

# Rebuilding Trust and Enforcement Capacity in ICC Prosecutions: An African Perspective on International Criminal Justice

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**Abstract:** *This thesis critically examines Africa's evolving relationship with the International Criminal Court (ICC), highlighting the trust deficit and enforcement limitations that challenge its effectiveness. Through detailed analysis of prosecutions in Sudan, Kenya, and Libya, it explores African Union concerns regarding prosecutorial selectivity and the undermining of state sovereignty. It further evaluates the tension between state immunity and the Rome Statute, and proposes institutional reforms to enhance both ICC capacity and domestic judicial frameworks in Africa. The study argues that meaningful progress requires a balanced approach strengthening local judicial institutions while reforming the ICC to ensure equitable, transparent, and geographically inclusive justice.*

**Keywords:** ICC, Africa, selective justice, state immunity, enforcement reform.

## 1. Introduction

The relationship between Africa and the International Criminal Court represents one of the most significant challenges facing contemporary international criminal justice. Despite more than two-thirds of African Union member states being parties to the Rome Statute, the African Union has increasingly adopted resolutions criticizing ICC practices and calling for policies of non-compliance and non-cooperation.<sup>1</sup> This deteriorating relationship raises fundamental questions about the Court's legitimacy, effectiveness, and its claims to universal aspirations.

Since becoming operational in July 2002, the ICC has opened investigations in 44 countries, leading to 22 prosecutions with a budget of approximately €140 million.<sup>2</sup> However, statistical analysis reveals concerning limitations: after 22 years of operation, the Court has completed just four prosecutions, with many suspects remaining at large.<sup>3</sup> This limited success rate, combined with the Court's apparent exclusive focus on African cases, has fueled perceptions of institutional bias and selective justice that threaten the Court's moral authority and universal mandate.

The ICC exists to punish those responsible for the commission of the worst international crimes, specifically genocide, war crimes, crimes against humanity, and crimes of aggression.<sup>4</sup> However, the Court faces structural challenges that fundamentally undermine its effectiveness. Most notably, the ICC has relatively weak enforcement capabilities, possessing no police force or enforcement mechanisms of its own, thus relying entirely on states to carry out enforcement

tasks.<sup>5</sup> Such dependence on state cooperation often proves problematic when political considerations override legal obligations, as demonstrated repeatedly in African contexts.

This article examines Africa's position on ICC prosecutions, analyzing the factors contributing to the trust deficit, proposing comprehensive solutions to strengthen international criminal justice mechanisms while respecting African sovereignty, and addressing legitimate concerns about prosecutorial bias.

## 2. Africa's Lack of Trust in ICC Prosecutorial Practices

### 2.1 Historical Context and the Genesis of African Support

African enthusiasm for the ICC stemmed from the continent's traumatic experience with mass atrocities, particularly the 1994 Rwandan genocide, and the recognized need for mechanisms to prevent powerful countries from preying on weaker ones while confronting impunity for mass violations of human rights.<sup>6</sup> The strong African participation in Rome Statute negotiations during the late 1990s reflected genuine commitment to establishing an effective international criminal justice system that would enhance global justice through prosecution of individuals guilty of mass atrocities and human rights violations.

However, this initial support began eroding following specific incidents that African leaders perceived as targeting African sovereignty. The 2000 Belgian arrest warrant for the Democratic Republic of Congo's Foreign Minister Abdoulaye

<sup>1</sup> African Union Assembly, Decision on the Report of the Commission on the Abuse of the Principle of Universal Jurisdiction, Assembly/AU/Dec.199 (XI), 2008.

<sup>2</sup> International Criminal Court, Annual Report 2023, ICC Publications, 2024.

<sup>3</sup> ibid

<sup>4</sup> Rome Statute of the International Criminal Court, Article 5, 17 July 1998, UN Doc. A/CONF.183/9.

<sup>5</sup> International Criminal Court, Understanding the International Criminal Court, ICC Publications, 2023.

<sup>6</sup> African Union, Constitutive Act of the African Union, 11 July 2000, Article 4(h).

Yerodia Ndobasi marked a turning point, souring relations between Africa and Europe over sovereign immunity issues.<sup>7</sup> Subsequently, the 2008 arrest of Rose Kabuye, chief protocol officer to Rwandan President Paul Kagame, in Germany pursuant to a French warrant further exacerbated tensions.<sup>8</sup> President Kagame framed this incident as European abuse of universal jurisdiction aimed at humiliating African political leaders, taking the issue to the United Nations and contributing to broader African skepticism about international criminal justice mechanisms.

## 2.2 The Selective Justice Paradigm: Evidence and African Perspectives

African critics contend that the ICC practices selective justice through its exclusive focus on African cases while avoiding prosecution of citizens from economically and militarily powerful states. Statistical evidence supports these concerns: despite serious crimes occurring in Iraq, Palestine, Ukraine, Syria, and other regions, the ICC's prosecutorial resources have been devoted almost entirely to African situations.<sup>9</sup>

The first execution of an arrest warrant was issued in *The Prosecutor v. Thomas Lubanga Dyilo*, the inaugural case before the ICC. On 17 March 2006, Thomas Lubanga, a Congolese national, was arrested in the Democratic Republic of Congo and transferred to The Hague pursuant to a warrant issued under seal by Pre-Trial Chamber I on 10 February 2006.<sup>10</sup> This case established a pattern that would characterize ICC prosecutions for the following two decades.

Throughout the world, serious crimes of concern to the international community are being committed, yet the ICC has devoted its resources to prosecuting predominantly African cases. African governments contend that the ICC avoids confronting diplomatically, economically, and militarily powerful countries such as the United States, United Kingdom, Russia, and China because these states can threaten the Court's existence.<sup>11</sup> This perception has been reinforced by the Court's failure to pursue cases outside Africa despite clear evidence of international crimes in other regions.

The United Nations Security Council's referral powers have exacerbated perceptions of bias. While the Security Council has referred African situations such as Libya and Sudan's Darfur region, it has notably failed to refer cases involving powerful states or their allies.<sup>12</sup> This selective referral pattern reinforces African arguments about skewed power relations in international criminal justice; as countries from the global

south frequently raise concerns about imbalanced power dynamics in the Security Council that directly affect ICC operations.

## 2.3 The Perception Problem and Moral Authority Crisis

The ICC's legitimacy crisis extends beyond legal technicalities to fundamental questions of moral authority. The universal aspirations of international criminal law are fundamentally inconsistent with prosecutorial focus limited to African states in a world where many other states, particularly powerful ones, act with apparent impunity.<sup>13</sup> Archbishop Desmond Tutu's 2012 refusal to share a platform with former British Prime Minister Tony Blair over Iraq War actions exemplified this perception problem, demonstrating that concerns about selective justice resonate beyond political elites to moral leaders.<sup>14</sup>

Former Chief Prosecutor Luis Moreno Ocampo (2003-2012) exacerbated the situation through poor communication with African interlocutors and failure to engage meaningfully with the African Union. Former AU Commission Chairperson Jean Ping's statement that "frankly speaking, we are not against the ICC, what we are against is Ocampo's justice" highlighted both the personal and institutional dimensions of the crisis.<sup>15</sup>

The complexity of state referrals adds another dimension to this analysis. While states and the Security Council have referred the majority of cases before the Court, these referrals should not be understood as wholesale endorsements of international criminal justice. In some instances, African governments have referred cases to manipulate the international criminal justice system for their own political purposes.<sup>16</sup> President Yoweri Museveni of Uganda initially referred cases involving the Lord's Resistance Army to the Court but subsequently took a leading role in the AU's campaign against the ICC, demonstrating the political rather than legal motivations behind some referrals.<sup>17</sup>

## 2.4 The Bashir Case: A Watershed Moment in AU-ICC Relations

The 2009 issuance of an arrest warrant for Sudanese President Omar Al-Bashir fundamentally transformed African perceptions of the ICC. This development converted what many African states viewed as a "paper commitment" with minimal consequences into a tangible obligation with potentially serious diplomatic and political ramifications.<sup>18</sup>

<sup>7</sup> Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium), ICJ Reports 2002.

<sup>8</sup> Human Rights Watch, "Rwanda: Arrest of Official Highlights Impunity Concerns," 10 November 2008.

<sup>9</sup> Coalition for the International Criminal Court, "Situations and Cases," accessed 2024.

<sup>10</sup> The Prosecutor v. Thomas Lubanga Dyilo, ICC-01/04-01/06, Pre-Trial Chamber I, 10 February 2006.

<sup>11</sup> African Union Assembly, Decision on Africa's Relationship with the International Criminal Court, Ext/Assembly/AU/Dec.1 (Oct. 2013).

<sup>12</sup> UN Security Council Resolution 1593 (2005) on Sudan; UN Security Council Resolution 1970 (2011) on Libya.

<sup>13</sup> Mahmood Mamdani, "The Logic of Nuremberg," London Review of Books, 7 November 2013.

<sup>14</sup> "Desmond Tutu Pulls Out of Tony Blair Event," BBC News, 30 August 2012.

<sup>15</sup> Jean Ping, Statement at AU Assembly, Addis Ababa, January 2012.

<sup>16</sup> Human Rights Watch, "Courting History: The Landmark International Criminal Court's First Years," July 2008.

<sup>17</sup> Ibid.

<sup>18</sup> The Prosecutor v. Omar Hassan Ahmad Al Bashir, ICC-02/05-01/09, Pre-Trial Chamber I, 4 March 2009.

The Bashir arrest warrant caused the relationship between the ICC and the AU to deteriorate for two primary reasons. First, AU members perceived the arrest warrant as impeding regional peace and reconciliation efforts in Sudan, arguing that the ICC failed to appreciate the impact of its actions on ongoing diplomatic initiatives. Second, diplomatic umbrage was taken over the indictment of a sitting head of state, sparked intense debate on whether the Rome Statute lawfully overrides diplomatic immunity for states that are not parties to it, such as Sudan.<sup>19</sup>

Subsequent events demonstrated the complexity of enforcement challenges and African responses. Chad's decision to host Bashir despite being an ICC state party illustrated early African resistance to Court proceedings.<sup>20</sup> In October 2011, when Bingu wa Mutharika was Malawi's President, Bashir attended a Common Market for Eastern and Southern African States summit in that country. Malawi issued a formal memorandum defending its decision to host Bashir, relying on: (i) AU resolutions urging states not to cooperate with the ICC, (ii) customary international law regarding head-of-state immunity, and (iii) Sudan's non-party status to the Rome Statute.<sup>21</sup>

However, in June 2012, Malawi's current President Joyce Banda refused to allow Bashir to attend an AU meeting, forcing organizers to relocate the meeting just three weeks before it was scheduled.<sup>22</sup> This inconsistency in African responses highlighted the complex political calculations involved in ICC compliance decisions.

Most notably, in 2011, Libya's National Transitional Council allowed Bashir to visit Tripoli, with no intervention from NATO states. Bashir became the first foreign head of state to visit the NTC after Gaddafi's fall, assisting former rebels as "payback" for Gaddafi's support of Darfur rebels.<sup>23</sup> While Libya's non-party status partly explains the NTC's failure to arrest Bashir, it does not explain why NATO member states like the United States and United Kingdom, who undoubtedly had moral responsibility to intervene, failed to act.<sup>24</sup>

### 3. The ICC and State Immunity: An African Union Perspective

#### 3.1 The Article 27-98 Conflict and Legal Framework Challenges

Under customary international law, senior state officials such as President Al-Bashir, President Kenyatta, and Deputy President Ruto possess legal immunity from legal proceedings. However, questions arise regarding how the ICC

is constrained by this prohibition.<sup>25</sup> The question of immunities remains central to AU concerns about ICC operations.

Article 27 of the Rome Statute provides that state immunity does not apply under the Statute, creating an exception to customary international law and allowing prosecution of heads of state and other senior officials within this particular jurisdiction.<sup>26</sup> However, Article 98 appears to conflict with Article 27 by providing that the ICC may not request cooperation or surrender from a state where that would require the state "to act inconsistently with its obligations under international law with respect to the state or diplomatic immunity of a person or property of a third state, unless the court can first obtain the cooperation of that third state for the waiver of the immunity."<sup>27</sup>

There appears to be acceptance that states parties, by virtue of becoming Rome Statute members, have waived immunity for their own officials or otherwise accepted that they will no longer possess immunities. For states parties, Article 98 does not apply and there is no immunity before the Court.<sup>28</sup> The problem arises concerning non-party states such as Sudan. Various views exist on this issue, with arguments that Sudan's non-party status is irrelevant because the case was referred by a Security Council resolution binding on all UN member states.<sup>29</sup>

In 2012, the AU Assembly asked the AU Commission to consider requesting an advisory opinion from the International Court of Justice on the immunity question.<sup>30</sup> While this initiative may not prove successful, it demonstrates commendable AU efforts to resolve the matter through respected international law channels. The immunity question clearly raises important, unresolved legal issues that require clarification through appropriate international mechanisms.

#### 3.2 The Kenya Crisis and AU Mobilization

The prosecution of Kenyan President Uhuru Kenyatta and Deputy President William Ruto posed particular challenges to the Court's authority and marked a turning point in AU-ICC relations. In May 2013, the Kenyan government successfully lobbied AU members to adopt a resolution calling for case referrals back to Kenya for national proceedings rather than ICC prosecution. The resolution received support from all states except Botswana.<sup>31</sup>

The AU resolution reflects several structural inconsistencies. First, the resolution conspicuously failed to mention victims of violence or affected citizens, prioritizing political

<sup>19</sup> African Union Assembly, Decision on the Application by the International Criminal Court Prosecutor for the Indictment of the President of the Republic of the Sudan, Assembly/AU/Dec.221 (XII), 2009.

<sup>20</sup> Human Rights Watch, "Chad: Failure to Arrest Bashir Violates International Law," 23 July 2010.

<sup>21</sup> "Malawi Bars Sudan's Bashir from AU Summit," Reuters, 8 June 2012.

<sup>22</sup> "Sudan's Bashir Makes First Foreign Visit to Libya," Al Jazeera, 23 October 2011.

<sup>23</sup> Ibid.

<sup>24</sup> Rome Statute, Articles 27 and 98.

<sup>25</sup> Rome Statute, Article 27.

<sup>26</sup> Rome Statute, Article 98.

<sup>27</sup> Dapo Akande, "The Legal Nature of Security Council Referrals to the ICC," *Journal of International Criminal Justice*, Vol. 1, 2003.

<sup>28</sup> Ibid.

<sup>29</sup> African Union Assembly, Decision on the Progress Report of the Commission on the Implementation of Previous Decisions on the International Criminal Court, Assembly/AU/Dec.419 (XIX), 2012.

<sup>30</sup> African Union Assembly, Decision on Africa's Relationship with the International Criminal Court, Assembly/AU/Dec.482 (XXI), 2013.

<sup>31</sup> Ibid.

considerations over justice concerns.<sup>32</sup> Second, the AU focused almost entirely on Kenya, moving beyond the Sudan issue despite nothing except Kenya's persistent lobbying adequately explaining why Kenyatta's and Ruto's cases proved more galvanizing than Bashir's.<sup>33</sup> Third, the Kenyan government's effective lobbying campaign succeeded in placing the issue on the AU agenda just five days before the session, despite the agenda having been established well in advance.<sup>34</sup>

Fourth, many Kenyan human rights and criminal justice experts disputed claims about judicial reform. A group of these experts wrote to the UN Secretary-General stating that no reconciliation process existed, no mechanism existed to try these cases in Kenya, and threats of regional instability were hollow.<sup>35</sup> Finally, attempts to move AU members to withdraw from Rome Statute treaty obligations failed, though the legal basis for AU requirements that members withdraw from voluntarily entered individual treaty obligations remains unclear.<sup>36</sup>

The resolution concluded by requesting the AU Commission to organize a brainstorming session as part of 50th Anniversary discussions on International Criminal Justice, Peace, Justice and Reconciliation, and ICC impacts in Africa, seeking to inform ICC processes while strengthening African mechanisms for addressing African challenges.<sup>37</sup>

Despite apparent futility regarding Kenyatta and Ruto cases, Kenya's campaign highlighted fundamental coordination problems within the Kenyan government. While Deputy President Ruto attended, ICC status hearings in The Hague, Kenya's UN permanent representative submitted a letter to the Security Council requesting ICC case discontinuation, apparently without informing Ruto in advance.<sup>38</sup> Ruto subsequently issued a letter recommitting to ICC cooperation, demonstrating internal government divisions on ICC engagement.

## 4. Proposed Solutions to Strengthen International Criminal Justice in Africa

### 4.1 Building Robust Domestic Judicial Capacity

Regardless of how the ICC-Africa conflict is resolved, each African country must develop capacity to effectively investigate and prosecute international crimes within its borders.<sup>39</sup> Where necessary, the AU can provide crucial support for prosecutions, particularly when accused individuals flee to avoid prosecution. Effective domestic prosecution serves both practical and symbolic purposes, ensuring that justice is administered closer to affected

communities while demonstrate that accountability is not external imposition but a reflection of indigenous commitment.

The successful prosecution of Charles Taylor by the Sierra Leone Special Court in The Hague, while auguring well for African justice, reveals that even after decades of independence, African countries have not developed domestic legal and judicial systems capable of effectively administering justice for serious international crimes.<sup>40</sup> This capacity deficit must be addressed through comprehensive institutional development that serves local needs while meeting international standards.

**Institutional Development Requirements** include creating locally focused, culturally relevant legal systems capable of handling complex international crimes. This involves not merely transplanting international legal frameworks but developing indigenous approaches that reflect local values while meeting international standards. African states must establish specialized courts, train judicial personnel, and develop procedural frameworks adapted to local contexts while maintaining international legal obligations.

**Political Will and Leadership** represent crucial elements for overcoming what characterized Kenya's response to post-election violence as "lack of political will and weakness."<sup>41</sup> Sustained commitment from political leadership must extend beyond rhetorical support to practical measures including adequate funding, institutional protection, and political insulation of judicial processes from partisan interference.

**Regional Cooperation Mechanisms** through the African Union can provide essential support for prosecutions, particularly when accused individuals flee across borders. Developing effective extradition and mutual legal assistance frameworks would enhance continental capacity to address international crimes domestically while respecting sovereignty principles that African states prioritize.

### 4.2 Restoring Trust Through Enhanced ICC-Africa Dialogue

Restoring trust in the ICC among Africans represents a monumental task requiring robust dialogue currently absent between the ICC and African countries.<sup>42</sup> Supporters believe that appointing former Gambian Justice Minister Fatou Bensouda as Chief Prosecutor provided opportunities for amending ICC-Africa relationships, though structural reforms remain necessary beyond personnel changes.

<sup>32</sup> Ibid.

<sup>33</sup> Kenya Coalition for the International Criminal Court, "Kenya's ICC Campaign at the African Union," May 2013.

<sup>34</sup> Letter from Kenyan Human Rights Organizations to UN Secretary-General, 15 May 2013.

<sup>35</sup> African Union Assembly, Decision on Africa's Relationship with the International Criminal Court, Assembly/AU/Dec.482 (XXI), 2013.

<sup>36</sup> Ibid.

<sup>37</sup> "Kenya Seeks ICC Deferral as Ruto Appears in Court," Daily Nation, 10 September 2013.

<sup>38</sup> Rome Statute, Article 17 (Complementarity).

<sup>39</sup> The Prosecutor v. Charles Ghankay Taylor, SCSL-03-01-T, Special Court for Sierra Leone, 2012.

<sup>40</sup> Truth, Justice and Reconciliation Commission of Kenya, Final Report, 2013.

<sup>41</sup> International Criminal Court, "Strengthening the International Criminal Court and the Assembly of States Parties," ICC Publications, 2023.

<sup>42</sup> Coalition for the International Criminal Court, "Strengthening ICC Enforcement," Policy Brief, 2023.

**Enhanced Communication and Engagement** must replace the confrontational approach that characterized former Chief Prosecutor Luis Moreno Ocampo's tenure. The ICC must engage meaningfully with African Union institutions, civil society organizations, and political leadership through regular consultations, transparency in decision-making processes, and genuine dialogue about African concerns and ICC limitations.

**Addressing Perception Problems** requires acknowledging legitimate African concerns about selective prosecution while maintaining prosecutorial independence. The Court must demonstrate commitment to geographic balance in case selection, pursuing situations outside Africa where jurisdiction exists and evidence supports proceedings. This might involve preliminary examinations in other regions that lead to formal investigations, demonstrating consistent application of legal standards across all regions.

**Institutional Transparency** in prosecutorial decisions must address African concerns about bias while maintaining independence. The Court should provide clear explanations for case selection decisions, demonstrate consistent application of legal criteria, and engage in regular dialogue with affected communities and regional organizations about its mandate and limitations.

#### 4.3 Strengthening Enforcement Mechanisms and International Cooperation

The ICC's enforcement deficit requires comprehensive international commitment to institutional reform addressing structural weaknesses that undermine effectiveness. Enhanced cooperation frameworks must include stronger mechanisms for compelling state compliance, potentially involving graduated sanctions for non-cooperation linked to international aid, trade relationships, or diplomatic recognition.<sup>43</sup>

**Resource Allocation and Institutional Capacity** improvements require significantly increased funding to enable expanded investigative capacity, enhanced victim services, and improved outreach programs addressing perception problems. The current €140 million budget proves inadequate for the Court's global mandate, limiting effectiveness and contributing to lengthy proceedings that undermine deterrent effects.

**Political Insulation** from Security Council influence over prosecutorial decisions would address African concerns about selective referrals. This might involve developing alternative referral mechanisms, limiting Security Council deferral powers under Article 16, or creating independent funding mechanisms reducing political pressure on prosecutorial independence.

**Regional Partnership Development** with African institutions, including the proposed African Court of Justice and Human Rights, would demonstrate respect for

sovereignty while maintaining international standards. Collaborative relationships could involve capacity building, information sharing, and complementary proceedings that strengthen both international and domestic justice mechanisms.

#### 4.4 Addressing Complementarity and Local Ownership

The principle of complementarity offers a framework for balancing international justice imperatives with respect for state sovereignty, though effective complementarity requires genuine domestic capacity rather than superficial legal reforms designed to avoid ICC jurisdiction.<sup>44</sup> African states must invest in developing authentic judicial capacity that serves local needs while meeting international standards.

**Capacity Building Initiatives** should focus on creating institutions that communities trust and that can effectively address mass atrocities without political interference. This requires sustained investment in judicial training, institutional infrastructure, and procedural development adapted to local contexts while maintaining international legal obligations.

**Regional Mechanisms and Continental Solutions** through the African Union's proposed continental criminal justice mechanisms represent both opportunity and challenge. If properly designed and implemented, such mechanisms could address African concerns about external imposition while maintaining effective accountability for international crimes. However, success requires avoiding the politicization that has characterized AU responses to ICC proceedings.

**Victim-Centered Approaches** must prioritize rights and legal accountability over political expediency. Continental mechanisms must maintain independence from political pressure while respecting legitimate sovereignty concerns, ensuring that justice serves affected communities rather than political elites seeking to avoid accountability.

### 5. The Path Forward: Reconciling Justice and Sovereignty

#### 5.1 Balancing Competing Interests and Universal Aspirations

The future of ICC-Africa relations depends on reconciling competing demands between universal justice aspirations and political realities. This requires acknowledging that while African criticism contains valid concerns about selective prosecution and enforcement limitations, complete withdrawal from international criminal justice mechanisms would abandon victims and undermine decades of progress in combating impunity.

- **Victim Rights and Community Justice** must remain central to any resolution of ICC-Africa tensions. The voices conspicuously absent from AU resolutions criticizing the ICC are those of victims seeking accountability for serious crimes. While African political elites complain about bias, victims appear universally relieved that somebody is paying attention to their plight.<sup>45</sup>

<sup>43</sup> Rome Statute, Article 17.

<sup>44</sup> Victims' Rights Working Group, "African Victims and the ICC," Report, 2023.

<sup>45</sup> International Criminal Court, Annual Report 2023.

Any sustainable solution must prioritize victim rights while addressing legitimate sovereignty concerns.

- **Universal Justice and Consistent Application** require demonstrating that international criminal law applies equally regardless of political power or geographic location. The ICC must pursue cases outside Africa where jurisdiction exists and evidence supports proceedings, showing that international justice transcends regional boundaries and political considerations.

## 5.2 Building Sustainable Partnerships

Success requires moving beyond confrontational approaches toward genuine partnership between international and African institutions. This involves recognizing that both the ICC and African states share common interests in addressing impunity while respecting different approaches to achieving justice and reconciliation.

- **Institutional Learning and Adaptation** must characterize both ICC operations and African responses to international criminal justice. The Court must learn from African experiences and concerns while African states must recognize the value of international oversight in preventing impunity for serious crimes.
- **Long-term Commitment** to justice and accountability requires sustained engagement beyond immediate political pressures. Both international and African institutions must demonstrate commitment to principles rather than expedience, building trust through consistent performance rather than rhetorical commitments.

## 6. Conclusion

The relationship between the International Criminal Court and Africa reflects broader tensions in international criminal justice between universal aspirations and political realities. This analysis demonstrates that while African criticism of the Court contains legitimate concerns about selective prosecution, enforcement limitations, and respect for sovereignty, the solution lies not in abandoning international criminal justice but in comprehensive reform addressing both ICC limitations and African capacity building.

The statistical evidence is sobering: after 22 years of operation, the ICC has completed only four prosecutions despite opening investigations in 44 countries with a budget of €140 million. This limited success rate, combined with exclusive focus on African cases, has understandably fueled perceptions of bias and ineffectiveness that threaten the Court's universal mandate.

However, the path forward requires parallel development of domestic judicial capacity and ICC reform rather than abandonment of international criminal justice mechanisms. African states must invest in institutional development that serves local needs while meeting international standards. The international community must address the Court's structural weaknesses and perception problems through enhanced resources, institutional reforms, and genuine dialogue with African stakeholders.

The stakes extend beyond Africa to the future of international criminal law itself. Success in resolving these tensions will

determine whether the ICC can fulfill its universal mandate or remain a regionally limited institution undermined by perceptions of bias and political manipulation. The appointment of African prosecutors like Fatou Bensouda represents progress toward rebuilding relationships, but structural reforms addressing both ICC limitations and African concerns remain essential.

Ultimately, the goal must be ensure accountability for serious international crimes, regardless of where they occur or who commits them. This requires commitment from both international institutions and African states to justice, accountability, and respect for human rights while acknowledging legitimate concerns about sovereignty and fair treatment in international criminal proceedings.

The resolution of ICC-Africa tensions will require sustained commitment, genuine dialogue, and comprehensive reform addressing the legitimate concerns of all stakeholders. Only through such comprehensive engagement can international criminal justice achieve its fundamental promise of ending impunity while respecting the sovereignty and dignity of all nations and peoples.