International Criminal Court and the Pursuit of International Criminal Justice in Africa: A Historical and Diplomatic Analysis

By

Amah Maclean Williams
Department of History and International Studies
Akwa Ibom State University
Email: amahwilliams@aksu.edu.ng Phone:+2348135127355

Abstract

123 Countries have ratified the Rome Statute establishing the International Criminal Court (ICC), out of which 33 are African countries accounting for more than half of the Countries on the continent. All the cases prosecuted by the ICC so far have to do with crimes allegedly committed in Africa. This has raised questions as to whether this is an example of selective prosecution or an unbiased quest for justice in the numerous crimes against humanity committed on the continent. The perceived lop-sidedness in the operations of the ICC has been put to question by African leaders and has come under severe intellectual attack This paper explores the complex relationship between the International Criminal Court (ICC) and Africa, analysing its historical roots, major case interventions, and the diplomatic controversies that have shaped perceptions of international criminal justice on the continent. While African states were instrumental in the formation of the ICC through the Rome Statute, the subsequent focus of ICC prosecutions on African leaders has led to accusations of bias, neo-colonialism, and selective justice. The research examines critical cases such as those involving Sudan and Kenya, highlighting tensions between the pursuit of accountability and the principles of state sovereignty. Drawing on legal, political, and historical perspectives, the paper also evaluates the future of ICC-Africa relations and international criminal justice in Africa. Ultimately, the study argues for a more inclusive and balanced system of international criminal justice that respects both global norms and African agency.

Keywords: International Criminal Court (ICC), Africa, International criminal justice, Human Rights, Transitional Justice

Introduction

Cases of human rights abuse have come to be a norm during conflicts in most part of the world. Armies or rebel groups attack ordinary people and commit terrible human rights abuses against them. Some dictators also silence dissent through the brutal killing or torture of those perceived to be in opposition. Often, these crimes are not punished by the national courts. This situation necessitated the formation of an international judicial body that could prosecute individuals for war crimes, crimes against humanity and genocide. The foundations for the ICC were therefore established when on 17th July 1998, 120 States adopted a statute in Rome known as the Rome Statute of the International Criminal Court (Schabas, 201156). For the first time in the history of international relations, states decided to accept the jurisdiction of a permanent international criminal court for the prosecution of the perpetrators of the most serious crimes committed in their territories or by their nationals after the entry into force of the Rome Statute on 1st July 2002. The establishment of the International Criminal Court (ICC) marked a significant milestone in the evolution of international criminal justice. As a permanent tribunal, the ICC was mandated to end impunity for the most serious crimes of concern to the international community. However, nearly all of the Court's early cases involved African countries, leading to allegations of neo-colonialism and bias (Murithi, 2017).

The institution, headquartered in The Hague, Netherlands, currently has 123 member states. These states are party to the Rome Statute, which serves as both the Court's governing document and its statement of intent. Of the 123 countries that have signed and ratified the Rome Statute, just under one-third are African nations, and the continent's delegates and representatives have historically played important roles both in the drafting of the statute and in the development of the judicial institution. Nevertheless, over the years, the AU has adopted various resolutions critical of the ICC and its practice (Kaye, 2016). Yet most African states at one time strongly supported the ICC.

The watershed moment for the AU's relationship with the ICC came in March 2009, following the issuance of the first arrest warrant for President Omar al Bashir of Sudan (Murithi, 2016). In a speech delivered at the Chatham House, London on International Law in 2013, Max du Plessis posits that the Bashir arrest warrant

caused the relationship between the ICC and the AU to deteriorate for two reasons. First, members of the AU felt that the issuance of the arrest warrant was an impediment to the organization's regional efforts to foster peace and reconciliation processes in Sudan, and that the ICC failed to appreciate the effect that its actions were having on these efforts. Secondly, diplomatic umbrage was taken over the indictment of a sitting head of state, which sparked a debate over whether the Rome Statute can legitimately extinguish diplomatic immunity in states that are not parties to it, such as Sudan (Max, 2016, p.88). While African states were among the strongest early supporters of the ICC, the continent has since become the focal point of the Court's investigations, raising questions about bias, fairness, and the political nature of international justice. This paper therefore examines the ICC's historical trajectory in Africa, its major cases, the resulting diplomatic tensions, and the evolving debate over the legitimacy and reform of international criminal justice.

The Jurisdiction, Legal and Institutional Framework of the ICC

For better understanding of the workings of the ICC and to fully situate its activities in the context of whether or not it is biased in its prosecutions, it is instructive to examine its mandate and jurisdiction. The ICC operates under the Rome Statute, which outlines its jurisdiction, functions, and principles. According to Prorok et al, as of 2024, 33 African states are parties to the Rome Statute, making Africa the most represented region (Prorok, Appel, & Minhas, 2024). The Court has jurisdiction over crimes committed by nationals of state parties or within their territories, and it can also act on United Nations Security Council referrals or requests by non-state parties. The Statute for the creation of the Court as adopted at an international conference in Rome on July 17, 1998 clearly states the mandate of the Court which is the investigation and prosecution of crimes against humanity, genocide, and war crimes (Arsanjani, 1999, p. 31). According to Article 7of the Rome Statute, crimes against humanity are crimes that are "committed as part of a widespread or systematic attack directed against any civilian population" (Arsanjani, 1999, p. 31) They can include acts such as: murder, extermination, enslavement, deportation, forcible transfer of population, imprisonment, torture, rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, other forms of sexual violence, persecution against any identifiable group, enforced disappearance of persons, the crime of apartheid, other inhumane

acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health (Arsanjani, 1999, p. 28).

Another crime the court deals with that requires definition is War Crime. Article 8 (2) of the Rome Statute defines War Crime as "a grave breach of the Geneva Conventions of 12 August 1949 and other serious violations of the laws and customs applicable in armed conflicts" (Arsanjani, 1999, p. 40). The Geneva Conventions are international agreements defining the rules of war. They set international standards for the protection of the civilian population and the treatments of combatants in international and internal armed conflicts. Article 8(2)(a) of the Rome statute lists the following crimes as War Crimes: wilful killing, torture or inhuman treatment including biological experiments, wilfully causing great suffering or serious injury to body or health, extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly, compelling a prisoner of war or other protected person to serve in the forces of a hostile power, wilfully depriving a prisoner of war or other protected person of the rights of fair and regular trial, unlawful deportation or transfer or unlawful confinement, taking of hostages (Arsanjani, 1999, p. 43).

In addition to the Geneva Conventions, other violations of the laws and customs of war can also be war crimes. Article 8(2)(b) of the Rome Statute lists a wide range of such acts which include: Intentionally directing attacks against the civilian population, intentionally directing attacks against civilian objects, intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission; killing or wounding a combatant who, having laid down his arms or having no further means of defence, has surrendered (Arsanjani, 1999, p. 31).

However, the authority of the International Criminal Court is more limited. Article 8(1) of the Rome Statute states thus: "the Court shall have jurisdiction in respect of war crimes in particular when committed as part of a plan or policy or as part of a large-scale commission of such crimes" (Arsanjani, 1999, p. 32). The ICC's jurisdiction commenced on July 1, 2002. The Court has jurisdiction over crimes committed after July 1, 2002, that is, the date when the Rome Statute entered into force. Crimes committed before that date cannot be prosecuted by the Court. For

those crimes, the Human Rights Watch Guide suggests that other solutions need to be found, such as prosecution in the national justice system, in an ad hoc international tribunal such as the International Tribunal for Rwanda, or any other special tribunal such as the Special Court for Sierra Leone or before the courts of a third country where individuals could be prosecuted under universal jurisdiction. If a country ratifies the Rome Statute later than July 2002, the Court will only be able to prosecute crimes committed after the date of ratification (Human Rights Watch, 2002).

There are three ways in which the Court can initiate investigations. According to the Rome Statute, a state that is party to the Rome Statute can refer a case to the Prosecutor of the Court. This is what the Ugandan government did in January 2004, about the situation in northern Uganda. In March 2004, the government of DRC referred crimes in the DRC to the Court. Second, the U.N. Security Council can refer a case to the Prosecutor. The UNSC referred the situation in Lybia and Sudan to the Court. Thirdly, the Prosecutor can initiate investigations into a case on his own initiative, based on credible information that he has received. This information can come from states, NGOs, victims, or any other source (Schabas, 2011). The Court is likely to consider the gravity of the crime and the degree of individual responsibility for it. It will probably give priority to prosecuting persons accused of committing the most serious crimes and those who are suspected of being directly responsible for those crimes.

As outlined above, the International Criminal Court (ICC) operates under a well-defined jurisdictional, legal, and institutional framework, established by the Rome Statute. While the ICC's legal and institutional framework is robust, its implementation in Africa highlights both its potential and its limitations. Many African leaders argue that the ICC disproportionately targets African states while ignoring atrocities elsewhere. The ICC has been heavily engaged in Africa, with most of its early cases coming from African states. Most of the cases were either self-referrals by African governments or UN Security Council referrals. However, this focus has led to significant criticism, with accusations of bias and neo-colonialism, despite the fact that many African countries are signatories to the Rome Statute and have cooperated with the Court. Though, the Court has helped advance the cause of international criminal justice, but concerns about equity,

legitimacy, and political dynamics continue to affect its standing, particularly in Africa.

Africa and the ICC: Major Cases and Interventions

Since its inception, the ICC has launched investigations in countries such as Uganda, the Democratic Republic of Congo, the Central African Republic, Sudan, Kenya, Libya, Mali, and Côte d'Ivoire. Critics argue that this focus reflects a discriminatory approach that targets weaker states while ignoring powerful non-African actors (Murithi, 2017). Conversely, scholars like Kaye David in an article titled; "Who's Afraid of the International Criminal Court?" contend that most African cases were self-referrals or involved states unable or unwilling to prosecute serious crimes (Kaye, 2016). The article further emphasises that there are good reasons to pursue the cases that are under investigation or prosecution before the ICC. For one thing Africa has experienced a large number of atrocities and, statistically speaking, the rate of atrocity crimes committed on the continent would make it a natural focus for the court anyway. The victims of those crimes want justice. The people who complain about the bias tend to be African political elites, not the victims, who appear to be almost universally relieved that somebody is paying attention to their plight (Kaye, 2016, p. 13). The table below shows a summary of the cases pursued by ICC in Africa since its establishment in 2002.

Table: Summary of ICC activities in Africa

COUNTRY	CASE	STATUS
Libya	Muammar al Qadhafi, his son Sayf al Islam al Qadhafi, and intelligence chief Abdullah al Senussi	Arrest warrants issued on June 27, 2011. Jurisdiction granted by the U.N. Security Council in February 2011. Investigation opened on March 3
Kenya	Politician William Ruto, Minister of Industrialization Henry Kosgey, and journalist Joshua Arab Sang.	Suspects appeared voluntarily before the Court in April 2011 in responses to summonses.

		Confirmation of charges hearing scheduled for September 2011.
	Deputy Prime Minister Uhuru Kenyatta, Cabinet Secretary Francis Muthaura, and Maj. Gen. (Retd.) Hussein Ali	Suspects appeared voluntarily before the Court in April 2011 in response to summonses. Confirmation of charges hearing scheduled for September 2011
Darfur, Sudan	Former Interior Minister Ahmad Muhammad Harun and alleged former militia leader Ali Kushayb	Arrest warrants issued in May 2007. Suspects at large. Harun is governor of Sudan's Southern Kordofan state
	Darfur rebel leader Bahar Idriss Abu Garda	Prosecutor's case dismissed by ICC judges in February 2010.
	Darfur rebel leaders Abdallah Banda Abakaer Nourain, and Saleh Mohammed Jerbo Jamus	Pre-trial phase; charges confirmed in March 2011. Banda and Jerbo appeared voluntarily before the Court in response to summonses in June 2010.
	Sudanese President Omar Hassan al Bashir	Arrest warrant issued in March 2009 for war crimes and crimes against humanity. Additional arrest warrant issued for genocide in July 2010. Bashir re-elected president in April 2010.

"Situation of the Lord's Resistance Army (LRA)" [Uganda]	LRA commanders Joseph Kony, Vincent Otti, Okot Odhiambo, Dominic Ongwen, and Raska Lukwiya	Arrest warrants unsealed in October 2005. Otti and Lukwiya reportedly dead. Remaining suspects at large.
Democratic Republic of Congo	Alleged militia leader Thomas Lubanga Dyilo	Trial initiated in January 2009 and expected to conclude in August 2009. Suspect transferred to ICC custody in March 2006.
	Alleged militia leaders Germain Katanga and Mathieu Ngudjolo Chui	Joint trial initiated in November 2009. Suspects transferred to ICC custody in October 2007 and February 2008, respectively.
	Former militia and rebel leader turned DRC army officer Bosco Ntaganda	Arrest warrant issued in August 2006, unsealed in April, 2008. Suspect widely reported to be living in Goma and participating in Congolese military operations.
	Alleged militia political leader Calixte Mbarushimana	Arrested in France in October 2010, transferred to ICC Custody on January 25, 2011.
Central African Republic	Former Congolese rebel leader turned Congolese transitional vice president and Senator	Trial initiated in November 2010. Suspect arrested in Belgium and

	Jean-Pierre Bemba Gombo	transferred to ICC custody in July 2008.
Côte d'Ivoire		Prosecutor requested authorization to open a full investigation on June 23, 2011.
Guinea		Preliminary examination.
Nigeria		Preliminary examination.

Source: ICC Office of the Prosecutor Weekly Briefing, 15-21 February 2011, Issue #75.

The International Criminal Court (ICC) has successfully investigated and indicted several leaders, both African and non-African, with some cases ongoing. This discussion highlights two notable cases involving sitting African leaders: Kenyan President Uhuru Kenyatta and Sudanese President Omar Al-Bashir, both accused of crimes against humanity. Notably, Kenyatta's case demonstrates unprecedented cooperation between an African Head of State and the ICC, whereas Al-Bashir's case exemplifies widespread African resistance to the Court's authority.

In a historic development, Kenyan President Uhuru Kenyatta became the first sitting Head of State to face the International Criminal Court (ICC) on charges of crimes against humanity, which he vehemently denied (Bowcott, 2014). The ICC indictment stemmed from alleged involvement in post-election violence between 2007 and 2008, resulting in approximately 1,200 deaths and 600,000 displacements. Notably, Kenyatta temporarily transferred power to Deputy President William Ruto, invoking Article 147(3) of Kenya's Constitution, to attend ICC hearings in person. This unprecedented move allowed Kenyatta to address charges in a personal capacity. Kenyatta maintained that his decision preserved Kenya's sovereignty and refuted claims of potential interference with the ICC's investigation. In an article, Emmanuel Okurut and Hope Chodry noted that Kenyatta alleged that the charges against him had political motivations from imperialists who viewed African leaders as incompetent. He concluded that his

conscience was and had always been clear and that he was not guilty of any of the charges that were premised on internalized negative assumptions about Africa's political landscape (Emmanuel & Chodry, 2018).

The trial of President Kenyatta faced repeated delays as the Prosecutor struggled to gather sufficient evidence. Allegations emerged that the Kenyan Government was obstructing justice by intimidating and bribing witnesses to deter them from testifying. Furthermore, the Prosecutor claimed that the Government was withholding crucial financial records, hindering the ICC's investigation. The Trial Chamber V (B) of the ICC highlighted these concerns, underscoring the challenges in pursuing justice (Emmanuel & Chodry, 2018, p. 56). However, the victims of the atrocities Kenyatta committed in the post-election violence expressed disappointment, betrayal, and abandonment by the ICC. Many voiced disappointments in the Court's decision which was regarded as a grave injustice to the victims (Murithi, 2017).

The Kenyan case before the ICC was marked by significant challenges that hindered the pursuit of justice. Despite these obstacles, the case established a crucial precedent: a sitting head of state voluntarily appearing before the Court to address charges. This development underscored the ICC's authority and role in holding leaders accountable for serious international crimes. Notably, Kenyatta's cooperation with the ICC, despite his criticisms of the Court's perceived bias against African states, highlights the complexities of international justice. This sentiment is shared by other African leaders, as will be explored in the case of Omar Al-Bashir.

President Omar al-Bashir (Sudan)

In contrast to Kenya's cooperation with the ICC, Sudanese President Omar al-Bashir openly defied the Court's authority. Despite an arrest warrant issued by the ICC in 2009, al-Bashir continued to travel internationally, including a visit to Rwanda in 2018 to attend the African Union Trade Summit. The ICC warrant accuses al-Bashir of serious crimes, including genocide, war crimes, and crimes against humanity, with charges spanning five counts of crimes against humanity, two counts of war crimes, and three counts of genocide (Human Rights Watch, 2002).

The International Criminal Court (ICC) has consistently urged African member states to apprehend Omar al-Bashir, accused of grave offenses, upon his entry into their territories. Nevertheless, many African nations have chosen not to comply, with certain leaders brazenly disregarding ICC instructions. This pattern of non-cooperation is exemplified by Rwanda's 2018 decision not to detain al-Bashir. The roots of this resistance can be traced back to a 2009 African Union (AU) summit resolution, where member states pledged not to arrest or extradite al-Bashir. Consequently, countries such as Chad, Malawi, and South Africa have permitted al-Bashir to visit without taking him into custody, despite ICC entreaties. The ICC has subsequently referred these instances of non-compliance to the United Nations Security Council (Africa News, 2018). Interestingly, al-Bashir's 2017 visit to Jordan, where he was not apprehended despite ICC reminders, underscores that opposition to the ICC's authority extends beyond Africa.

The African Union's 2009 summit in Libya marked a turning point in the relationship between African states and the ICC. At this gathering, African leaders collectively decided not to cooperate with the ICC's arrest warrant for President al-Bashir. This decision reflected growing discontent among African nations regarding the ICC's perceived bias and lack of impartiality. Following the AU's resolution, al-Bashir traveled extensively throughout Africa without fear of arrest. Chad and Malawi are notable examples of countries that refused to detain al-Bashir despite ICC requests. In both cases, the ICC's Pre-Trial Chamber found that these countries had failed to meet their obligations under the Rome Statute. Similar instances of non-compliance have been observed in other African countries, including the Democratic Republic of Congo, Uganda, Djibouti, and South Africa (AfricaNews, 2018). The pattern of non-cooperation extends beyond Africa, however, as evidenced by Jordan's decision not to arrest al-Bashir during his 2017 visit.

The African Union's collective defiance of the ICC's arrest warrant for Omar al-Bashir underscores a profound crisis of trust and legitimacy. This stance, rooted in perceptions of bias and selective justice, raises fundamental questions about the ICC's ability to impartially pursue international criminal justice. The AU's collective stance, rooted in historical grievances and the ICC’s disproportionate focus on African leaders, underscores a broader crisis of legitimacy for the Court

in the Global South. While the ICC aims to serve as a neutral arbiter of international justice, its selective enforcement and apparent political undertones have undermined its credibility. The al-Bashir case, therefore, serves not only as a flashpoint in the debate over impunity and accountability but also as a symbol of the growing divide between international legal institutions and regional sovereignty. For the ICC to uphold its mission effectively, it must address these legitimacy concerns and strive for a more balanced and universally accepted application of international criminal justice. Ultimately, the ICC's credibility and effectiveness depend on its ability to demonstrate fairness, impartiality, and consistency in its pursuit of justice. The al-Bashir case serves as a critical test of the ICC's capacity to navigate the intricate landscape of international relations and uphold the principles of international criminal law.

Diplomatic Tensions and Challenges

The relationship between the International Criminal Court (ICC) and African states has been marked by both cooperative diplomatic engagement and significant tension. The strained relationship between Africa and the ICC has resulted in various forms of diplomatic pushback. As noted earlier in this paper, the AU has repeatedly called for the mass withdrawal of African states from the Rome Statute. Although this call did not result in widespread departures, it signalled a significant loss of faith in the Court. Burundi became the first country to officially withdraw from the ICC in 2017, citing unjust targeting and a lack of respect for national sovereignty (Max, 2016, p. 36). All members of the AU with the sole exception of Botswana expressed their distrust in the institution during the 23rd Annual AU Summit. Ugandan President Yoweri Museveni even threatened to put forward a motion to have all African countries withdraw from the Court. Robert Mugabe also echoed Museveni's sentiments by insisting that a mass pull out appear on the AU's next agenda. South Africa issued notice of its intension to withdraw from ICC, three other African nations; Burundi, Kenya and the Gambia followed hot on the heels of South Africa's intended withdrawal on the grounds that the ICC obnoxiously targets African leaders (Max, 2016, p.38). This diplomatic crisis underscores the tension between the ICC's universalist aspirations and the political realities of its enforcement mechanisms. The Court relies heavily on state cooperation, yet its actions can provoke strong nationalist and regionalist responses when perceived as illegitimate (Egemba & Williams,

2022, p. 44). African leaders have expressed concerns that the ICC has deviated from its original purpose of ensuring accountability and justice for crimes under international law, instead serving as a tool for Western powers to exert influence over African nations (Kasande, Gitari, & Suma, n.d.). The disproportionate number of African leaders indicted by the ICC has fuelled perceptions of bias, despite evidence of wrongdoing in some cases. While the ICC denies allegations of targeting Africans, its president acknowledged in 2017 that many investigations were concentrated in Africa (Kaye, 2016, p. 14). African leaders remain skeptical, feeling unfairly treated and questioning the ICC's commitment to impartial justice. This sentiment has sparked calls for African states to withdraw from the ICC to protect their sovereignty.

Though accusations of political bias, perceived encroachments on national sovereignty, and contested diplomatic priorities have all contributed to strained relations. At the same time, not all African engagement with the ICC has been adversarial; some states have opted for reformist and cooperative approaches. In its formative years, the ICC gained credibility partly because African states appeared to embrace its mandate. As Charles C. Jalloh notes, Africa has the largest bloc of states parties to the Rome Statute, with 33 signatories as of the mid-2010s (Jalloh, 2019). African governments also referred several situations to the ICC themselves, including those in Uganda, the Democratic Republic of the Congo, and the Central African Republic. These referrals were initially interpreted as a sign that the ICC would supplement weak national judicial systems and help address impunity in post-conflict societies. However, as the Court proceeded to indict sitting heads of state, the tone of African engagement shifted dramatically.
Nonetheless, Africa's relationship with the ICC is not solely antagonistic. Some African states have resisted the broader call for mass withdrawal from the ICC. As noted earlier, South Africa announced its intention to withdraw from the Rome Statute in 2016 following criticism of its failure to arrest al-Bashir during his visit to Johannesburg. However, this withdrawal was later rescinded after South Africa's Constitutional Court ruled the process unconstitutional without prior parliamentary approval (Sarkin, 2009, pp. 19–21). This episode reflects both the legal complexities of withdrawal and the enduring value some African states place on international justice institutions. It also signals the possibility of legal and institutional reforms as alternatives to severing ties with the ICC.

The ICC, for its part, has recognized the need for better engagement with African constituencies. The Office of the Prosecutor has initiated outreach programs aimed at building relationships with African civil society organizations, legal professionals, and national judiciaries. These diplomatic overtures are intended to enhance transparency, explain the Court's mandate, and address misconceptions. Still, critics argue that more fundamental reforms are needed, including broader geographical representation among ICC personnel and a more balanced caseload that does not appear to target one region disproportionately. Importantly, some scholars and policymakers have advocated for the strengthening of regional judicial mechanisms such as the African Court on Human and Peoples' Rights. The idea is not to replace the ICC, but to develop a complementary system of accountability that reflects regional contexts. Such efforts could enable African states to take greater ownership of justice initiatives while still participating in the broader international legal order (du Plessis, 2010).

Future directions for ICC-Africa Relations and International Criminal Justice

As the International Criminal Court (ICC) approaches its third decade, its relationship with African states remains both pivotal and contested. Despite the controversies, there is a growing recognition among scholars and policymakers that future ICC–Africa relations must evolve through reform, inclusivity, and complementarity. One of the central avenues for improving ICC–Africa relations lies in addressing longstanding criticisms of selective justice. The Court's early focus on African cases contributed to perceptions of political targeting. To overcome this, the ICC must pursue a more geographically balanced docket and ensure transparency in case selection criteria. Scholars argue that broadening the Court's scope beyond Africa such as investigating situations in Palestine, Myanmar, and Ukraine may help dispel the image of regional bias and restore legitimacy in African eyes (Jalloh, 2019, p. 45).

African states themselves are increasingly advocating for reforms that align international justice with regional norms. A key component of this effort is the principle of complementarity, which encourages national jurisdictions to investigate and prosecute international crimes. Strengthening domestic legal systems through technical assistance, capacity-building, and cooperation with African regional courts could create a more decentralized, legitimate system of

accountability (du Plessis, 2016, p. 67). The African Court on Human and Peoples' Rights, for instance, may play a larger role in the adjudication of serious crimes if granted expanded jurisdiction.

Diplomatic dialogue between the African Union (AU) and the ICC is also critical for future cooperation. Past confrontations such as the AU's call for non-cooperation in the al-Bashir case underscore the need for sustained institutional engagement. In recent years, the ICC Assembly of States Parties has created platforms for greater African participation in decision-making processes. According to Murithi (2017, p.31), such efforts reflect a shift from confrontation to consultation, suggesting that diplomacy remains a viable tool for bridging divides. Furthermore, the future of international criminal justice depends on recalibrating the relationship between justice and peace. African governments have often emphasized the need for reconciliation and stability alongside legal accountability. Hybrid courts, truth commissions, and restorative justice mechanisms may serve as complementary tools that reinforce rather than undermine the ICC's mandate (Sarkin, 2009, pp. 19–21). The future of ICC–Africa relations hinges on mutual reform, regional empowerment, and shared commitment to ending impunity. Rather than rupture, the path forward may involve a reimagined partnership that strengthens both international justice and African legal sovereignty.

Conclusion

The ICC's engagement in Africa illustrates the complex intersection of international law, politics, and regional diplomacy. While the Court has made important strides in prosecuting crimes of international concern, its operations in Africa have been marred by accusations of bias, sovereignty disputes, and diplomatic backlash. To move forward, the ICC must continue to address these criticisms through institutional reforms, increased regional cooperation, and a commitment to universal justice. At the same time, African states and civil society must play a proactive role in shaping the future of international criminal justice to ensure it reflects both global principles and local realities.

References

AfricaNews. (2018, March 22). Sudan's Bashir defies ICC–arrest warrant, travels to Kigali for AU trade summit. AfricaNews. http://www.africanews.com/sudans-bashir-continues-iccdefiance-campaign-travels-to-kigali-for-au-trade/ (Accessed May 13, 2025).

Arsanjani, M. H. (1999). The Rome Statute of the International Criminal Court. American Journal of International Law, 93(1), 22–43.

Bowcott, O. (2014, October 8). Kenya's Uhuru Kenyatta becomes first head of state to appear before ICC. The Guardian. https://www.theguardian.com/world/2014/oct/08/kenya-uhuru-kenyatta-head-of-state-icc-hague

du Plessis, M. (2010). The International Criminal Court that Africa wants. Institute for Security Studies.

Egemba, E. K., & Williams, A. M. (2022). Culture and bilateral diplomacy: A study of Nigeria–Saudi relations (p. 44).

Emmanuel, O., & Chodry, H. (2018). The contentious relationship between Africa and the ICC. Journal of Law and Conflict Resolution, 10(3), 45–60.

Human Rights Watch. (2002). Human Rights Watch world report 1999. Human Rights Watch.

Jalloh, C. C. (2019). The African Court of Justice and Human and Peoples' Rights in context: Development and challenges (p. 45). Cambridge University Press.

Kasande, S., Gitari, C., & Suma, M. (n.d.). AU strategy for collective withdrawal from the ICC a non-starter. International Center for Transitional Justice. https://www.ictj.org/news/au-withdrawal-icc-non-starter (Accessed May 13, 2025).

Kaye, D. (2016). Who's afraid of the International Criminal Court? Foreign Affairs, 95(5), 8–15.

Max, D. P. (2016). The ICC and Africa: From indifference to skepticism. Institute for Security Studies Papers, (292), 1–88.

Murithi, T. (2017). Africa and the International Criminal Court: Mistrust, resistance, and reform (p. 45, p. 31). Zed Books.

Prorok, A. K., Appel, B., & Minhas, S. (2024). Understanding the determinants of ICC involvement: Legal mandate and power politics. International Studies Quarterly, 68(2), 1–24. https://doi.org/10.1093/isq/sqae008.

Sarkin, J. (2009). Colonial genocide and reparations claims in the 21st century: The socio-legal context of claims under international law by the Herero against Germany for genocide in Namibia, 1904–1908 (pp. 19, 21). Praeger.

Schabas, W. A. (2011). An introduction to the International Criminal Court (4th ed., p. 56). Cambridge University Press.