an impartial institution.

4.4 Engagement with Victims, Witnesses, and Affected Communities

Participants were comparatively more positive in assessing the Court's engagement with victims, witnesses, and affected communities, noting that the Court has developed outreach programmes designed to communicate information about its activities, legal procedures, and the rights of victims and witnesses, and that these programmes have contributed to building trust and improving contact between the Court and communities affected by the crimes under its jurisdiction. Participants further highlighted the Court's protective mechanisms for victims and witnesses, including secure facilities, psychological support, and legal assistance, alongside its provision for victims to participate directly in proceedings as parties or participants, submitting evidence, testimony, and views on matters affecting their interests. This victim-centred architecture was seen by participants as contributing meaningfully to processes of reconciliation and transitional justice in post-conflict settings, even as they acknowledged room for deepening collaboration with local stakeholders and civil society organisations to strengthen these efforts further.

5. Discussion

The findings of this study align closely with, and extend, the empirical and doctrinal literature reviewed in Section 2. The convergence between participant perceptions and the quantitative findings of Ford (2020), Hörtnagl (2020), and Weerdesteijn and Holá (2020), all of which identify a genuine but conditional deterrent effect contingent on state cooperation, suggests that the Court's contribution to global security is real but structurally fragile, dependent at every stage on a degree of political support that cannot be taken for granted. This fragility is not incidental to the Court's design but is, in significant part, a direct consequence of the institutional bargains struck during the Rome Statute negotiations, particularly the retention of Security Council referral and deferral powers (Rome Statute of the International Criminal Court, 1998, arts. 13(b), 16) and the absence of any independent enforcement mechanism.

Viewed through a constructivist lens, the tension between the Court's normative aspiration to impartial, universal accountability and the political reality of selective enforcement is best understood not as a simple failure of design but as an ongoing contest over whose understanding of international criminal justice will prevail. The coalition of middle and weaker states that drove the Rome Statute negotiations to a successful conclusion did so on the strength of a shared normative commitment to ending impunity, a commitment that a purely rationalist or realist account struggles to explain (Reus-Smit, 2013; Wendt, 1999), given that many of these states possessed little material incentive to accept the sovereignty costs the Statute entails. That the Court subsequently faces resistance disproportionately from powerful states, several of which played comparatively limited roles in shaping the norm they now resist, is consistent with a constructivist account in which institutional legitimacy is contested precisely because it was never grounded in the unanimous material interest of all relevant actors.

The perception of selective justice identified by participants and corroborated in the literature on the geographic concentration of the Court's docket should be read against Smeulers et al. (2015) finding that case selection has tracked the gravity of underlying crimes more closely than crude allegations of anti-African bias would suggest. This is not, however, a full rebuttal of the bias critique: gravity-based selection, in a system where referral pathways (state self-referral, Security Council referral, and proprio motu investigation; Rome Statute of the International Criminal Court, 1998, arts. 13–15) are themselves unevenly available and unevenly exercised across regions, can still produce a docket that appears, and to some extent is, geographically skewed, not necessarily because the Prosecutor targets particular regions, but because the trigger mechanisms that bring cases to the Court's attention are not equally accessible to all states and situations. Addressing the bias critique therefore requires attention not only to prosecutorial discretion at the point of case selection but also to the structural asymmetries embedded upstream in the statute's jurisdictional triggers.

The regional response embodied in the African Union's Malabo Protocol illustrates a further dimension of this contest over legitimacy: rather than rejecting international criminal justice as a norm, the Protocol represents an attempt to relocate its institutional locus to a forum perceived as more responsive to African concerns, while nonetheless raising its own legitimacy questions through the contested inclusion of immunity for sitting officials (African Union, 2014; Gaeta & Labuda, 2016). Whether the emergence of regional criminal justice architecture strengthens the broader international criminal justice regime through complementary coexistence or fragments and weakens it through jurisdictional competition and forum shopping will depend significantly on how the ICC and regional courts negotiate questions of complementarity, sequencing, and mutual legal assistance in the years ahead.

6. Conclusion and Recommendations

This study set out to examine the function and influence of the International Criminal Court in advancing international law and global security, guided by three queries concerning enforcement challenges, political interference, and perceptions of bias. The findings, drawn from structured interviews and a focus group discussion with experts in international law, human rights, and security, and triangulated against a substantial body of doctrinal and empirical literature, indicate that the Court has made a genuine and non-trivial contribution to global accountability, evidenced by successful prosecutions with demonstrable deterrent and normative effects, expanded avenues for victim participation, and sustained engagement with affected communities while simultaneously confronting persistent constraints rooted in political interference, resource limitations, jurisdictional gaps, and perceptions of selective justice.

The study recommends strengthening state cooperation mechanisms for arrest warrant execution and extradition, including clearer consequences within the Assembly of States Parties for sustained non-cooperation to limit accused persons' ability to evade the Court's jurisdiction indefinitely; enhancing transparency and consistency in case-selection criteria and the designation of judges and senior staff to bolster impartiality and rebuild stakeholder trust; expanding outreach to affected communities, victims, and witnesses while deepening collaboration with local and civil society actors on victim participation and transitional justice; revisiting the scope of the Security Council's referral and deferral powers under Articles 13(b) and 16 of the Rome Statute to reduce the Court's dependence on the political dynamics of the Council's permanent membership, particularly regarding jurisdiction over the crime of aggression; and deepening engagement between the ICC and emerging regional judicial mechanisms, such as the prospective African Court of Justice and Human Rights, to clarify complementarity arrangements and prevent jurisdictional fragmentation that could undermine the broader international criminal justice regime.

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