

## INTERNATIONAL JUSTICE AND THE EFFECTIVENESS OF THE INTERNATIONAL CRIMINAL COURT IN AFRICA: A COMPARATIVE STUDY OF SUDAN, KENYA, AND UGANDA

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### Abstract

*This paper critically assesses the effectiveness of the International Criminal Court (ICC) in advancing international justice in Africa. Conceptualizing the ICC as the dependent variable and international justice as the independent variable. It evaluates the Court's performance across three dimensions: norm diffusion, institutional capacity, and diplomatic engagement. The study employs a qualitative, comparative case study methodology grounded in constructivist and post-colonial epistemologies to examine the effectiveness of the International Criminal Court (ICC) in Africa. Through a comparative case study of Sudan, Kenya, and Uganda each representing a distinct referral mechanism, the paper explores how African agency, political resistance, and postcolonial legacies shape responses to international legal interventions. Drawing on constructivist and postcolonial theory, and using triangulated sources such as ICC decisions, African Union communiqués, and civil society documentation, the study reveals that while the ICC has helped reinforce global norms against impunity, its operational effectiveness remains constrained by enforcement challenges, perceived bias, and strained diplomatic relationships. By situating the ICC within Africa's evolving geopolitical context, the paper contributes to debates on international justice, sovereignty, and legitimacy. It recommends more inclusive, context-sensitive model of international criminal accountability one that embraces co-created frameworks rather than externally imposed norms.*

**Keywords:** *International Criminal Court, International Court of Justice, Norm Diffusion, Political Resistance, African Agency.*

### Introduction

International justice refers to the pursuit of accountability for grave crimes: genocide, war crimes, crimes against humanity, and aggression through transnational legal mechanisms. While its modern architecture emerged in the post-World War II era, its implementation in Africa has carried distinct historical and geopolitical implications. From the legacy of the Berlin Conference to post-independence struggles against authoritarianism and impunity, African societies have continually navigated international interventions amid structural inequalities and sovereignty challenges. The establishment of the International Criminal Court (ICC) in 2002 was initially embraced with optimism across the continent. Active African participation in the Rome Statute negotiations and early referrals, such as those by Uganda and the Democratic Republic of the Congo, were seen as a regional affirmation of global accountability norms. However, this early enthusiasm began to wane as all of the Court's initial investigations targeted African states, prompting critiques of bias, selectivity, and neo-colonial overreach. The African Union's resistance to indictments of sitting heads of state and its calls

for an African criminal court exemplify the continent's growing emphasis on sovereignty and self-determined justice. This paper is situated within this complex and contested relationship between Africa and the ICC. Moving beyond purely legal or historical analyses, it adopts a multidimensional effectiveness framework that integrates normative legitimacy, institutional performance, and diplomatic reception. Using emblematic case studies of Sudan, Kenya, and Uganda each representing a distinct ICC referral pathway it examines how international justice norms are diffused, contested, and adapted within African contexts.

### Research Questions

1. How has the ICC contributed to norm diffusion and the consolidation of accountability norms in Africa?
2. What institutional capacities and limitations define the ICC's ability to deliver justice?
3. How do diplomatic relationships between the ICC and African states shape perceptions of legitimacy and cooperation?

### Scope and Objectives

The paper critically analyses ICC effectiveness in Africa through a context-sensitive examination of Sudan, Kenya, and Uganda. These cases illustrate a range of referral mechanisms UN Security Council referral, proprio motu investigation, and self-referral as well as varying levels of cooperation and normative internalisation. The study applies a composite theoretical framework combining constructivism, which illuminates the construction and internalisation of anti-impunity norms, and postcolonial theory, which interrogates structural power imbalances and legitimacy perceptions.

The main objectives are to:

- Critically evaluate ICC-Africa dynamics and identify normative and empirical gaps in the literature.
- Apply constructivist and postcolonial theory to assess the Court's normative and operational performance.
- Examine ICC effectiveness across normative, institutional, and diplomatic dimensions.
- Propose recommendations to strengthen the ICC's legitimacy by advancing African agency and inclusive models of global justice.

### Material and Method

This study adopts a qualitative, comparative case study approach, integrating constructivist and post-colonial theoretical perspectives to assess the effectiveness of the International Criminal Court (ICC) in Africa. It employs a multidimensional effectiveness framework encompassing normative, institutional, and diplomatic dimensions across three purposively selected cases: Uganda (self-referral), Kenya (proprio motu), and Sudan (UNSC referral). These cases were chosen to reflect variation in state cooperation, regional politics, and referral mechanisms. Data were drawn from a triangulated set of secondary sources, including ICC documents, African Union communiqués, national legal frameworks, and reports from civil society and scholarly literature. Analytical tools such as process tracing, discourse analysis, and a Four-Axis Index scoring method were used to evaluate the ICC's performance, supported by reflexive positionality and critical interpretation grounded in African legal and political contexts.

## Literature Review

The evolution of international criminal justice has produced a rich and interdisciplinary body of scholarship, with debates centering on the institutional design, normative aspirations, and contested legitimacy of the ICC. Since the Rome Statute entered into force in 2002, the ICC has been heralded as a landmark in global norm-building, but also criticized for its perceived selectivity particularly in Africa, where all its early cases were situated (Ssenyonjo, 2017; Jalloh, 2019). This review critically engages two principal strands of literature constructivist and postcolonial that offer contrasting interpretations of the ICC's role, reception, and impact on the African continent. Constructivist scholars conceptualize the ICC as a norm entrepreneur, an institution that generates global accountability standards through discursive influence rather than coercive enforcement. Its authority lies in its ability to socialize actors into embracing anti-impunity norms, influence law reform, and shape civic expectations (Finnemore & Sikkink, 1998; Deitelhoff, 2009). Glasius (2009) highlights the pivotal role of civil society as intermediaries that amplify these norms, reinforcing the ICC's symbolic legitimacy. From this perspective, effectiveness encompasses not just prosecutions, but also broader normative transformations such as civic mobilization, legal harmonization, and public discourse (Clark, 2018; Mills & Bloomfield, 2020).

In contrast, postcolonial theorists interrogate the structural power asymmetries that underpin international legal institutions. The ICC's Africa-centric docket in its formative years, they argue, reflects enduring colonial hierarchies in global justice (Mamdani, 2009; Mutua, 2001). Mamdani warns of a form of "international justice without political justice," where prosecutions proceed at the expense of local peacebuilding or sovereign reform. Mutua's metaphor of the "savage-victim-savior" underscores how dominant human rights discourses often portray African societies as sites of pathology requiring external rescue. Okafor (2005) critiques the ICC's depoliticized and technocratic approach, which frequently sidelines Global South actors and erases their agency. Postcolonial scholars thus call for a decolonized approach to justice that centers historical context, regional legitimacy, and plural legal traditions (Mbembe, 2001; Mignolo, 2011).

Empirical literature on ICC operations in Africa reinforces this theoretical divide. Clark (2018) reveals the Court's difficulties in delivering victim-centered justice and securing public trust, particularly in Uganda and the DRC. Nouwen and Werner (2011) note that complementarity the principle of national primacy in prosecutions is often undermined by the ICC's instrumental engagement with local systems. These concerns echo postcolonial critiques of external imposition and highlight the fragility of norm internalization when justice is perceived as imported or unevenly applied (Kambudzi, 2020). The ICC's diplomatic rupture with the African Union has also received considerable scholarly attention. Jalloh, Clarke, and Nmehielle (2019) examine AU resolutions advocating non-cooperation and promoting regional alternatives, including the African Court of Justice and Human and Peoples' Rights. These initiatives reflect a growing aspiration for legal sovereignty and institutional autonomy (Murithi, 2013; Kuwali & Viljoen, 2014).

Despite the richness of these debates, key gaps remain. First, the literature is often disciplinarily fragmented with legal scholars focusing on doctrinal analysis, and political scientists addressing legitimacy and institutional design (Teitel, 2014). Second, few studies adopt an explicitly comparative, theory-informed framework to evaluate the ICC's performance across different African contexts. Cases such as Sudan, Kenya, and Uganda are often treated in isolation rather than as part of a broader political and normative pattern. Third, while constructivist and postcolonial insights both offer critical perspectives on the ICC, they are

rarely brought into sustained dialogue to illuminate the interplay between norm diffusion, resistance, and structural power (Clark, 2018; Achiume, 2020). This study addresses these gaps by applying a Multidimensional Effectiveness Framework grounded in both constructivist and postcolonial theory. It assesses ICC effectiveness across three analytical dimensions: normative (symbolic authority and norm diffusion), institutional (legal outputs and state cooperation), and diplomatic (regional legitimacy and sovereignty politics). Through triangulated case studies of Sudan, Kenya, and Uganda, this research offers a theoretically integrated and empirically grounded evaluation of how the ICC operates within and is reshaped by African political, legal, and normative contexts.

### **Theoretical Framework**

This study adopts a composite theoretical framework grounded in constructivist and post-colonial approaches to examine the performance of the ICC in Africa. These frameworks offer complementary insights into how global justice norms are constructed, transmitted, contested, and internalised in post-colonial African contexts. They also guide the operationalisation of the study's core variables international justice as the independent variable, and ICC effectiveness as the dependent variable within a multidimensional effectiveness framework applied to three case studies: Sudan, Kenya, and Uganda.

### **Constructivist Theory**

Constructivism centres the influence of norms, identity, and shared ideas in shaping the preferences and behaviours of international actors. It challenges rationalist assumptions that states act solely based on material interests or coercive incentives. According to constructivists such as Finnemore and Sikkink (1998), institutions like the ICC serve not merely as legal enforcers but as norm entrepreneurs entities that craft and disseminate global standards, such as the criminal accountability of individuals for atrocity crimes, irrespective of their official status. In this context, the ICC's effectiveness is not limited to securing convictions; rather, it extends to its ability to socialise African states, civil society actors, and legal systems into embracing anti-impunity norms. The Court influences national legal reforms, public discourse, and civic mobilisation, even in the absence of successful prosecutions (Deitelhoff, 2009; Glasius, 2009). Kenya, for example, witnessed significant constitutional and judicial changes in the aftermath of ICC engagement (Mueller, 2014), highlighting how norm diffusion can operate through institutional channels. This perspective emphasises that normative effectiveness is achieved when ICC-related values are internalised, reflected in legislation, invoked by civil society, and integrated into public expectations of justice (Clark, 2018).

### **Post-Colonial Theory**

Post-colonial theory adds a critical dimension by interrogating how historical legacies of colonial domination shape contemporary structures of global governance, including international criminal justice. Scholars such as Mamdani (2009) and Mutua (2001) argue that the ICC, through its disproportionate focus on Africa, risks reproducing a "civiliser-savage binary" that historically justified colonial rule. From this perspective, international justice is not simply a neutral application of law, but a contested terrain where legal norms often reflect Eurocentric worldviews and hierarchies of power (Anghie, 2007).

Applied to the ICC, post-colonial analysis questions the legitimacy of a Court perceived to be selectively prosecuting African leaders while sparing powerful actors from the Global North. It highlights how African governments, particularly through the African Union (AU), have interpreted ICC actions as an affront to sovereignty and self-determination (Murithi, 2013;

Jalloh, 2012). These perceptions diminish cooperation, harden resistance, and delegitimise the Court's moral authority, regardless of its legal sophistication. Thus, post-colonial theory compels an evaluation of the ICC not only in terms of legal performance but also through the lens of justice ownership, epistemic equality, and geopolitical irregularity (Okafor, 2005). In integrating both constructivism and post-colonialism, this study argues that the diffusion of global norms must pass through filters of legitimacy and historical consciousness. Norms will not be internalised, no matter how morally compelling, if they are seen as externally imposed or structurally biased. The ICC's normative impact, therefore, hinges not just on dissemination, but on local reception, adaptation, and contestation.

### **Variables and Causal Logic**

At the empirical level, this study conceptualises a causal relationship between two principal variables. The independent variable is international justice, and the dependent variable is ICC effectiveness. The causal mechanism assumes that the strength and legitimacy of international justice norms within African states directly influence the performance of the ICC on the continent (Sikkink, 2011; Nouwen & Werner, 2011).

### **International Justice (Independent Variable)**

International justice is defined as the strength, diffusion, and localisation of anti-impunity norms across African political, legal, and civil society landscapes. It encompasses how international legal standards especially those articulated in the Rome Statute are internalised into domestic laws, championed by civil society, and endorsed or resisted in regional diplomacy (Schabas, 2017). Three key indicators are used to assess this variable:

- Legal incorporation: The extent to which Rome Statute principles are integrated into national legal frameworks, including constitutional amendments, enabling legislation, and war-crimes chambers (Du Plessis, 2012).
- Public and elite attitudes: Captured through public opinion surveys, media analysis, and elite discourse, particularly regarding support for international courts (Kersten, 2016).
- Regional positioning: Reflected in AU communiqués, speeches by African leaders, and CSO statements, either endorsing or critiquing the ICC (Murithi, 2013).

A higher level of normative salience across these domains is hypothesised to foster increased state cooperation, judicial responsiveness, and public legitimacy for the ICC.

### **ICC Effectiveness (Dependent Variable)**

ICC effectiveness is defined as the ability of the Court to deliver justice that is credible, enforceable, and normatively resonant in African contexts. It is assessed through a Four-Axis Index, which produces a composite evaluation of performance:

1. Legal Outputs: Number and quality of indictments, convictions, and integrity of trial processes.
2. State Cooperation: Levels of compliance with arrest warrants, evidentiary submissions, and support for investigations.
3. Victim-Centred Impact: Issuance and enforcement of reparations, and indicators of victim satisfaction or participation.



4. Normative Resonance: Influence on domestic legal reforms, judicial referencing of ICC principles, and civil society engagement.

This index allows for a granular and multi-dimensional understanding of effectiveness beyond mere legal outcomes, capturing both operational and symbolic dimensions of justice delivery.

### **Causal Logic and Theoretical Synthesis**

The causal relationship between international justice and ICC effectiveness is understood through a three-stage mechanism:

1. Norm Activation (Constructivist Lens): Anti-impunity norms are promoted through global legal frameworks, advocacy networks, and judicial discourse (Finnemore & Sikkink, 1998).
2. Perception and Reception (Post-Colonial Lens): These norms are either accepted or resisted depending on their perceived legitimacy, informed by histories of marginalisation and geopolitical asymmetry (Mamdani, 2009; Mutua, 2001).
3. Behavioural and Institutional Outcomes: Where international justice norms are both salient and legitimate, states are more likely to cooperate with the ICC, victims to engage with it, and civil societies to support its operations. Conversely, where norms are viewed as foreign impositions, ICC performance declines due to reduced compliance, obstructed procedures, and weakened public trust.

This model also includes a feedback loop, where effective performance by the ICC can reinforce norm salience and bolster regional confidence, while perceptions of selectivity or bias can erode trust and weaken the entire justice architecture (Jalloh et al., 2019).

### **Variable Interaction in the African Context**

In applying this framework to Africa, it becomes evident that ICC effectiveness is both a product and a test of international justice. As the dependent variable, the Court's performance reflects the degree to which anti-impunity norms have gained traction within Africa's complex political and legal ecosystems (Kersten, 2016). When regional support for international justice is strong, the ICC achieves greater procedural and normative success, as seen in Uganda's initial cooperation (Clark, 2018). Conversely, as AU criticisms intensify and sovereigntist discourses take root, as in the cases of Kenya and Sudan, the Court's operational and symbolic capacities are significantly curtailed (Murithi, 2013; Jalloh, 2012).

These variations also expose broader trends of contestation, particularly the tension between universalism and sovereignty, legal accountability and political pragmatism, and Northern norms versus Southern realities. The Africa-heavy docket, while explained by referral patterns, has fuelled perceptions of judicial selectivity and neo-colonialism (Mills & Bloomfield, 2016), prompting calls for regional alternatives such as the Malabo Protocol.

### **Implications for Comparative Study and Triangulation**

The selected case studies Sudan, Kenya, and Uganda are methodologically appropriate for assessing variation in ICC effectiveness across different types of referrals (UNSC, proprio motu, and self-referral). However, their triangulation is crucial to strengthening empirical robustness. To this end, the study incorporates cross-case comparisons, thematic coding of legal and political texts, and discourse analysis of regional responses to the ICC (Bryman, 2016). These cases reflect diverse colonial histories, legal traditions, and political alignments, enhancing the study's comparative depth. Nevertheless, limitations exist in capturing the full

continental spectrum, especially Francophone and Arabic-speaking countries, which future research should address.

## Methodology

This study employs a qualitative, comparative case study methodology grounded in constructivist and post-colonial epistemologies to examine the effectiveness of the International Criminal Court (ICC) in Africa. Anchored in the Multidimensional Effectiveness Framework set out in the theoretical section, the methodology is designed to assess the Court's performance along three core dimensions: normative effectiveness, institutional effectiveness, and diplomatic effectiveness. The study adopts an interpretivist orientation, seeking to understand how legitimacy, justice, and sovereignty are constructed and contested across diverse African contexts (Gerring, 2007; George & Bennett, 2005).

## Research Design and Case Selection

A comparative multiple-case study design was chosen to facilitate cross-contextual analysis and mechanism variance. Specifically, three African countries Sudan, Kenya, and Uganda were purposively selected to reflect distinct ICC referral mechanisms and varied patterns of state cooperation and legitimacy discourse (Bryman, 2016).

- **Sudan** represents a United Nations Security Council (UNSC) referral following the Darfur crisis (2005).
- **Kenya** exemplifies an Office of the Prosecutor (OTP) proprio motu investigation, initiated after the 2007-2008 post-election violence.
- **Uganda** serves as the first-ever state self-referral, marking a voluntary engagement with the ICC.

The selection was guided by the following criteria:

- Diversity of jurisdictional triggers, enabling exploration of how different legal entry points affect state engagement and public reception.
- Variation in cooperation and resistance, from full engagement (Uganda), to partial compliance (Kenya), to outright defiance (Sudan).
- Regional and domestic political salience, ensuring relevance to broader African discourses on sovereignty, accountability, and global justice.
- Availability of verifiable, multilingual documentation, enabling triangulation from multiple data sources.

By choosing one case per referral mechanism, the design maximises explanatory leverage while holding constant the ICC's institutional architecture. This allows for more precise assessment of how contextual variables especially the legitimacy of international justice norms influence outcomes (Yin, 2018).

## Data Collection and Triangulation

This study draws upon a diverse array of secondary sources, organised into five main source families:

1. ICC primary documents: arrest warrants, trial judgments, OTP strategy papers, and Assembly of States Parties reports.

2. African regional records: African Union communiqués, summit declarations, and parliamentary debates.
3. Domestic legal texts: constitutional provisions and statutory reforms aligned with the Rome Statute.
4. Civil society and media outputs: reports from Human Rights Watch, Amnesty International, the Open Society Foundations, and regional press.
5. Academic literature: peer-reviewed journals, monographs, and comparative legal commentaries.

All factual claims were cross-verified using at least two independent source families, ensuring rigorous methodological triangulation. Boolean search techniques were applied to databases such as JSTOR, Google Scholar, HeinOnline, and the ICC Legal Tools portal, using targeted terms including: “ICC AND Africa”, “Kenya AND complementarity”, “Sudan AND Bashir arrest”, and “Uganda AND ICC impact.”

### Analytical Procedures

To assess ICC effectiveness across the three dimensions (normative, institutional, and diplomatic), the following analytical techniques were employed:

1. **Effectiveness Scoring** Each case was scored along a Four-Axis Index:
  - Legal outputs (e.g., number and integrity of convictions)
  - State cooperation (e.g., compliance with arrest warrants)
  - Victim-centred outcomes (e.g., reparations and participation)
  - Normative resonance (e.g., impact on legal reforms and public discourse)

Each axis was scored on a 0 (absent) to 2 (strong) scale, producing a composite effectiveness score ranging from 0 to 8 per country (Clark, 2020; Bosco, 2014).

2. **Process Tracing** Chronological reconstruction of each case was conducted to trace:
  - Referral pathways and legal justification
  - Shifts in state behaviour over time
  - Key prosecutorial milestones and institutional responses (Beach & Pedersen, 2016)

This method adds temporal depth to the evaluation and enhances causal plausibility.

3. **Discourse Analysis** Textual analysis was applied to AU communiqués, political speeches, civil society statements, and media reports to map how legitimacy, sovereignty, justice, and impunity were framed. Special attention was paid to the discursive divide between elite and grassroots narratives within each case (Bacchi, 2010).

### Positionality and Reflexivity

This study is informed by a critical and decolonial epistemological orientation. The researcher's identity as an African scholar and legal practitioner working within the continent's post-colonial context shapes both the theoretical choices and analytical sensitivities of this inquiry.



This reflexive posture acknowledges that international law is not neutral, and that legal norms are often embedded in unequal power dynamics.

### **Limitations**

Despite the study's robust design, several limitations must be acknowledged:

1. Access Constraints: The analysis is limited to publicly available documents.
2. Geographic Scope: Excludes Francophone and North African cases (e.g., Cote d'Ivoire, Libya).
3. Language Bias: Conducted primarily in English.
4. Temporal Cut-Off: Captures developments up to early 2025.
5. Lack of Primary Field Data: No first-hand interviews.
6. Interpretive Subjectivity: Findings are shaped by the researcher's analytical lens.

### **Justification of Methodological Approach**

The chosen methodology reflects the epistemological commitment of the study to interrogate both legal outcomes and normative legitimacy. A purely quantitative or doctrinal approach would obscure the symbolic power of international justice norms and the historical baggage of post-colonial resistance (Dezalay & Garth, 2010). By combining effectiveness scoring with discourse and process tracing, the study offers a multi-perspectival account of the ICC's role in Africa.

This approach also contributes methodologically to the field of international relations and diplomacy by integrating legal analysis with diplomatic history, normative theory, and post-colonial critique. It moves beyond static institutional assessments to examine how international justice is received, reshaped, and resisted in formerly colonised regions thus offering insights both into the future of the ICC and the contested architecture of global justice (Grovogui, 2011; Chandler, 2016).

### **Discourse on the Objectives**

This section analyses the primary objectives of the study by applying the Multidimensional Effectiveness Framework comprising normative, institutional, and diplomatic dimensions across three carefully selected case studies: Sudan, Kenya, and Uganda. Each case illustrates a distinct ICC engagement pathway (UNSC referral, proprio motu investigation, and state self-referral respectively), allowing for comparative analysis of how international justice norms are internalised, resisted, or refracted through regional political and legal cultures. Effectiveness is measured using a Four-Axis Index (0–8), enabling both within-case evaluation and cross-case synthesis.

### **Sudan: Normative Assertion versus Enforcement Paralysis**

Sudan represents a classic case of high symbolic ambition clashing with geopolitical inertia. Following the 2005 UNSC referral under Resolution 1593, the ICC indicted then-President Omar al-Bashir for genocide, war crimes, and crimes against humanity marking the first warrant issued against a sitting head of state (ICC, 2009). This moment symbolised the ICC's bold normative claim: that no political office grants immunity from international accountability.

However, the enforcement gap proved substantial. Despite binding warrants, Bashir travelled freely to ICC member states, including Kenya and South Africa, without being apprehended (Jalloh, Clarke, & Nmehielle, 2019). The African Union openly opposed the warrant, arguing it threatened peace efforts in Sudan. This led to a near-total collapse of state cooperation, with no victim reparations, no arrest or trial, and negligible normative uptake in Sudanese legal reforms. The case underscores how the absence of enforcement undermines even the strongest normative pronouncements and amplifies perceptions of judicial double standards, a central theme in postcolonial critique (Mamdani, 2009).

### **Kenya: From Early Cooperation to Politicised Resistance**

Kenya illustrates a case where initial cooperation with the ICC gave way to political backlash. Following the 2007-2008 post-election violence, the ICC's proprio motu investigation led to charges against six senior officials, including future President Uhuru Kenyatta and Deputy President William Ruto. The Court's early intervention received public and civil society support and coincided with transformative reforms, notably the 2010 Constitution, which entrenched accountability norms in domestic law (Glasius, 2013).

However, progress stalled as key witnesses disappeared, recanted, or faced threats. The government resisted evidence requests and framed the ICC as a foreign tool undermining national sovereignty. Eventually, the charges were withdrawn in 2016 due to insufficient evidence. Nevertheless, the normative impact persisted through ongoing civil society advocacy and judicial references to ICC principles. Kenya's trajectory demonstrates how norm diffusion can endure beyond procedural setbacks, even in the face of elite resistance (Clark, 2018).

### **Uganda: One-Sided Justice and Symbolic Engagement**

Uganda, the ICC's first self-referral, underscores both the promise and limitations of international justice when filtered through national interests. The referral targeted the Lord's Resistance Army (LRA), resulting in high-profile indictments and, eventually, the 2021 conviction of Dominic Ongwen. The case marked a rare institutional success and contributed to victim recognition and limited reparations.

Yet the ICC's failure to investigate alleged abuses by the Uganda People's Defence Force (UPDF) weakened its credibility. Critics argue that the Court's selective focus entrenched a victor's justice narrative, undermining its legitimacy (Mutua, 2001). This case exemplifies how selective prosecution even when procedurally justified can dampen norm internalisation and embolden state critiques of external interference.

### **Cross-Case Synthesis and Thematic Insights**

A comparative reading of these three cases reveals consistent patterns and significant variations that illuminate the ICC's multidimensional effectiveness:

Dimension	Trend	Implication
<b>Normative Impact</b>	High symbolic value, especially in Kenya and Uganda.	Norm diffusion thrives where civil society is robust, and justice norms are domesticated.
<b>Institutional Limits</b>	Investigations are often procedurally sound; enforcement remains weakest.	ICC effectiveness is constrained by state cooperation, evidentiary access, and field capacity.

Dimension	Trend	Implication
<b>Diplomatic Legitimacy</b>	AU and state elites resist ICC when it appears externally imposed.	Post-colonial perceptions shape compliance and legitimacy, often more than legal merit alone.
<b>Peace–Justice Dilemma</b>	Tensions in Sudan and Uganda between prosecutions and ongoing peace efforts.	ICC must develop sequencing frameworks aligned with transitional justice and mediation processes.
<b>Civil Society Role</b>	NGOs, victims’ groups, and legal coalitions sustain demand for accountability.	Grassroots actors provide normative legitimacy even when state elites resist cooperation.
<b>Regional Justice Alternatives</b>	Increasing calls for African-led mechanisms (Malabo Protocol)	ICC must explore collaborative or hybrid justice models to remain relevant and responsive.

A final insight concerns Africa’s legal and regional diversity. Sudan (North-East Africa), Kenya (East Africa), and Uganda (East-Central Africa) present different legal traditions Islamic, common law, and hybrid post-conflict systems. These distinctions influence how international norms are received and translated into local contexts. Thus, a one-size-fits-all approach to justice is insufficient. The ICC’s long-term effectiveness depends on tailoring interventions to local capacities, legal cultures, and historical grievances.

In conclusion, the ICC’s African record is neither wholly successful nor uniformly deficient. It is characterised by moments of profound symbolic breakthrough, episodes of institutional fragility, and complex diplomatic contestations. This study confirms that ICC effectiveness, the dependent variable rises or falls with the salience and internalisation of international justice norms the independent variable. The Multidimensional Effectiveness Framework offers a calibrated tool for capturing these nuances and contributes to ongoing efforts to rethink global justice through a postcolonial and locally informed lens.

## Conclusion

This paper has critically interrogated the effectiveness of the ICC in Africa through a constructivist and postcolonial lens, supported by a multidimensional effectiveness framework that evaluates normative, institutional, and diplomatic performance. Through a comparative study of Sudan, Kenya, and Uganda each selected for its unique ICC engagement pathway, the research has revealed a complex landscape in which the Court’s symbolic authority often outpaces its capacity for enforcement and sustained legitimacy.

At the normative level, the ICC has demonstrated a capacity to disrupt impunity discourses and embed universal justice claims within African legal and political spheres. The indictment of Omar al-Bashir, the prosecution of high-ranking Kenyan officials, and the conviction of Dominic Ongwen all serve as moments of high symbolic impact. However, from a constructivist perspective, such normative gains are contingent on internalisation (Finnemore & Sikkink, 1998). Where civil society is vibrant as in Kenya, anti-impunity norms are more likely to be diffused, invoked, and institutionalised. Yet these gains are fragile. Postcolonial

critique rightly warns that norms perceived as externally imposed or selectively applied risk reversal, disillusionment, and resistance (Mamdani, 2009; Mutua, 2001).

Institutionally, the ICC suffers from chronic weaknesses. Its overreliance on state cooperation, weak enforcement mechanisms, and uneven prosecutorial strategy have exposed it to criticism and failure. In Sudan, the absence of arrest enforcement hollowed the legitimacy of warrants. In Kenya, collapsed cases revealed prosecutorial overreach and insufficient evidentiary planning (Nouwen & Werner, 2011). Even in Uganda, where the Court secured a conviction, the lack of scrutiny toward state actors undermined its claims to impartiality. These institutional deficits are not merely technical—they are politically significant (Clark, 2018).

Diplomatically, the ICC's standing in Africa has fluctuated between cautious engagement and outright rejection. The African Union's mobilisation against the Court, Kenya's diplomatic lobbying, and President Museveni's rhetorical condemnation all reflect a broader contestation of the ICC's legitimacy. This diplomatic backlash, however, is not universal. Civil society, victims' groups, and regional legal communities have often acted as counterweights, asserting the relevance of international justice even when governments resist it (Jalloh et al., 2019). This duality illustrates that ICC legitimacy in Africa is fractured, shaped by elite resistance but buoyed by grassroots support.

A key finding of this study is that ICC effectiveness, the dependent variable, rises or falls in tandem with the vitality, salience, and internalisation of international justice norms the independent variable. The deeper these norms are embedded in domestic political culture and legal systems, the greater the ICC's ability to operate meaningfully. Where international justice is seen as co-constructed and locally owned, its normative authority grows. Where it is framed as externally imposed, its institutional credibility and diplomatic traction weaken (Okafor, 2005).

Moving forward, the ICC must recalibrate its approach. A more effective and context-sensitive strategy must include:

- Embedding prosecutorial strategy within African regional frameworks such as the African Court on Human and Peoples' Rights.
- Strengthening collaboration with domestic judicial institutions and local justice mechanisms.
- Amplifying victim agency and ensuring that affected communities have genuine participatory roles in proceedings.
- Clarifying prosecutorial priorities with transparency and geopolitical balance, avoiding the perception of racial or regional bias.

This reorientation is especially urgent in a global environment where multilateralism is under strain and the legitimacy of international institutions is increasingly contested. A failure to evolve risks reinforcing the very critiques the ICC seeks to overcome of selectivity, neocolonialism, and ineffectiveness.

In conclusion, this paper contributes to international justice scholarship by advancing a theoretically grounded, empirically tested, and context-responsive analysis of the ICC's effectiveness in Africa. It reaffirms that justice is not simply a juridical outcome but a political and symbolic process, shaped by history, power, and normative contestation. By centring African agency, illuminating the structural asymmetries of the international legal order, and

calling for a genuinely co-owned model of accountability, this study not only evaluates but also reimagines the future of international criminal justice on the continent.

## Recommendations

Drawing on the critical analysis of ICC performance in Africa, anchored in constructivist and postcolonial theory this study offers the following recommendations to address the Court's normative and institutional challenges, strengthen African ownership, and promote a more credible, inclusive model of international justice. These proposals aim to recalibrate the ICC's engagement with African states and societies by reinforcing complementarity, diffusing justice norms through collaboration, and confronting structural power asymmetries.

1. **Reinforce Complementarity:** The ICC should invest in building the capacity of domestic justice systems through technical support, legal training, and infrastructure development. Linking cases to measurable national milestones will empower local actors and reduce reliance on external enforcement.
2. **Institutionalize AU-ICC Dialogue:** A structured and regular liaison mechanism with the African Union, anchored within the African Peace and Security Architecture should be established to coordinate arrest compliance, sequence indictments with peace processes, and foster mutual trust.
3. **Enhance Prosecutorial Transparency:** Clear guidelines on case selection and prioritization, audited annually by a geographically diverse review panel, will increase accountability and counter perceptions of bias.
4. **Prioritize Victim-Centered Justice:** The Trust Fund for Victims should be expanded and better resourced, while community-based reparations and trauma-informed services should be mainstreamed to reflect local needs and expectations.
5. **Diversify Geographical Focus:** The ICC must actively pursue cases beyond Africa to dispel accusations of neocolonial bias and demonstrate universal commitment to justice.
6. **Clarify Peace-Justice Sequencing:** A publicly available framework should guide how ICC prosecutions are aligned with peacebuilding, ensuring they do not disrupt transitional processes.
7. **Engage Regional Justice Mechanisms:** Rather than competing with regional bodies like the African Court on Human and Peoples' Rights, the ICC should pursue cooperation through joint training, legal harmonization, and mutual assistance frameworks.
8. **Support UNSC Reform Initiatives:** The ICC and its African partners should advocate for veto restraint in atrocity-related cases and promote more democratic and principled referral processes.

These recommendations move beyond institutional tinkering to advocate for a deeper reconfiguration of the ICC-Africa relationship from a model of external enforcement to one of shared norm production and co-regulation. Engaging with African justice innovations, such as the Malabo Protocol (2014), despite its current limitations, reflects a postcolonial imperative to embrace plural pathways to accountability. Ultimately, the ICC's future legitimacy and effectiveness depend on its ability to act not as a detached arbiter, but as a partner in a globally inclusive and locally resonant justice ecosystem.

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