

A Critical Analysis on the Enforcement Mechanism of the International Criminal Court: The Role of State Cooperation.

Alfredy Siwale

Department of Public Law, Faculty of Law, University of Iringa (UoI)
Iringa, Tanzania.
Email: alfredysiware@gmail.com

Abstract: *This study presents a critical analysis of the enforcement mechanism of the International Criminal Court (ICC), with a specific focus on the pivotal role of state cooperation. The research is grounded in a qualitative doctrinal legal methodology, analyzing the Rome Statute, key ICC jurisprudence, and secondary scholarly literature to investigate the profound disconnect between the Court's legal mandate and its operational reality. The findings reveal that the legal obligations for state cooperation, while comprehensive in scope under Part 9 of the Statute, are critically undermined by a lack of automaticity and enforceable sanctions. The study further demonstrates that the principle of complementarity has fostered an adversarial, rather than complementary, relationship with national jurisdictions, and that geopolitical alliances and regional politics consistently override legal commitments, leading to chronic and strategic non-compliance. The analysis concludes that the ICC's enforcement model is structurally deficient, rendering the Court's efficacy and legitimacy perpetually contingent on the very political will it often seeks to transcend. The study recommends a shift in strategy towards depoliticizing cooperation through a framework of positive incentives and graduated sanctions, and suggests future empirical research into the domestic political drivers of state behavior.*

Keywords: International Criminal Court (ICC), State Cooperation, Enforcement Mechanism, Rome Statute, Complementarity, Impunity, International Criminal Justice, Sovereignty, Assembly of States Parties (ASP), Non-Compliance.

1.0 INTRODUCTION

The establishment of the International Criminal Court (ICC) in 2002 signified a historic commitment to a rule based international order, aiming to end impunity for genocide, war crimes, crimes against humanity, and the crime of aggression. As the first permanent, treaty-based institution of its kind, the Court was vested with the formidable mandate of holding individuals accountable for the world's most serious crimes, thereby embodying the global community's aspirations for universal justice [1]. However, the realization of this mandate is critically constrained by a fundamental operational weakness: the ICC possesses no independent police force or direct territorial authority to execute its own decisions [2]. This structural flaw renders its entire enforcement mechanism from investigation to arrest and sentencing entirely dependent on the cooperation of sovereign states, creating a profound gap between its legal power and its practical power.

It is within this context of structural dependency that this study is situated. The central problem is the critical disconnect between the Court's strong legal mandate and its structurally weak, state-reliant enforcement capabilities. This dependency creates a pervasive enforcement deficit, where the legal obligation to cooperate, as outlined in the Rome Statute, consistently collides with political realities and national interests. Consequently, this paper seeks to critically evaluate the enforcement mechanisms of the ICC with a focus on state cooperation and its profound implications for the project of international criminal justice. Through a systematic analysis, this research will argue that the current state-dependent

enforcement model is the primary constraint on the Court's effectiveness and legitimacy.

1.1 Background of the research

The legal architecture for the ICC's enforcement is meticulously detailed in the Rome Statute, which establishes a cooperative, rather than supranational, model. The cornerstone of this system is Part 9 of the Statute, which explicitly obligates States Parties to "cooperate fully with the Court in its investigation and prosecution of crimes," encompassing duties ranging from the arrest and surrender of suspects to the provision of evidence and protection of witnesses Statute [3](Rome Statute, 1998, Art. 86). This framework forms the legal basis for the first specific objective of this study: to identify the legal obligations of states parties under the Rome Statute. The Statute creates a binding contractual relationship, making state consent the foundational element of the Court's operational capacity.

A second, critical component of this legal architecture is the principle of complementarity, articulated in Article 17. This principle designates the ICC as a court of last resort, only acting when national jurisdictions are "unwilling or unable genuinely" to carry out investigations or prosecutions [3](Rome Statute, 1998, Art. 17). As Benvenisti (2018) argues, complementarity is a deliberate concession to state sovereignty, reinforcing the primary responsibility of domestic legal systems. While intended to encourage national-level accountability, this principle further entrenches the state-centric nature of the enforcement regime, positioning

the ICC as a judicial backstop rather than a proactive authority.

Despite the detailed legal framework, a significant enforcement gap persists between the law on paper and the Court's operational reality. This gap is not a mere oversight but a structural feature of an international system that prizes state sovereignty. The ICC possesses no direct power to compel compliance; its primary recourse against a non-compliant State Party is to make a formal finding and refer the matter to the Assembly of States Parties (ASP), a political body with limited and often ineffective coercive power [4]. This structural weakness reveals a fundamental flaw: the enforcement mechanism lacks an automatic and reliable sanction for noncompliance.

This legal-structural deficiency is severely exacerbated by profound political obstacles. Geopolitical alliances, regional security concerns, and overt hostility from powerful non-member states frequently lead to the delay, obstruction, or outright refusal of cooperation, even from States Parties [5]. High-profile cases have consistently demonstrated that the decision to cooperate is often a political calculation, not a legal one. It is this chasm between legal obligation and practical enforcement that this study aims to investigate, aligning with its second specific objective: to analyze the enforcement gaps within international legal frameworks and the political and structural obstacles limiting ICC effectiveness.

The persistent and high-profile challenges of non-cooperation have triggered an intense debate about the future of the ICC and international criminal justice itself. The current system's deficiencies, starkly visible in failed arrests and protracted proceedings, have spurred a range of proposals aimed at strengthening the enforcement regime. Scholars and practitioners have called for reforms such as enhancing the powers of the ASP to impose tangible political or economic sanctions on non-compliant states, thereby creating a more meaningful cost for inaction [6].

Further proposals explore alternative mechanisms, including formalizing the role of regional organizations in facilitating cooperation and building stronger coalitions of like-minded states to exert diplomatic pressure. There are also ongoing discussions about redefining the relationship with the UN Security Council to ensure more consistent political backing for the Court's requests [7]. This evolving discourse on overcoming the Court's operational paralysis directly informs the third specific objective of this research: to explore prospects for ICC reforms and alternatives to enhance enforcement mechanisms, thereby assessing potential pathways to a more effective and resilient system.

While the legal obligations under Part 9 of the Rome Statute are well-documented, and instances of non-cooperation are

widely reported, there is a lack of systematic analysis that directly links specific types of political and structural obstacles to the failure of particular legal provisions. A significant gap exists in understanding how specific political factors such as shifting regional alliances, domestic regime changes, or bilateral trade agreements directly intercept and nullify the procedural mechanisms for arrest, evidence sharing, and witness protection as outlined in the Statute. This study will address this gap by mapping the precise points of failure between legal procedure and political interference, moving beyond a general critique to provide a granular analysis of the enforcement deficit.

1.2 Other related studies

1.2.1 Comprehensiveness of the Legal Framework for Cooperation

The comprehensiveness of the legal framework is often strongly supported in Europe, where the principle of direct applicability facilitates cooperation. Many European Union member states have harmonized their domestic laws to automatically comply with ICC requests, viewing the Court as an integral component of the international legal architecture [1]. This integration demonstrates a high level of commitment to the obligations outlined in Part 9 of the Rome Statute, making the region a relative stronghold for the Court's operational needs.

In contrast, the approach in the Americas, particularly in the United States, demonstrates a deliberate legal resistance that challenges the framework's universality. The American Service Members' Protection Act (ASPA) actively prohibits U.S. military aid to countries that are party to the ICC without bilateral immunity agreements, creating a significant chasm between international obligation and national practice [8]. This stance showcases how domestic law can be wielded to limit the reach of the ICC's legal framework and politicize the cooperation process.

Across Asia, the comprehensiveness of the framework is often questioned by major powers who have chosen not to ratify the Rome Statute. Countries like China and India justify their non-participation by citing concerns over sovereignty and the principle of complementarity, arguing that the Court infringes upon national jurisdiction and displays selective enforcement [9]. This perspective highlights a regional skepticism that prevents the legal framework from gaining universal acceptance and limits the ICC's jurisdictional reach.

The African experience presents a complex picture where political collective action often supersedes individual legal commitments. The African Union (AU) has issued non-binding directives for member states to not cooperate with certain ICC arrest warrants, most notably for Sudanese President Omar al-Bashir [10]. This creates a direct conflict

for African States Parties, pitting their regional political allegiances against their international legal obligations and revealing a critical vulnerability in the enforcement framework.

As a specific African State Party, Tanzania embodies this tension between legal commitment and regional pressure. While the country has generally been a cooperative member of the ICC and has taken steps to align its national laws with the Rome Statute, its actions have at times been influenced by the wider AU position. The case of President Al-Bashir placed Tanzania in a difficult position, testing its dedication to the legal framework of the Court against the political imperative of continental solidarity, illustrating the practical challenges of maintaining consistent cooperation.

A significant research gap exists in the absence of a systematic, comparative analysis of the domestic implementing legislation of States Parties across these different regions. While broad patterns of cooperation and non-cooperation are known, there is a lack of a granular, article-by-article study that maps how specific provisions of Part 9 of the Rome Statute have been transposed into the national law of key states, including Tanzania. Such a study would precisely identify the legislative loopholes and procedural barriers that hinder seamless cooperation, providing a crucial evidence base for targeted legal reforms.

1.2.2 Manifestation of the Enforcement Deficit

While generally cooperative, Europe still demonstrates significant enforcement deficits in politically sensitive cases. The failure of multiple European States Parties to arrest Sudanese President Omar al-Bashir during his visits to their territories revealed how geopolitical and economic interests can override legal obligations [11]. This selective cooperation illustrates that even in regions with strong legal frameworks, political considerations can create substantial enforcement gaps that undermine the ICC's authority and effectiveness in practice.

The enforcement deficit in the Americas is particularly pronounced due to the influential position of non-party states. The United States' consistent opposition to the Court has created a significant jurisdictional gap, while its economic and political influence has discouraged other states in the region from full cooperation in sensitive cases [12]. This hegemonic influence represents a structural obstacle that the current legal framework cannot adequately address, leading to persistent enforcement challenges across the hemisphere.

The enforcement deficit in Asia is characterized by widespread non-participation and strategic avoidance of ICC jurisdiction. Major powers like China, India, and Russia remain outside the Rome Statute system, creating vast jurisdictional voids where the Court cannot operate directly

[13]. Furthermore, several Asian states have developed alternative regional justice mechanisms, reflecting a preference for solutions that preserve sovereign control rather than submitting to international judicial oversight.

The African continent exhibits the most acute manifestation of the enforcement deficit, despite having the highest concentration of ICC situations. The case of Kenya demonstrated how state parties could engage in systematic non-cooperation through witness intimidation and evidence obstruction, ultimately leading to the collapse of cases against sitting officials [14]. This pattern of resistance, often justified by accusations of neo-colonial bias, has created an operational crisis for the Court in the very region it was meant to serve most directly.

As an African State Party, Tanzania exemplifies the tension between formal legal commitment and practical enforcement challenges. While maintaining official cooperation with the Court, Tanzania has faced difficulties in fully implementing its obligations, particularly when regional political pressures conflict with ICC requirements [15]. This gap between legal commitment and operational capacity illustrates how even willing states may struggle with effective enforcement, highlighting the need for better support mechanisms within the ICC's framework.

The study gap exists in systematically documenting and analyzing the indirect and subtle forms of non-cooperation that fall short of formal defiance but effectively undermine ICC operations. While overt refusals to arrest are well-documented, there is insufficient research on how states employ bureaucratic delays, evidentiary obstruction, witness intimidation, and other covert tactics to frustrate ICC investigations while maintaining plausible deniability. Understanding these nuanced enforcement deficits is essential for developing more effective compliance mechanisms.

1.2.3 Viability and Strength of Proposed Reforms

European nations and the EU have been at the forefront of proposing reforms centered on strengthening positive incentives and diplomatic leverage. A key proposal championed in European policy circles involves the systematic use of EU Common Foreign and Security Policy tools to make cooperation with the ICC a more explicit element of political and trade dialogues with third states [16]. This approach seeks to create a "carrot" of closer integration with the European bloc, thereby embedding ICC obligations within a broader framework of international partnership, rather than relying solely on the "stick" of legal condemnation through the Assembly of States Parties.

The discourse on reform in the Americas, particularly among civil society and legal scholars, has focused heavily on the relationship between the ICC and other regional bodies. A

significant proposal involves formally empowering the Organization of American States (OAS) to monitor and facilitate cooperation with the Court, potentially through a dedicated liaison office [17]. This reform aims to create a regional layer of peer pressure and technical support, which could help insulate individual member states from the political fallout of cooperating in sensitive cases and provide a counterbalance to the influence of non-party states.

Given the high level of non-participation from major Asian powers, reform debates in the region often focus on foundational changes to the Court's structure and investigative procedures. Scholars and diplomats from the region frequently propose reforms to the proprio motu powers of the Prosecutor and the UN Security Council's referral mechanism, arguing that greater oversight and a more transparent, representative process would alleviate sovereignty concerns and make ratification more palatable [18]. The viability of such reforms is considered low in the short term, but they highlight the deep-seated institutional changes required to achieve broader global buy-in.

African proposals for reform are deeply shaped by the perceived tension between the ICC and the continent. The most prominent and strong alternative mechanism proposed is the bolstering of the African Court of Justice and Human Rights (ACJHR) to include criminal jurisdiction, as outlined in the Malabo Protocol [19]. While this court faces significant political and financial hurdles, its very proposition represents a powerful regional push for an alternative enforcement model that is geographically and politically closer to the situations it would address, directly challenging the ICC's monopoly on international criminal justice in Africa.

As a member of both the ICC and the African Union, Tanzania's position highlights the practical challenge of navigating competing reform agendas. Tanzanian legal experts have advocated for "bridge-building" reforms, such as formalizing case-sharing and complementarity agreements between the ICC and nascent African judicial mechanisms [19]. This approach seeks to make the principle of complementarity operational at an institutional level, potentially allowing the ICC and a future ACJHR to collaborate rather than compete, thereby preserving the global court's role while respecting regional solutions.

There is a lack of systematic, comparative study that evaluates the political viability, financial cost, legal complexity, and potential effectiveness of a top-down EU-style incentive model versus a regional court alternative like the Malabo Protocol versus a bridging mechanism as proposed in Tanzania. Without a clear-eyed assessment of the tradeoffs involved in each pathway, the reform debate remains fragmented and driven by regional politics rather than empirical evidence.

1.3 Statement of the Problem

The establishment of the International Criminal Court (ICC) as a permanent institution heralded a new era in the pursuit of international criminal justice. However, its foundational promise is fundamentally compromised by a critical operational flaw: its absolute dependence on state cooperation for enforcement. Despite a clear legal mandate, the ICC possesses no independent powers to execute arrest warrants, gather evidence, or enforce sentences. This structural dependency creates a direct and persistent threat to the Court's credibility, legitimacy, and efficiency, as its ability to deliver justice is outsourced to the very sovereign entities it may need to investigate.

This problem is starkly illustrated by chronic and strategic non-cooperation from states, particularly in politically sensitive cases. High-profile failures, such as the multiple states' refusal to arrest Omar al-Bashir and the collapse of the cases against Kenyan leaders Uhuru Kenyatta and William Ruto due to witness intimidation and lack of state assistance, are not isolated incidents. They are symptomatic of a systemic crisis where national interest and geopolitical pressure routinely override international legal obligations. The principle of complementarity, while intended to respect state sovereignty, inadvertently reinforces this dynamic by placing the primary responsibility for enforcement with states. This raises the central problem: How can the ICC effectively administer international criminal justice when its enforcement power is entirely contingent upon the political will and legal systems of sovereign states, which often conflict with the Court's aims?

Therefore, the core problem is the inherent ineffectiveness of the ICC's state-dependent enforcement model, which leads to selective justice, perpetuates impunity, and undermines the rule of law. This study is compelled to address this crisis by seeking to critically analyze the enforcement mechanisms of the ICC, with a particular focus on the role of state cooperation, its limitations, and the potential reforms necessary to strengthen the system of international criminal justice.

1.4 Objectives of the Study

1.4.1 General Objective

To critically evaluate the enforcement mechanisms of the ICC with a focus on state cooperation and its implications for international criminal justice.

1.4.2 Specific Objectives

- i. To identify the legal obligations of states parties under the Rome Statute concerning cooperation with the ICC.

- ii. To analyze the enforcement gaps within international legal frameworks and the political and structural obstacles limiting ICC effectiveness.
- iii. To explore prospects for ICC reforms and alternatives to enhance enforcement mechanisms.

1.5 Main Contribution of the Study

This study made several key contributions to the discourse on international criminal justice. Primarily, it provided a critical, triangulated analysis that systematically linked the ICC's explicit legal frameworks for state cooperation with the implicit political obstacles that render them ineffective. It identified and documented the precise points of failure where diplomatic and strategic national interests intercept and nullify procedural legal mechanisms, moving beyond a general critique to a granular mapping of the enforcement deficit.

Furthermore, the research synthesized and evaluated a range of proposed reforms from enhancing the powers of the Assembly of States Parties to leveraging regional bodies offering a clear assessment of their potential viability and limitations. By grounding its analysis in specific case studies of non-cooperation, the study produced concrete evidence of how the sovereignty-cooperation dilemma manifests in practice, thereby providing a strong foundation for future policy development and scholarly inquiry aimed at building a more resilient and effective system of international criminal accountability.

2.0 RESEARCH METHODOLOGY

2.1 Research Design

This study adopts a qualitative research design that integrates legal analysis with a review of political and institutional dynamics. This approach is chosen to systematically investigate the enforcement challenges of the International Criminal Court (ICC) by examining its foundational legal texts, key judicial rulings, and the political context in which it operates. The primary objective is to generate in-depth insights into how and why the ICC's dependence on state cooperation has led to systemic enforcement deficits. Data gathered from primary and secondary sources will be subjected to qualitative content analysis to identify and interpret recurring themes and legal patterns.

2.2 Research Methodology

The core methodological approach of this study is doctrinal legal research. This method is uniquely suited for a rigorous inquiry into the rules, principles, and doctrines that constitute the ICC's enforcement regime. It facilitates a detailed examination of the legal architecture governing state cooperation and the formal consequences of its failure. The

research is grounded in the analysis of primary sources, including the Rome Statute, the Rules of Procedure and Evidence, and landmark ICC case law, as well as secondary sources such as scholarly books and journal articles, which collectively provide the material to address the research questions and achieve the study's objectives.

This doctrinal approach is appropriate because the central problem is intrinsically linked to the interpretation and application of the Rome Statute's legal provisions. The study's first objective to identify the legal obligations of states is fundamentally a doctrinal endeavor, concerned with the law as it is written rather than the empirical reasons for its breach. For instance, while a socio-legal study might investigate the political motivations behind a state's non-cooperation through interviews, this research focuses on the legal ramifications of that non-cooperation as defined by the Statute and clarified through jurisprudence.

However, recognizing that a purely textual analysis has limitations in capturing the political realities that stymie enforcement, the doctrinal approach will be complemented by a qualitative review of case studies and secondary literature. This supplementary analysis addresses the second and third objectives by providing context on the political and structural obstacles and the ensuing debates on reform. Therefore, while the foundation is doctrinal, the overall methodology is enhanced to provide a more holistic understanding of the ICC's enforcement challenges.

2.3 Data Collection

Data collection follows a structured approach, utilizing both primary and secondary sources to ensure a comprehensive and reliable evidence base.

Primary Data: The primary data will be derived from a detailed analysis of key legal instruments and judicial decisions. The principal document is the Rome Statute of the ICC. Jurisprudence will be drawn from strategically selected landmark cases, including: *The Prosecutor v. Omar Hassan Ahmad Al Bashir*: To examine the legal and political challenges of head of state immunity and systematic non-cooperation by multiple states. *The Prosecutor v. Thomas Lubanga Dyilo*: To analyze procedural aspects of evidence collection, witness protection, and state-party collaboration in a completed case. *The Prosecutor v. Dominic Ongwen*: To explore cooperation dynamics in a case involving the surrender of a suspect from a situation referred by a state party (Uganda). Relevant resolutions and reports from the Assembly of States Parties (ASP) will also be analyzed to understand the political and diplomatic context of the enforcement debate.

Secondary Data: Secondary sources will be used to contextualize the primary legal analysis. This includes a

comprehensive review of academic journals such as the Journal of International Criminal Justice and the International & Comparative Law Quarterly, alongside specialized books and scholarly articles. Data will be gathered through a systematic literature review utilizing the resources of the University of Iringa Library and its e-library.

2.4 Data Analysis

The collected data will be analyzed using qualitative content analysis. This method is ideal for systematically interpreting textual data from legal documents and scholarly literature. The process will involve coding the content to identify, categorize, and analyze recurring themes central to the research objectives. The analysis will focus on key enforcement themes such as: Legal provisions for state cooperation and their judicial interpretation. Instances and legal consequences of state non-cooperation. The role and limitations of oversight by the ASP. This approach aligns directly with the data collection strategy, as it is designed to systematically examine the content of statutes, case law, and academic commentary to draw legally sound and thematically organized conclusions.

2.5 Scope of the Study

The scope of this research is specifically delimited to the enforcement mechanisms of the ICC, with a concentrated focus on state cooperation in the execution of arrest warrants. The legal analysis is centered on the relevant provisions of the Rome Statute, particularly those in Part 9 concerning international cooperation and judicial assistance. The study includes an examination of high-profile situations, namely Sudan (Darfur), Uganda, and Libya, which serve as critical case studies illustrating the profound political and practical challenges the Court faces in securing state cooperation.

3.0 RESULTS AND DISCUSSION

3.1 Introduction

This chapter presents the findings and subsequent analysis of the research, systematically addressing the study's objectives by examining the intricate relationship between the ICC's legal framework and its operational realities. The results first delineate the comprehensive yet inherently limited legal obligations for state cooperation as codified in the Rome Statute, before critically analyzing the pronounced enforcement gap revealed through persistent state non-cooperation in high-profile cases. The discussion synthesizes these findings, arguing that the chasm between legal principle and political practice is not incidental but structural, thereby necessitating a critical evaluation of the proposed reforms aimed at reconciling the Court's supranational mandate with the enduring power of state sovereignty.

3.2 Comprehensiveness of the Legal Framework for Cooperation.

This section initiates the detailed presentation of findings by examining the Comprehensiveness of the Legal Framework for Cooperation. The subsequent analysis is dedicated to a systematic evaluation of the legal architecture governing state cooperation as delineated in the Rome Statute. It assesses the instrument's scope, clarity, and structural coherence as the foundational basis for the International Criminal Court's entire enforcement mechanism. The objective is to determine the inherent strengths and potential vulnerabilities within the statutory text itself, before proceeding to an analysis of its application in practice, thereby establishing a firm legal baseline for the study.

3.2.1 Analysis of the Legal Framework: Scope and Clarity of Obligations in the Rome Statute

The analysis which focused on the scope and clarity of obligations in Part 9 of the Rome Statute, revealed a complex legal landscape where textual comprehensiveness was consistently undermined by normative ambiguity. The doctrinal research method employed in this study facilitated a systematic examination of the black-letter law, identifying that Part 9 did indeed establish a broad and seemingly strong framework for international cooperation and judicial assistance. The obligations pertaining to the arrest and surrender of suspects under Articles 89 and 91, for instance, were meticulously detailed, specifying procedures for requests, required documentation, and the legal processes for challenges.

Similarly, Articles 93 and 99 outlined a wide array of other forms of cooperation, from the taking of evidence and production of documents to the facilitation of witness testimony and the execution of searches and seizures. The provisions for witness protection, while more implicitly framed within the context of a State Party's ability to provide assistance, were nevertheless identifiable as a core component of the cooperation regime. The initial finding, therefore, was that the Statute's drafters had successfully codified a wide scope of obligations, covering the primary operational needs of the Court.

However, a deeper doctrinal analysis, which involved cross referencing these articles with scholarly commentary and subsequent judicial interpretation, exposed critical deficiencies in the clarity of these obligations, particularly in politically contentious scenarios. This finding resonated strongly with the existing literature. Scholars such as Sluiter [20] had long argued that the cooperation regime of the ICC was not supranational but rather horizontal, mirroring interstate judicial assistance and thus inheriting its inherent weaknesses.

This study confirmed that assessment. The Statute, for example, contained vague qualifying clauses that served as significant loopholes. Article 97 allowed states to consult with the Court where a request for cooperation presented "problems which may impede or prevent the execution of a request," a provision which, in practice, was used to justify protracted delays and political negotiations over what should have been a straightforward legal obligation. Furthermore, Article 98(1) created a notorious ambiguity by requiring the Court not to proceed with a request for surrender or assistance which would require the requested state to act inconsistently with its obligations under international law with respect to the State or diplomatic immunity. The doctrinal analysis confirmed that this provision created a legal grey area, which states like those in the African Union exploited to justify non-cooperation in the *Al Bashir* case, arguing it protected the immunity of a sitting head of state from a non-member state.

The comparison with existing literature further highlighted that this lack of clarity was not a mere oversight but a deliberate compromise necessary to achieve the political consensus required for the Statute's adoption. Schabas [1] noted, the Rome Conference was marked by a fundamental tension between the need for an effective court and the imperative to respect state sovereignty. The textual ambiguities in Part 9 were the price of achieving this compromise.

This study's findings aligned with this historical interpretation, demonstrating that the very provisions intended to secure universal participation such as Article 97's consultation clause and Article 98's immunity provision became the primary legal vehicles for undermining the Court's authority. The research therefore substantiated the critique put forward by Mégret [6] that the ICC was, from its inception, a "self-limiting" institution, whose enforcement powers were deliberately constrained to appease sovereign states.

Moreover, the doctrinal analysis uncovered a critical gap between the Statute's formal requirements and the practical reality of domestic implementation, a theme extensively discussed in the works of [2]. While Part 9 set out the international legal obligation, it left the method of implementation entirely to states. This study found that this led to a fragmented global enforcement patchwork. For instance, some states had enacted specific implementing legislation that created direct and automatic procedures for cooperation, while others relied on existing mutual legal assistance treaties, creating potential conflicts of law and procedural bottlenecks.

The research concluded, in line with this secondary literature, that the absence of a uniform and directly applicable legal mechanism across all States Parties constituted a fundamental flaw in the framework's design. The clarity of the obligation at the international level was thus rendered moot by the opacity and inconsistency of its application at the domestic

level. In the end, the investigation confirmed that while the scope of Part 9 was broad, its lack of precise, unambiguous language and its dependence on voluntary state action created a regime that was legally comprehensive in theory but fatally porous in practice.

3.2.2 Defining Jurisdiction Between National and International Courts.

The analysis of the operationalization of the complementarity principle revealed a foundational dynamic that profoundly shaped the distribution of responsibility between sovereign states and the International Criminal Court. The doctrinal examination of Article 17 of the Rome Statute confirmed that the principle was the legal cornerstone designed to manage the tension between national sovereignty and international jurisdiction. The textual analysis established that the Court's jurisdiction was activated only when a state was unwilling or unable genuinely to carry out its own investigations or prosecutions.

This research found that the Statute provided substantive criteria for assessing unwillingness, such as proceedings being undertaken to shield a person or an unjustified delay, and for inability, relating to a total or substantial collapse of the national judicial system. The initial legal finding was that the principle created a sequenced, adversarial relationship where the ICC served as a judicial auditor of national justice systems, a finding that was consistent with the early scholarly work of Benvenisti, et al. [21], who described it as a deliberate concession to sovereignty intended to encourage national-level accountability.

However, the application of this legal framework in practice demonstrated that the principle was far from a straightforward procedural rule. The doctrinal analysis of the Court's jurisprudence, particularly in early situations like those concerning Uganda and the Democratic Republic of Congo, uncovered a critical evolution in its interpretation. The Pre-Trial Chambers initially adopted a proactive interpretation of complementarity, shifting the burden of proof and requiring the state to demonstrate its ongoing and genuine engagement in national proceedings. This judicial approach effectively lowered the threshold for the Court's intervention, a move that was heavily debated in the literature.

Scholars like Robinson [22] argued that this was a necessary adaptation to ensure the Court could not be sidelined by sham national proceedings, while others, such as Stahn [23], cautioned that it risked distorting the principle from a shield for sovereignty into a sword for international intervention. This study's findings aligned with the view that the Court's jurisprudence had progressively defined "inactivity" not merely as a total lack of proceedings, but also as proceedings that were not sufficiently targeted or credible, thereby expanding the ICC's jurisdictional space.

The impact of this operationalization on defining state versus ICC responsibility was profound and, in many cases, counterproductive to the goal of fostering strong national justice systems. The research identified that in several situations, the principle created a perverse incentive for states to perform a form of "mock compliance." This finding was strongly supported by the existing literature, particularly in the work of Nouwen [24], who meticulously documented how states like Sudan responded to ICC scrutiny by initiating nominal domestic legal processes that were designed to fail, thereby technically invoking the complementarity regime while ensuring no genuine accountability occurred.

The doctrinal analysis confirmed that the legal criteria in Article 17 were ill-equipped to distinguish between a state making a good-faith but failed effort and one engaging in a deliberate strategy of obstruction through litigation. This created a legal and diplomatic quagmire, forcing the ICC Prosecutor into the politically fraught role of assessing the legitimacy of sovereign judicial acts.

Furthermore, the investigation concluded that the complementarity principle had an uneven impact across different regional contexts, a theme extensively explored in the scholarly critique from the Global South. The research found that the Court's docket, heavily focused on African states, fostered a perception that the principle was being applied asymmetrically. The legal finding was that while the text of Article 17 was neutral, its enforcement was perceived as a tool of selective justice, where powerful states outside the Rome Statute system could claim their national systems were functioning effectively to block ICC jurisdiction, while weaker states were subjected to intense scrutiny.

This perception, widely discussed in the works of scholars like Rukooko and Silverman [14], fueled a political backlash that directly impacted state cooperation. The principle, intended to reassure states, had in practice become a major source of contention, leading to accusations of neo-colonialism and calls for regional alternatives like the Malabo Protocol. Finally, the operationalization of complementarity created a complex adjudicative relationship that, while legally sophisticated, often failed to generate the cooperative partnership it was theoretically designed to inspire, instead becoming a battleground for broader conflicts over sovereignty and global power dynamics in international criminal law.

3.3 Manifestation of the Enforcement Deficit

This section initiates the analysis of the Manifestation of the Enforcement Deficit. Moving beyond the theoretical legal framework established in the previous section, the forthcoming analysis is dedicated to systematically investigating the practical operational challenges that have defined the International Criminal Court's efforts to enforce

its mandates. The focus here shifts to evaluating the tangible evidence of the gap between the obligations codified in the Rome Statute and the on-the-ground realities of state cooperation and institutional effectiveness. This examination seeks to document and categorize the nature of the impediments that have fundamentally constrained the Court's capacity to function as intended.

3.3.1 Documenting State Non-Compliance with ICC Obligations

The doctrinal investigation into the rate and nature of formal non-compliance by States Parties revealed a disconcerting pattern that fundamentally undermined the International Criminal Court's operational efficacy. The methodology, which involved a systematic review of the Court's official records, including findings of non-compliance by Pre-Trial Chambers and reports from the Office of the Prosecutor, allowed for the quantification and qualification of this enforcement deficit. The rate of non-compliance was found to be not merely sporadic but endemic in situations involving sitting heads of state or powerful political figures. The most glaring example, which became a central case study in the literature, was the systematic failure of multiple States Parties to execute the arrest warrant for Sudanese President Omar al-Bashir.

Despite his indictment for genocide, war crimes, and crimes against humanity, al-Bashir traveled freely to several States Parties, including Chad, Kenya, and Malawi. The nature of this non-compliance was not one of inability but of overt political refusal, demonstrating a deliberate choice to prioritize regional solidarity or bilateral relations over binding legal obligations. This finding was extensively analyzed in the existing scholarship, with scholars like Ngoai [10] arguing that the al-Bashir saga represented a "critical juncture" that exposed the impotence of the Rome Statute's enforcement provisions when confronted with collective political resistance.

The nature of non-compliance extended beyond high-profile arrests to a more insidious and frequent form of obstruction: the denial of access for investigations. The doctrinal analysis of situations, such as those in Kenya and Libya, uncovered that States Parties often employed tactics of bureaucratic delay, the withholding of essential evidence, and the creation of administrative hurdles that effectively neutered the Prosecutor's investigative efforts. In the Kenya cases, the government's passive-aggressive strategy, which involved protracted negotiations and a failure to provide critical financial and police records, was identified by the prosecution as a primary reason for the eventual collapse of the cases against President Uhuru Kenyatta and Deputy President William Ruto.

This nature of non-compliance was more subtle than an outright refusal but equally devastating. It aligned with the theoretical framework proposed by Wharton [25], who described a spectrum of non-cooperation ranging from "active defiance" to "passive resistance," where the latter was often more difficult to legally challenge but operationally just as fatal. The research confirmed that this passive resistance, characterized by a veneer of cooperation that lacked substantive execution, was a prevalent and debilitating feature of the Court's relationship with many States Parties.

When compared with existing literature, the findings on the rate of non-compliance challenged the initial optimism that a community of States Parties would self-police and enforce compliance through peer pressure. The works of earlier scholars like Schabas [1] had postulated that the Assembly of States Parties (ASP) would serve as an effective forum for ensuring collective adherence to the Statute. However, this study's findings demonstrated that the ASP had proven largely ineffective in sanctioning non-compliant members. The rate of formal referrals to the ASP was high, but the rate of consequential action was virtually zero. This confirmed the skeptical view advanced by later critics such as Struett [4], who argued that the ASP was inherently a political body, ill-suited for taking punitive measures against its own members for fear of fracturing the Court's support base. The doctrinal analysis thus revealed a systemic failure: the rate of non-compliance was met with a corresponding rate of institutional inaction, creating a culture of impunity for states that violated their obligations.

Furthermore, the research into the nature of non-compliance uncovered a critical legal loophole related to the status of non-party states. The situation in Georgia, involving the investigation into the 2008 conflict with Russia, illustrated how a non-party state could completely deny access for investigations and ignore all cooperation requests with absolute impunity. Russia's total non-cooperation was, from a strict legal standpoint, permissible under the Rome Statute, but it created a glaring enforcement vacuum. This finding resonated with the literature on the Court's jurisdictional limitations, particularly the work of Cryer, et al. [2], who highlighted that the ICC's ability to conduct effective investigations was often contingent on the political cooperation of states over which it had no formal legal authority.

The nature of this problem was therefore not just about the failure of States Parties but also about the Court's structural inability to address the calculated non-compliance of powerful non-party states, a limitation that was baked into its founding treaty and which the existing enforcement mechanisms were powerless to address. Eventually, the investigation concluded that the rate of non-compliance was unacceptably high and its nature was strategically diversified, ranging from blatant refusals to sophisticated obstruction,

collectively constituting a primary cause of the ICC's enforcement crisis.

3.3.2 Geopolitical Alliances and Regional Solidarity as Barriers to Cooperation

The investigation into the political factors influencing the execution of legal cooperation requests revealed that geopolitical considerations consistently and decisively trumped formal legal obligations, constituting the primary driver of the ICC's enforcement deficit. The doctrinal methodology, while primarily focused on legal texts, necessitated an examination of the political context in which these legal requests were made and denied, as documented in court records, ASP reports, and scholarly analyses. A clear pattern emerged where the political status of a state, particularly its role as a host-state for crucial military bases or as a strategic ally, created de facto immunity from cooperation pressures.

The case of Uganda exemplified this complex dynamic; while the government of President Museveni initially referred the situation concerning the Lord's Resistance Army to the Court, its subsequent cooperation was often selective and politically calculated. The government was accused of using the ICC warrants primarily as a tool against its northern insurgency while being reluctant to pursue cases against its own officials, demonstrating how a state could instrumentalize the Court for its own political and military objectives rather than submitting to its legal authority. This finding directly corroborated the work of scholars like Wierda [26], who argued that the Ugandan referral created a "partnership of convenience" that served the government's counter-insurgency goals but ultimately compromised the Court's perceived impartiality.

Furthermore, the analysis demonstrated that regional politics and collective solidarity exercised a powerful, often determinative, influence over state behavior, effectively creating regional blocs of non-cooperation. The African Union's (AU) collective stance regarding the al-Bashir arrest warrants provided the most potent example. The AU's non-binding directive for its members not to cooperate with the Court, framed as a protest against the ICC's perceived disproportionate focus on Africa, provided a political and diplomatic shield for individual States Parties. For countries like Chad and Malawi, which hosted al-Bashir, the regional political pressure and the imperative of Pan-African solidarity offered a powerful justification for violating their treaty obligations under the Rome Statute.

This finding strongly aligned with the arguments of Rukooko and Silverman [14], who documented how regional organizations could act as countervailing forces to international legal regimes, providing a collective political identity that states could invoke to legitimize non-compliance. The research concluded that the ICC's state-centric

cooperation model was ill-equipped to contend with this form of organized, regional-level political resistance, which systematically dismantled the legal duty to cooperate on a continental scale.

The most profound influence, however, was observed in the realm of high geopolitics involving powerful non-party states. The Court's investigations into situations referred by the UN Security Council, such as those in Sudan (Darfur) and Libya, were consistently obstructed by the political machinations of permanent members. China and Russia's continued political and economic support for the Sudanese government, and their subsequent reluctance in the Security Council to enforce cooperation, effectively neutered the ICC's efforts in Darfur. Similarly, the complex and shifting alliances in post-Gaddafi Libya, where various militias and governments vied for international recognition, made meaningful cooperation with the Court practically impossible.

The legal cooperation requests from the ICC became pawns in a much larger geopolitical chess game. This finding resonated with the realist critique of international law articulated by scholars like Bosco [12], who contended that the ICC was inevitably ensnared in power politics, and its effectiveness was circumscribed by the interests of major powers. The doctrinal analysis thus confirmed that the legal framework of Part 9 of the Rome Statute existed in a parallel universe to the political realities of international relations; while the law presumed a level playing field of obligated states, the political landscape was one of stark power asymmetries, strategic alliances, and calculated indifference, which ultimately dictated the fate of the Court's cooperation requests. The law provided the procedure, but politics determined the outcome.

3.4 Viability and Strength of Proposed Reforms

This section advances the analysis to which critically evaluates the Viability and Strength of Proposed Reforms aimed at overcoming the ICC's enforcement crisis. The focus shifts from diagnosing the problems of legal ambiguity and political obstruction to systematically assessing the potential solutions that have been advanced by states, scholars, and international bodies. The forthcoming examination scrutinizes the logical coherence, political feasibility, and practical potential of these diverse proposals to strengthen the Court's operational capacity, questioning whether incremental changes to the existing framework can suffice or if more transformative alternatives are necessary to secure a future for effective international criminal justice.

3.4.1 The Political Viability of Institutional Reforms

The investigation into the potential of institutional reforms revealed a landscape of ambitious proposals that were, upon rigorous doctrinal and contextual analysis, fraught with

profound political and legal challenges. The central proposal examined was the strengthening of the Assembly of States Parties' (ASP) sanctioning powers, a reform intended to inject a tangible cost into the calculus of non-compliance. The doctrinal research method was particularly suited to this task, as it involved analyzing the existing statutory framework of the ASP and the proposed amendments that circulated in academic and diplomatic circles. The findings indicated that while the logic of empowering the ASP was legally sound creating a centralized enforcement body for a centralized court its practical implementation faced insurmountable hurdles.

The Rome Statute, in its current form, provided the ASP with no explicit authority to impose meaningful sanctions beyond political censure. Proposals to amend the Statute to allow for the suspension of voting rights or even membership, or to enable the imposition of targeted economic sanctions, were consistently debated but never gained sufficient diplomatic traction to be formally adopted. This inertia was a direct reflection of the sovereignty concerns that plagued the Court from its inception; states were unwilling to create a supranational body that could ultimately sanction them. This finding strongly resonated with the scholarly work of Stahn [27], who argued that the ASP was fundamentally a political club whose members were inherently reluctant to establish strong disciplinary mechanisms against themselves, for fear of establishing a precedent that could one day be used against their own interests.

The analysis further demonstrated that even if such amendments were miraculously adopted, their application would likely remain vulnerable to the very politicization they were designed to overcome. A doctrinal review of the ASP's historical record showed a consistent pattern of avoiding direct confrontation with powerful or influential blocs of states. For instance, the ASP's tepid response to the systematic non-cooperation with the al-Bashir arrest warrants by multiple States Parties served as a powerful case in point. The body proved incapable of mustering the collective will to name, shame, or sanction even a single state for these flagrant violations.

This empirical evidence from the Court's own history supported the skeptical view advanced by scholars like Mégret [28], who contended that the ASP was not a neutral arbiter but a political arena where power, diplomacy, and regional loyalties dictated outcomes. The research concluded that endowing such a politically constituted body with stronger sanctioning powers would not depoliticize cooperation; it would merely shift the site of political contestation from bilateral refusal to multilateral bargaining within the ASP, where deals could be struck and accountability diluted through diplomatic channels. The prospect of depoliticization through this reform was, therefore, assessed as largely illusory.

Furthermore, the formidable procedural barrier of the amendment process itself presented a critical obstacle. The doctrinal requirements for amending the Rome Statute, particularly for provisions related to institutional matters, were intentionally designed to be onerous, requiring a two-thirds majority of States Parties and, for some key articles, subsequent ratification by seven-eighths of them. This research found that this high threshold made substantive reform a practical impossibility in the contemporary geopolitical climate. The deep divisions within the Assembly, exemplified by the African Union's collective grievances and the persistent non-participation of major powers like the United States, China, and Russia, created a political environment where achieving a consensus for transformative change was unattainable.

This finding aligned with the institutional analysis of Cryer, et al. [2], who noted that the amendment rules acted as a conservative brake on the Court's evolution, effectively locking in the original political compromises of 1998. Consequently, the strongest institutional reforms remained theoretical constructs, confined to academic journals and policy papers. The potential of amending the Rome Statute to depoliticize cooperation was therefore judged to be extremely low, as the political will required to enact the changes was precisely what was lacking in the first place. The legal pathway for reform existed, but the political road leading to it was blocked.

3.4.2 Evaluating Alternative Enforcement Strategies for the ICC

The investigation into the feasibility of alternative mechanisms revealed a spectrum of innovative, albeit challenging, pathways designed to circumvent the entrenched political obstacles that plagued the traditional state-cooperation model. The doctrinal methodology, while primarily concerned with the Rome Statute, was expanded to analyze the constitutive treaties and political mandates of regional organizations to assess their potential as complementary enforcement actors. The proposal for an enhanced role for regional bodies, particularly the African Union (AU) and the European Union (EU), was examined in depth.

The research found that while these bodies possessed significant political leverage and a capacity for collective action that could, in theory, compel member state compliance, their actual potential was severely constrained by their own internal political dynamics. The case of the African Union was particularly instructive. Rather than acting as a bridge to facilitate ICC cooperation, the AU's institutional response, crystallized in the non-cooperation directive regarding the al-Bashir warrant and the promotion of the Malabo Protocol, positioned it as a direct political competitor to the ICC. This finding directly engaged with the scholarly debate between pessimists, like Jalloh [29], who viewed the Malabo Protocol

as a potentially damaging parallel system that could undermine the ICC, and optimists, like Werle and Vormbaum [30], who saw it as a manifestation of African ownership that could, if properly linked to the ICC via complementarity, strengthen continental justice.

This study's findings leaned towards the former, concluding that the AU's primary role had been to provide a political justification for non-compliance, thereby acting as an obstacle rather than a conduit. The European Union's model, which involved making ICC cooperation a formal element of its external trade and partnership agreements, represented a more viable form of positive conditionality. However, its effectiveness was geographically limited to states seeking closer ties with the EU and was ineffective against states that were either powerful enough to resist such pressure or were outside its sphere of influence, such as Russia or the United States.

Concurrently, the analysis of positive reinforcement mechanisms aimed at incentivizing rather than punishing cooperation uncovered a critical, yet underutilized, avenue for reform. The doctrinal research identified that the Rome Statute's framework was overwhelmingly skewed towards a punitive, compliance-based model, focusing on the consequences of non-cooperation while offering few tangible benefits for consistent and strong cooperation. Proposals to systematically link strong state performance in ICC cooperation to increased international standing, preferential access to development aid, or technical and financial assistance for judicial capacity building were explored in the literature. Scholars like Mistry (2021) argued that such a system of cooperative advantage could reshape state calculus, making cooperation a source of prestige and material benefit.

However, this study's findings indicated that the feasibility of implementing such a system on a wide scale was low. The international donor community's priorities were fragmented, and there was no centralized, automatic mechanism to reward cooperation. The case of states like Côte d'Ivoire, which cooperated with the Court in the case against Laurent Gbagbo, demonstrated that cooperation could occur, but it was often driven by the specific political interests of a new government consolidating power against its predecessors, rather than a response to a structured system of international incentives. The research concluded that while the theory of positive reinforcement was logically compelling, its practical application remained ad hoc and politically contingent, failing to provide a reliable, systemic alternative to the broken enforcement model.

When compared with the existing literature, the overall assessment of these alternative mechanisms was one of cautious skepticism regarding their immediate transformative potential. The findings affirmed the position of realists in international law, such as Gegout [31], who maintained that the fundamental distribution of power in the international

system, and the primacy of state sovereignty, would inevitably frustrate attempts to create truly effective supranational enforcement, whether through formal institutions or alternative networks. The research demonstrated that regional bodies were not neutral technical partners but highly politicized entities with their own agendas, which could just as easily conflict with the ICC's mandate as align with it. Similarly, systems of positive reinforcement lacked the compulsory, automatic character required to alter the behavior of states determined to obstruct justice for reasons of *realpolitik*. They were most likely to succeed with states that were already inclined to cooperate but needed capacity building, thereby failing to address the core problem of deliberate, politically-motivated non-compliance.

Finally, the investigation concluded that while these alternative mechanisms offered valuable conceptual tools for thinking beyond the impasse of the existing system, their feasibility was severely limited by the same underlying pathology they sought to treat: the absence of a cohesive international political will to subordinate national interest to the consistent application of international criminal law. They represented a circumvention of specific political obstacles, but not a transcendence of the political nature of international justice itself.

Therefore, this chapter has systematically demonstrated that the enforcement mechanism of the International Criminal Court is fundamentally compromised by a critical dependency on state cooperation, a dependency that the legal framework of the Rome Statute is structurally incapable of securing against the forces of political sovereignty. The analysis revealed that while the legal obligations in Part 9 are comprehensive in scope, they lack the clarity and automaticity to prevent strategic non-compliance, a deficit exacerbated by a complementarity principle that has often fostered adversarial, rather than collaborative, relationships with national jurisdictions. The empirical evidence of persistent formal non-compliance, driven overwhelmingly by geopolitical alliances and regional politics, confirmed that the enforcement gap is not a procedural failure but a systemic feature. Consequently, the proposed reforms, whether through institutional amendments or alternative mechanisms, were found to possess limited viability, trapped by the same political constraints they sought to overcome, ultimately leaving the Court's mandate perpetually balanced between its lofty legal authority and its politically constrained power.

4.0 CONCLUSION AND RECOMMENDATION

This study has conclusively demonstrated that the enforcement mechanism of the International Criminal Court is structurally and fundamentally compromised by its absolute dependency on state cooperation. The critical analysis revealed that the legal framework established by the Rome Statute, while comprehensive in its textual scope, is inherently ill-equipped to secure compliance in the face of competing

political imperatives. The principle of complementarity, rather than fostering a collaborative system of justice, has often created an adversarial dynamic between the Court and sovereign states. Furthermore, the empirical evidence of persistent and strategic non-compliance, particularly in cases involving sitting heads of state or powerful geopolitical interests, confirmed that the enforcement deficit is not a series of isolated failures but a systemic feature of the current international legal order.

Ultimately, the core paradox of the ICC remains unresolved: an institution endowed with a supranational mandate to adjudicate the world's most serious crimes is operationally powerless, lacking any autonomous means to execute its own decisions. The enforcement gap between the Court's legal authority and its practical power is therefore not a flaw that can be easily remedied through procedural tweaks, but a direct consequence of the enduring primacy of state sovereignty in international relations. The ICC's efficacy and legitimacy are perpetually held hostage by the political will of the very entities it is sometimes required to judge, leaving its foundational promise of ending impunity in a state of perpetual suspension between aspiration and reality.

Based on the critical findings of this study, it is recommended that the Assembly of States Parties, in conjunction with the Court's organs, pursue a multi-pronged strategy that prioritizes depoliticizing cooperation through the strategic use of positive incentives. This should include the formal establishment of a structured framework within the ASP to publicly recognize and materially reward strong state cooperation, potentially linking it to technical assistance and capacity-building programs, while simultaneously working towards a pragmatic, incremental amendment of the Rome Statute to grant the ASP clearer, though graduated, powers to impose tangible political and diplomatic costs for acts of deliberate and unjustified non-compliance.

Future research should build upon this study by employing empirical and socio-legal methodologies to investigate the domestic political determinants of state cooperation in greater depth. A promising avenue would be to conduct comparative case study analyses of specific States Parties, incorporating interviews with government officials, diplomats, and legal practitioners to uncover the precise internal decision-making processes and political calculations that lead to compliance or defiance. Furthermore, research could quantitatively model the correlation between specific incentives such as targeted aid, military cooperation, or trade benefits and a state's record of cooperation with the ICC, to provide an evidence-based foundation for designing more effective positive reinforcement mechanisms.

5.0 ACKNOWLEDGMENTS

First, I would like to thank the Almighty God for giving me life and strengths, from the beginning to the end of this research. Indeed, all the Glory, Praises and Honor be to him for every good deed that I have ever achieved.

Secondly, Special thanks also to my supervisors, Prof. Edward Hoseah and Dr Julena Jumbe, for their guidance through writing this research, their thoughts in the process to prepare this work and intellect is truly an inspiration. Also, my heart feels thanks to all staff at Faculty of Law of the University of Iringa with no exclusion of the Research Unit, for their unconditional assistance that enabled me to attain this important academic achievement.

Thirdly, I acknowledge the unconditional love and support to my family; my wife Jane Kimambo, my lovely children, Mary, Martin and Martha. Thanks to them for encouragement, through the entire time of my studies.

Fourthly, I also thank my fellow and relatives of University of Iringa, for their encouragement, abundant support and cooperation during the whole course. I am proud of them, to mention few of them Frank Nkosi, Bonaventure Ambrose, Grasius Myinga, Herry Mwainyekule, Magdalena Kirway, Mgaya Maseke, and Rehema Mohamed.

6.0 REFERENCES.

- [1] W. A. Schabas, *An introduction to the international criminal court*. Cambridge University Press, 2011.
- [2] R. Cryer, D. Robinson, and S. Vasiliev, *An introduction to international criminal law and procedure*. Cambridge University Press, 2019.
- [3] R. Statute, "Rome statute of the international criminal court, 1998," *United Nations, Treaty Series*, vol. 2187, no. 38544, 1998.
- [4] M. J. Struett, *The politics of constructing the International Criminal Court*. University of California, Irvine, 2005.
- [5] A. Al Aridi, "The Application of International Humanitarian Law to Non-State Actors," *Available at SSRN 2877652*, 2016.
- [6] F. Mégret, "The politics of international criminal justice," *Eur. J. Int'l L.*, vol. 13, p. 1261, 2002.
- [7] K. Ambos and O. Triffterer, *Rome Statute of the International Criminal Court*. CH Beck, 2021.
- [8] N. Çolak, "The Foundation Of The International Criminal Court Through Rationalist Lenses," Middle East Technical University (Turkey), 2021.
- [9] G. A. Partin, "The International Criminal Court: Elements of Crimes and Rules of Procedure and Evidence. Edited by Roy S. Lee. New York: Transnational, 2001. Pp. lxvi, 857. ISBN 1-57105-209-7. US \$175.00," *International Journal of Legal Information*, vol. 31, no. 1, pp. 117-120, 2003.
- [10] M. A. Ngoai, "The Conflictual Triangular Relationship Between the United Nations Security Council, the International Criminal Court and the African Union Through the Lens of Cooperation: The Implications for International Criminal Justice," University of Pretoria (South Africa), 2024.
- [11] D. Akande, "The Effect of Security Council Resolutions and Domestic Proceedings on State Obligations to Cooperate with the ICC," *Journal of International Criminal Justice*, vol. 10, no. 2, pp. 299-324, 2012.
- [12] D. Bosco, *Rough justice: The International Criminal Court in a world of power politics*. Oxford University Press, 2013.
- [13] S. Freeland, "International criminal justice in the Asia-Pacific region: the role of the International Criminal Court treaty regime," *Journal of International Criminal Justice*, vol. 11, no. 5, pp. 1029-1057, 2013.
- [14] A. B. Rukooko and J. Silverman, "The International Criminal Court and Africa: a fractious relationship assessed," *African Human Rights Law Journal*, vol. 19, no. 1, pp. 85-104, 2019.
- [15] M. C. Masami, "United Nations Security Council Decisions on Third States' Cooperation with the International Criminal Court," The Open University of Tanzania, 2017.
- [16] S. Scheipers and D. Sicurelli, "Normative power Europe: a credible utopia?," *JCMS: Journal of Common Market Studies*, vol. 45, no. 2, pp. 435-457, 2007.
- [17] W. W. Burke-White, "Regionalization of international criminal law enforcement: a preliminary exploration," *Tex. Int'l LJ*, vol. 38, p. 729, 2003.
- [18] J. Sarkin, "Reforming the International Criminal Court (ICC) to achieve increased state cooperation in investigations and prosecutions of international crimes," *International Human Rights Law Review*, vol. 9, no. 1, pp. 27-61, 2020.
- [19] S. Nimigan, "The Malabo Protocol, the ICC, and the idea of 'regional complementarity'," *Journal of International Criminal Justice*, vol. 17, no. 5, pp. 1005-1029, 2019.
- [20] G. K. Sluiter, "International criminal adjudication and the collection of evidence: obligations of states," 2002.
- [21] E. Benvenisti, G. Nolte, and K. Yalin-Mor, *Community interests across international law*. Oxford University Press, 2018.
- [22] D. Robinson, "The controversy over territorial state referrals and reflections on ICL discourse," *Journal of International Criminal Justice*, vol. 9, no. 2, pp. 355-384, 2011.
- [23] C. Stahn, *The law and practice of the International Criminal Court*. Oxford University Press, USA, 2015.

- [24] S. M. Nouwen, *Complementarity in the Line of Fire: the catalysing effect of the International Criminal Court in Uganda and Sudan*. Cambridge University Press, 2013.
- [25] S. Wharton, "The application of international criminal law to non-state actors in the contemporary international criminal courts and tribunals," University of Cambridge, 2013.
- [26] M. Wierda, "Trial Justice. The International Criminal Court and the Lord's Resistance Army, Tim Allen," ed: Oxford University Press, 2007.
- [27] C. Stahn, *A critical introduction to international criminal law*. Cambridge university press, 2019.
- [28] F. Mégret, "International human rights law theory," in *Research Handbook on the Theory and History of International Law*: Edward Elgar Publishing, 2020, pp. 164-199.
- [29] C. C. Jalloh, "The ICC Reform Process from the Perspective of African States Parties to the Rome Statute: Better Late Than Never," *African Journal of International Criminal Justice*, vol. 7, no. 2, 2023.
- [30] G. Werle and M. Vormbaum, "The African Criminal Court," *A commentary on the Malabo protocol*, 2017.
- [31] C. Gegout, "The International Criminal Court: limits, potential and conditions for the promotion of justice and peace," *Third World Quarterly*, vol. 34, no. 5, pp. 800-818, 2013.