

**Forum:** Legal Committee (GA6)

**Issue:** Enhancing Enforcement and Accountability Mechanisms under the Framework of the Rome Statute



**Student Officer:** Nikitas Stamatopoulos

**Position:** Co-Chair

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## Personal Introduction

Dear delegates,

My name is Nikitas Stamatopoulos, and I will be serving as a Co-Chair of the GA6 in this year's ACGMUN. I am a tenth-grade student attending the German School of Athens, and it is my honor to have this position.

I've been involved in MUN since 8th grade, and I disliked the first conference I attended, though that quickly changed when I made new friends through MUN, which completely changed my image of MUN as a whole. They are the reason I continue attending MUN conferences and have made MUN more than just a school club, but also a place to meet people, socialize and most importantly have fun, while developing skills that are useful in our everyday life and for the future.

I truly hope that you will all have an amazing experience at the ACGMUN conference and come to love MUN just like I once did.

If you have any questions regarding the guide, do not hesitate to contact me at: [stamatopoulosnikitas@gmail.com](mailto:stamatopoulosnikitas@gmail.com)

Kind Regards,

Nikitas Stamatopoulos

## Topic Introduction

The Rome Statute forms the legal basis of the International Criminal Court and defines its authority over core international crimes, those being genocide, crimes against humanity, war crime and aggression. The Rome Statute's purpose, among others, is to ensure accountability for these crimes. A very serious challenge posed is the lack of enforcement power of the ICC, hence its reliance on state cooperation and their resources. A prerequisite to conducting a trial correctly is adequate preparation before it. The ICC, as aforementioned, struggles in this sector due to its reliance on state factors, thus being unable to enforce and prosecute independently. Additionally, the Principle of Complementarity often intrudes on the ICC's efforts, as states may often claim that they are independently conducting an investigation on an issue, in order to block the ICC from intervening. Focus of this guide is to elaborate on enforcement mechanisms, jurisdiction limits and other challenges the ICC faces such as limited, often conditional cooperation and Security Council influence. Additionally, taking into account the various difficulties and issues at hand and aiming to ensure that the ICC can handle the modern complexity of crimes effectively examining reform options.

## Definition of Key Terms

### Rome Statute

The founding treaty of the ICC establishes its structure and jurisdiction to prosecute individuals for the most serious international crimes<sup>1</sup>.

### Complementarity

"The ICC is intended to complement, not to replace, national criminal systems; it prosecutes cases only when States do not are unwilling or unable to do so genuinely"<sup>2</sup>.

### Jurisdiction

Territorial, personal, subject matter, and temporal limits that determine when the ICC can act.<sup>3</sup>

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<sup>1</sup> Rome Statute of the International Criminal Court "ICC"

<https://www.icc-cpi.int/publications/core-legal-texts/rome-statute-international-criminal-court#:~:text=The%20Rome%20Statute%20of%20the,and%20judicial%20assistance%2C%20and%20enforcement.>

"Rome Statute of the International Criminal Court" ICC, 2018

<sup>2</sup> <https://www.icc-cpi.int/publications/core-legal-texts/rome-statute-international-criminal-court#:~:text=The%20Rome%20Statute%20of%20the,and%20judicial%20assistance%2C%20and%20enforcement.>

"Rome Statute of the International Criminal Court" ICC, 2018

<sup>3</sup> <https://guides.ou.edu/c.php?g=1459231&p=10850630> "University of libraries"

## State Cooperation

State provision of essential support to the ICC for investigations and prosecutions, without which the ICC cannot function, as it lacks its own police force<sup>4</sup>.

## Accountability Mechanisms

“Accountability mechanisms in the International Criminal Court (ICC) involve internal governance (like the Independent Oversight Mechanism, IOM, and whistleblower protections) to ensure ethical conduct, external oversight by the Assembly of States Parties (ASP), and judicial processes for prosecuting grave crimes, involving the Office of the Prosecutor (OTP) and its independent evaluation of evidence.” International Criminal Court<sup>5</sup>.

## Assembly of States Parties

“The Assembly of States Parties ("the Assembly") is the Court's management oversight and legislative body and is composed of representatives of the States which have ratified or acceded to the Rome Statute”<sup>6</sup>.

## Enforcement mechanisms

Under the Rome Statute are the procedures on which the International Criminal Court relies to arrest suspects, gather evidence and enforce sentences, to make up for the lack of independent police power of the Court.

## Background Information

### Structure and Process of the ICC

The International Criminal Court is made up of 4 main organs: the Presidency, the Judicial Provision, the Office of the Prosecutor and the Registry, each one serving its own purpose<sup>7</sup>.

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<sup>4</sup> <https://www.icc-cpi.int/sites/default/files/2022-04/66-Recommendations-Flyer-ENG.pdf> “Recommendations on States’ Cooperation with the International Criminal Court (ICC):” ICC, 2019

<sup>5</sup> [https://www.icc-cpi.int/sites/default/files/2022-09/2\\_Eurojust\\_ICC\\_CSOs\\_Guidelines\\_2-EN.pdf](https://www.icc-cpi.int/sites/default/files/2022-09/2_Eurojust_ICC_CSOs_Guidelines_2-EN.pdf) “Documenting international crimes and human rights violations for accountability purposes:” ICC, 2021

<sup>6</sup> <https://www.icc-cpi.int/asp> “How the ICC works”, ICC

<sup>7</sup> Britannica, the four main organs of the ICC

<https://www.britannica.com/video/organs-Prosecutor-Presidency-International-Criminal-Court-Judicial/-206653>

The presidency manages the administration of the court and represents the court externally. The judicial provision conducts trials and appeals, while interpreting and applying the Rome Statute. The office of the Prosecutor acts independently from all other organs and investigates crimes, bringing charges against individuals.

The independence of the Office of the Prosecutor has been a controversial issue due to claims of case selectivity, indicating regional bias and, among others, state pressure being applied through threats of funding cuts and sanctions. Funding cuts, especially, can affect how the OTP handles cases and its selectivity and thus influence its legal independence. All these leads to conflicting opinions on the Office of the Prosecutor<sup>8</sup> based on regional differences. Lastly, the Registry provides administrative and operational support, such as managing witnesses and victims. The purpose of the International Criminal Court is to prosecute individuals for the core crimes of genocide, crimes against humanity, and war crimes, to end impunity and strengthen accountability under national law. For cases to enter the International Criminal Court they must take one of three main paths<sup>9</sup>, state referral, which is when a state party refers a situation involving alleged Rome Statute infringements, the second path is when the Security Council makes a refers a situation under Chapter VIII and finally proprio motu action, where the prosecutor initiates an investigation on his own authority, which must undergo a pre Trial, which essentially acts as a judicial safeguard to ensure that the Prosecutor's power is exercised fairly and that there is sufficient evidence before a case can proceed to a full trial.

## Overview of the Rome Statute

The Rome Statute was first adopted on the 17th of July 1998<sup>10</sup> during a UN diplomatic conference in Rome, but it later entered into force in 2002 after 60 states<sup>11</sup> had ratified the treaty, and from then onwards the ICC gained legal authority over crimes committed within its jurisdiction after July first. Its purpose was the establishment of the ICC and to provide a legal framework to prosecute for the four core crimes falling under the ICC jurisdiction, namely genocide, crimes against humanity, war crimes and aggression. Though the ICC is unable to intervene in cases and can only act as a last resort

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<sup>8</sup> <https://goodauthority.org/news/harris-trump-international-criminal-court-icc-what-scholars-think/> "Harris, Trump, and the ICC – what IR scholars think" goodauthority, 2024

<sup>9</sup>How the ICC works , ICC

<https://www.icc-cpi.int/about/how-the-court-works>

<sup>10</sup>Rome Statute of the International Criminal Court, ICC

<https://www.icc-cpi.int/publications/core-legal-texts/rome-statute-international-criminal-court>

<sup>11</sup> How the ICC works , ICC

<https://www.icc-cpi.int/about/how-the-court-works>

when a state is either unwilling or unable to prosecute on its own. As such, the ICC was established, replacing the previous temporary tribunals with a single, lasting judicial body.

### **Jurisdiction and admissibility**

Jurisdictionally, the Court can try individuals for the four core crimes committed on the territory of a state party, a national of a state party or a referral via the Security Council, as aforementioned in the guide. Admissibility refers to the Court's ability to intervene when national courts are either unwilling or unable to prosecute genuinely. Though these cases' gravity must surpass a threshold<sup>12</sup> under the discretion of the OTP, which examines each case under four criteria, its scale, nature, manner of commission and impact.<sup>13</sup> Proper investigations and prosecutions are deemed inadmissible, and thus the ICC cannot intervene.<sup>14</sup> Unwilling refers to states that shield the accused, conduct sham proceedings or act with injustice<sup>15</sup>. Unable refers to when a state lacks the capacity or resources to carry out adequate and fair trials. Although jurisdiction difficulties often arise due to limits on the Court's authority, such as requiring state consent and direct ties to the ICC's issue with enforcement inability, temporal limits, as it can only cover crimes committed after July 1, 2002, political influence, national court overlap and territorial and personal scope, which refers to the jurisdictional prerequisites. Such past jurisdictional difficulties under the Rome statute include a case in Sudan, which isn't a state party and refused to cooperate, preventing arrests of suspects like Omar al-Bashir.<sup>16</sup> Due to Sudan's uncooperation, this case was taken on as a Security Council referral. Another example is Libya, in which case the ICC issued arrest warrants for various criminals after a Security Council referral, but national conflict and lack of cooperation terminated enforcement.<sup>17</sup>

### **Graph Showing International Court Participation**

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<sup>12</sup>How the ICC works , ICC

<https://www.icc-cpi.int/about/how-the-court-works>

<sup>13</sup> <https://journals.sagepub.com/doi/10.1177/21582440241252495> "Intercultural Competence Scale" Sage journals, 2022

<sup>14</sup> <https://ihl-databases.icrc.org/en/ihl-treaties/icc-statute-1998/article-17> "Article 17-Issues of admissibility" International Human Law Databases, 17 July 1998

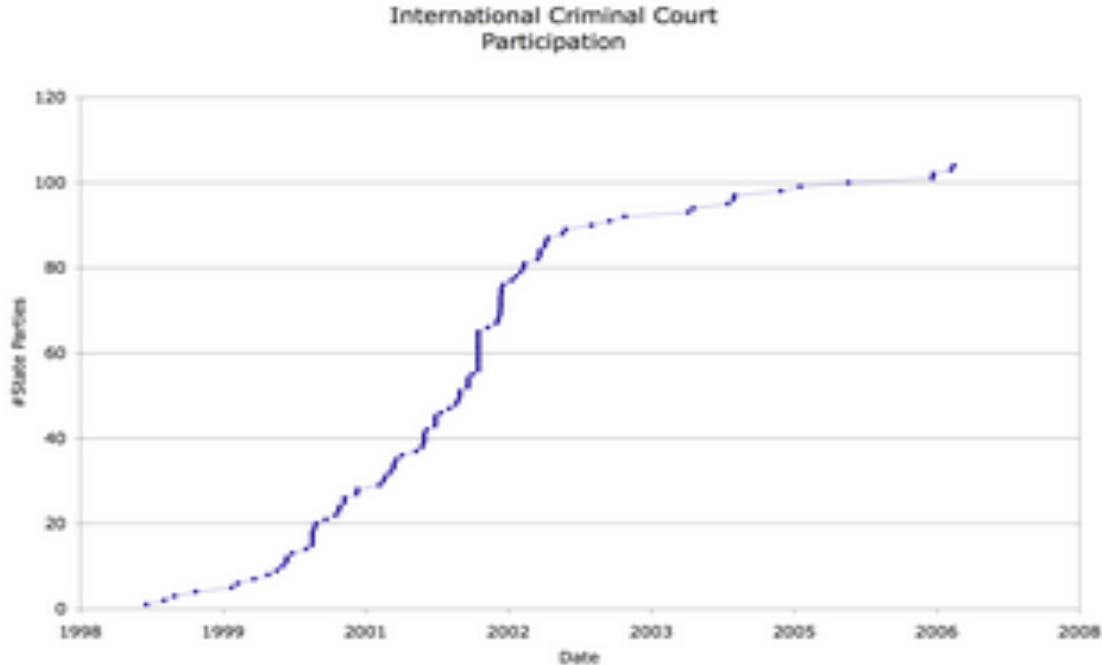
<sup>15</sup> Principles of complementarity <https://www.law.cornell.edu/wex/complementarity>

<sup>16</sup> "Assessing the effectiveness of International Law in prosecuting heads of states", , Oxford Law 2022

<https://oxfordlawsoc.com/assessing-the-effectiveness-of-international-law-in-prosecuting-heads-of-state-the-case-of-omar-al-bashir/>

<sup>17</sup> "Libya", ICC

<https://www.icc-cpi.int/situations/libya>



18

Political support has seen steady growth since its adoption, as indicated by the graph above, marking an important change and how the ICC has gained relevance and integrity through the years. This allows the ICC to tackle the enforcement problems it faces, thus leading to adequate proceedings and meeting pretrial prerequisites such as arrests through cooperation and funding. In its early years, support mainly came from Europe, Latin America and Africa<sup>19</sup>, while major powers such as China and the USA delayed their ratification mainly due to political and sovereignty reasons<sup>20</sup>, both were largely concerned about politically motivated cases. In the coming years, support increased notably in 2002 when the Statute entered into force and over 60 states had ratified, allowing the ICC to pursue more high profile cases, although regional trends are noticeable with Africa and Latin America continuing to be strong supporters<sup>21</sup>, while some Asian and Middle Eastern states remained cautious, raising sovereignty concerns<sup>22</sup>.

<sup>18</sup> [https://www.researchgate.net/figure/The-Rome-Statute-entered-into-force-on-1-July-2002-after-ratification-by-60-countries-As\\_fig1\\_250234493](https://www.researchgate.net/figure/The-Rome-Statute-entered-into-force-on-1-July-2002-after-ratification-by-60-countries-As_fig1_250234493) “Ratification of the ICC” researchgate, 2013

<sup>19</sup> <https://humanrightsfirst.org/library/q-a-international-criminal-court/> “International Criminal Court” Human Rights First, March 2025

<sup>20</sup> <https://international-and-comparative-law-review.law.miami.edu/tides-of-chance-exploring-the-consequences-of-chinas-unclos-ratification-for-u-s-maritime-interests/> “Exploring the Consequences of China’s UNCLOS Ratification for U.S. Maritime Interests” International and Comparative Law review, 2022

<sup>21</sup> <https://www.lexology.com/library/detail.aspx?g=86938437-34fb-4685-9638-ec6d52e947ff> “ICC 2024 Dispute Resolution Report: Caseloads, Complexity, and Global Reach” Lexology, 2024

<sup>22</sup> <https://www.lexology.com/library/detail.aspx?g=86938437-34fb-4685-9638-ec6d52e947ff> “ICC 2024 Dispute Resolution Report: Caseloads, Complexity, and Global Reach” Lexology, 2024

Significant political support strengthens the ICC by ensuring state cooperation, allowing procedures such as arrests, prosecutions, evidence gathering and the enforcement of sentences. This allows the Court to operate effectively across regions and boost legitimacy. On the contrary lack of support weakens the ICC, with non-cooperating states disallowing procedures, hindering the prosecution of criminals<sup>23</sup>. Potential results of a lack of backing include slow and often impossible prosecutions due to insufficient resources, which can often lead to the creation of a perception of bias since prosecutions will only take place in backing states.

### **Enforcement challenges**

There have been various enforcement challenges in recent years, particularly due to uprising wars in Ukraine and Palestine.<sup>24</sup> Arrest warrants issued for Vladimir Putin the president of Russia for alleged war crimes against Ukraine and warrants for Benjamin Netanyahu<sup>25</sup>, as well as Yoav Gallant for alleged war crimes and crimes against humanity in Palestine have not been acted upon, largely due to political pressure and limited enforcement powers, since these political figures have major influence and power in their respective countries and therefore are protected from the ICC, which relies on state powers and is unable to act independently. This leads to the limitation of the ICC's jurisdiction and limits the ICC's ability to enforce. These are important examples of when states protect individuals, and the ICC cannot act effectively due to its reliance on state powers.

### **Accountability issues**

Accountability challenges often arise from the ICC's limitations on how it can act. Firstly, delay concerns are often raised due to the ICC's reliance on state powers; other than that, intimidation and threats to witnesses can make testimonies unreliable and hard to collect due to the witness's vulnerability.<sup>26</sup> Powerful states can affect referrals and thus block the ICC from prosecuting and taking on cases. What's more is that the perception of bias created due to uneven state cooperation makes accountability unreliable<sup>27</sup>. All of the aforementioned have the main root of limited resources that the ICC has available and are often blocked by states and its reliance on them.

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<sup>23</sup> <https://mb.com.ph/2025/03/13/icc-s-success-or-failure-lies-on-state-parties-cooperation> "ICC's success or failure lies on state parties' cooperation" Manila Bulletin, 2019

<sup>24</sup> <https://www.lawfaremedia.org/article/legal-challenges-mount-against-renewed-u.s.-sanctions-on-the-icc> "Legal Challenges Mount Against Renewed U.S. Sanctions on the ICC" lawfaremedia, 2022

<sup>25</sup> <https://www.reuters.com/world/putin-arrest-warrant-will-stand-even-if-us-led-peace-talks-agree-ukraine-amnesty-2025-12-05/> "Putin arrest warrant" Reuters, 2023

<sup>26</sup> <https://delsulawreview.com/wp-content/uploads/2024/12/9.-Witness-Protection.pdf> "Witness Protection and International Criminal Justice" Emmanuel Okwokei, 2022

<sup>27</sup> "The ICC's dilemma" moderndiplomacy

Examples include Lubanga Dyilo of the Democratic Republic of Congo from 2006 to 2012, during which trials were delayed multiple times due to a lack of evidence gathering and shortfalls of the witness protection system<sup>28</sup>. Logistical problems and witnesses getting intimidated largely slowed proceedings and especially highlighted the shortcomings of the ICC's witness protection. Another example is Bemba of the Central African Republic from 2010 to 2018<sup>29</sup>. This case faced long delays while it was ongoing, and appeals highlighted procedural issues and large gaps in oversight. Accountability mechanisms had their limits exposed when multiple convictions were overturned, again highlighting the weak points of the ICC and its struggle to prosecute without cooperation, specifically in dealing with arrests and prosecution.

## Major Countries and Organizations Involved

### Germany

Germany is one of the earlier nations that ratified the Rome Statute, with the ratification taking place in 2000. As such, Germany also fully cooperates with ICC requests, including procedural matters such as arrest and evidence gathering. What's more is that Germany often provides funding and logistical support to ICC operations and advocates for accountability and enforcement through the Assembly of State parties and by applying universal jurisdiction in national courts. Finally, Germany actively participates in initiatives to improve cooperation and strengthen ICC mechanisms, thus allowing the ICC to act independently and acts as an exemplary state when it comes to the support of the ICC.

### United States of America

The United States of America is an example of a state that has often opposed the ICC and the Rome Statute or not complied with its requests<sup>30</sup>. Although the Rome Statute signing happened in 2000, it was never ratified, hence the United States of America is not legally bound to cooperate with ICC investigations or enforcement. Historically, it has opposed ICC jurisdiction over its nationals, citing sovereignty concerns and effectively protecting its nationals. Support from the USA has always been limited, taking place only under bilateral agreements or partnerships in specific cases<sup>31</sup>. A key reason

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<https://moderndiplomacy.eu/2024/06/24/the-iccs-dilemma-balancing-justice-and-perceived-bias-in-africa/>

<sup>28</sup> Lubanga, ICC

<https://www.icc-cpi.int/drc/lubanga>

<sup>29</sup> "Bemba", ICC <https://www.icc-cpi.int/car/bemba>

<sup>30</sup> <https://www.congress.gov/bill/119th-congress/house-resolution/9/text>

<sup>31</sup> "United States and the ICC" US Congress, 2025

[https://en.wikipedia.org/wiki/United\\_States\\_and\\_the\\_International\\_Criminal\\_Court](https://en.wikipedia.org/wiki/United_States_and_the_International_Criminal_Court) "USA and the ICC" Wikipedia, 2025

for this is the American Service-Members Protection Act (ASPA), which aims to protect US military and officials from ICC jurisdiction, restricting cooperation with the ICC, underlining the enforcement gaps of the ICC under the Rome Statute. Additionally, it authorizes measures to prevent the surrender of US nationals to the Court, limits military aid to State parties that do not grant immunity. Finally, the USA often influences ICC enforcement indirectly via its power in the Security Council<sup>32</sup>, which can affect the proceedings of the ICC as mentioned previously in the guide.

### **United Nations Security Council (SC)**

The SC has an important role in the proceedings of the ICC as well as its members. Through referrals, situations and cases can be taken over by the ICC even for non-States Parties, making it one of three ways a case can be taken over by the SC. Important to note is Article 13b of the SC that allows the ICC to pursue accountability in territories that have not signed the treaty. Although limitations to referrals exist due to the permanent members of the SC and their right to veto, in order to block referrals and protect allies, thus leading to political interest shaping decisions, largely due to unequal influence in the SC. Lastly, the SC can influence enforcement through political pressure.

### **European Union (EU)**

One of the main supporters of the ICC is the EU. By aiding the ICC politically and financially, it strengthens enforcement and lowers reliance on individual states<sup>33</sup>. All member states are encouraged by the EU to fully comply with the Rome Statute and ratify it, improving cooperation within Europe. Through resolutions and diplomatic pressure, the EU advocates for enforcement and accountability, giving the ICC more ground to act freely. On an international scale, the EU works with the ICC on cooperation agreements and promotes adherence to international criminal law. Urging and helping the ICC take high profile cases, not limited to the EU.

### **Blocs Expected**

The two blocs expected for this topic are divided in accordance to the nations' support of ICC. The first being supporters of ICC enforcement and accountability, this includes states that have ratified the Rome Statute and comply with ICC requests, like Germany as aforementioned, other examples are

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<sup>32</sup> <https://humanrightsfirst.org/wp-content/uploads/2025/03/QA-US-Sanctions-on-ICC-factsheet-final.pdf> "US Sanctions on the International criminal Court" Human Rights First, March 2025

<sup>33</sup> [https://www.europarl.europa.eu/RegData/etudes/STUD/2021/653659/EXPO\\_STU\(2021\)653659\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2021/653659/EXPO_STU(2021)653659_EN.pdf) "Envisioning International justice" European Parliament, November 2021

Canada, France, the Netherlands, and most of the EU. The second being non-supporters, conditional or opposed to the Rome Statute. States that limit cooperation due to sovereignty concerns, like the USA, typically belong in this bloc; others are China, India, Russia and often some African Union (AU) members.

### Timeline of Events

Date	Description of Event
17th July 1998	Adoption of the Rome Statute at the UN Diplomatic Conference in Rome <sup>34</sup>
1st July 2002	Rome Statute enters into force, and the ICC is officially established <sup>35</sup>
31st March 2003	Luis Moreno-Ocampo is elected, the first ICC prosecutor <sup>36</sup>
10th February 2006	First arrest warrant is issued for Thomas Lubanga in the Democratic republic of Congo <sup>37</sup>
14th March 2012	Lubanga Dyilo is convicted, marking the first ICC conviction <sup>38</sup>
21st March 2016	Bemba acquitted on appeal, highlighting accountability challenges <sup>39</sup>

<sup>34</sup> <https://press.un.org/en/1998/19980720.i2889>. “UN Diplomatic Conference concludes in Rome with decision to establish permanent international Criminal Court” UN, 1998

<sup>35</sup> <https://www.icc-cpi.int/publications/core-legal-texts/rome-statute-international-criminal-court> “Rome Statute of the International Criminal Court” ICC, 2018

<sup>36</sup> <https://news.un.org/en/story/2003/06/71462> “First prosecutor for International Criminal Court takes office” UN, 2014

<sup>37</sup> <https://www.icc-cpi.int/drc/lubanga> “Lubanga Case” ICC, 2021

<sup>38</sup> [https://en.wikipedia.org/wiki/Thomas\\_Lubanga\\_Dyilo](https://en.wikipedia.org/wiki/Thomas_Lubanga_Dyilo) “Thomas Lubanga Dyilo” 2024

<sup>39</sup> <https://www.icc-cpi.int/sites/default/files/CaseInformationSheets/BembaEng.pdf>

“Case Information Sheet” ICC, March 2019

2021	ICC issues arrest warrants for crimes in Myanmar, showing enforcement challenges with non-cooperative states <sup>40</sup>
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## Relevant UN Resolutions, Treaties & Events

### Convention on the Prevention and Punishment of the Crime of Genocide (1948)

This convention, taking place in 1948, gives genocide a definition, specifically a distinct international crime, including acts committed with the intent to destroy a national, ethnic, racial or religious group. As such, states were obligated to prevent and punish genocide. This convention was largely influenced by the Second World War, which in turn led to this action. What’s more is that this provided a legal basis for prosecutions under the Rome Statute, since the Rome Statute incorporates the direct definition from Article II of the 1948 Genocide Convention into its own Article 6. Under the Rome Statute, states are legally bound to pursue the arrest of those charged with genocide, improving enforcement; however, unlike the 1948 convention, which has been ratified almost universally, the ICC holds jurisdiction in only 124 countries, showing its limitations.

### UN General Assembly Resolutions on ICC Cooperation (e.g., 66/104, 67/90)

In the 66th session of the UN General Assembly, resolutions on ICC Cooperation were passed. These urged UN member states to cooperate fully in investigations with the ICC. This includes arrests, prosecution, evidence gathering and other procedures which require state resources. Additionally, it reinforced the legal obligations of states under the Rome Statute, while also promoting the enforcement of ICC decisions through international collaboration and encouraging states to adopt domestic measures in order to facilitate accountability for international crimes, particularly belonging to the four core crimes. Even though these resolutions are not legally binding, they attempt to compensate for the ICC’s lack of enforcement power, as they have great influence on a worldwide scale due to the UN General Assembly’s general worldwide influence.

### **Rome Statute of the International Criminal Court (1998)**

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<sup>40</sup> [https://iimm.un.org/sites/default/files/2025/01/ICC%20Q%26A\\_EN.pdf](https://iimm.un.org/sites/default/files/2025/01/ICC%20Q%26A_EN.pdf) “Independent investigative mechanism for Myanmar” UN, 2020

The Rome Statute of the ICC established the International Criminal Court as a permanent body to prosecute genocide, crimes against humanity, war crimes and the crime of aggression, these making up the four core crimes. It defined the jurisdiction and the ICC's procedures, including investigations, trials and appeals. When it comes to state cooperation, it outlined the enforcement obligations for states, including arrest, surrender and cooperation with ICC requests mainly for procedural matters and improving international cooperation and judicial assistance. Although enforcement obligations legally exist and the ICC works with a hierarchical structure, often in practice it operates in accordance with diplomacy between involved states, making way for issues and enforcement challenges. Finally, it provided a legal framework for accountability and international cooperation in prosecuting serious crimes.

## Previous Attempts to Solve the Issue

### National Prosecutions

National Prosecutions have been one of the attempts to solve the issue, with some states using universal jurisdiction<sup>41</sup>. Such examples include Germany and Spain, which have supported universal jurisdiction, which effectively allows national courts to prosecute anyone for heinous crimes, regardless of where the crime was committed and the nationality of the perpetrator. Although effective in theory, political pressure and weak courts limited results and made clear that these prerequisites require certain standards like strong courts. Complementarity offers a solution to this problem, allowing the ICC to take over the prosecution of a criminal when the state is unable, as aforementioned. As a result of this, domestic enforcement gaps were highlighted, but National Prosecutions were effective to an extent, especially when conditions like judicial independence, specialized unit presence and local legitimacy were present, but faced difficulties restricting their success when sham trials were conducted, or amnesty laws took action, effectively serving the interests of those in power.<sup>42</sup>

### Cooperation Agreements

Cooperation agreements made with the ICC, with states committing to arrests and evidence sharing were made, but compliance to these agreements was uneven, thus not giving the ICC power

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<sup>41</sup> <https://ccrjustice.org/home/get-involved/tools-resources/fact-sheets-and-faqs/factsheet-universal-jurisdiction> "Universal Jurisdiction" Center for Constitutional Rights, 2019

<sup>42</sup> <https://fedsoc.org/fedsoc-review/power-failures-prosecution-power-and-problems>  
"Power failures" fedsoc

internationally and in all cases.<sup>43</sup> The two main categories of agreements are mandatory obligations under the Rome Statute and specific voluntary agreements. Some of these voluntary agreements include assistance with enforcement mechanisms by providing witness relocation, enforcement of sentences and interim. Even though good cooperation has often yielded good results, it exposed reliance on political will for enforcement. Bilateral agreements have also limited cooperation with the ICC. Such an example is the USA, which in the early 2000s signed agreements with multiple countries to ensure that its nationals would never be surrendered to the ICC. Cooperation between the ICC and states has improved over the years, but still has to be elaborated on, especially from countries seeking protection for their own interests.

### **MONUSCO assisted arrests**

The UN Organization Stabilization Mission in the Democratic Republic of the Congo was launched in 2010.<sup>44</sup> It aimed to include civilian protection and aid national judicial systems. Through logistics and strengthened witness protection, MONUSCO assisted the ICC<sup>45</sup> by helping it secure areas during arrest operations and facilitating cooperation between national forces and the ICC. This case goes to show how international support missions have allowed enforcement to be more effective in practice, even though MONUSCO's role is not the direct arrest of individuals but the logistical assistance it provides.

### **Special tribunals**

Special tribunals served earlier for international accountability models. The International Criminal Tribunal for the former Yugoslavia began in 1993<sup>46</sup>. The UN Security Council created it, to prosecute war crimes from the Balkan conflicts of the time. Through strong backing from the UN and NATO, it achieved arrests. On another note, the International Criminal Tribunal for Rwanda began a year later in 1994<sup>47</sup>, prosecuting those responsible for the Rwandan genocide. These tribunals indicated that international trials were possible, although they depended largely on the Security Council and funding to be given. Both were of a temporary nature, requiring high costs. These weaknesses supported the

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<sup>43</sup> [https://www.icc-cpi.int/sites/default/files/Cooperation\\_Agreements\\_Eng.pdf](https://www.icc-cpi.int/sites/default/files/Cooperation_Agreements_Eng.pdf) “Cooperational Agreements” ICC, 2023

<sup>44</sup> <https://monusco.unmissions.org/en/about> UN Monusco, 2021

<sup>45</sup> <https://monusco.unmissions.org/en> UN Monusco, 2021

<sup>46</sup> <https://www.icty.org/en/about/tribunal/establishment> “UN International Criminal Tribunal”

<sup>47</sup> “ICTR in brief” UN, 2022

<https://unictr.irmct.org/en/tribunal>

permanent establishment of a court under the Rome Statute, which still relies on other state factors and thus struggles with enforcement.

## **Possible Solutions**

### **Strengthen State Cooperation**

Strengthening state cooperation and achieving complete compliance ensures arrests, evidence sharing and trial support among other procedures. In order for cooperation to be achieved, though, states would have to have an incentive, such as strengthening national systems, through cooperation provided to national courts by the ICC. Additionally, disincentives could take place for uncooperative states, such as the encouragement to avoid trade with people under ICC warrants. National legislation could be standardized to reduce procedural delays that vary from nation to nation. Challenges that must be taken into account include political resistance and non-member states. Mainly due to issues like sovereignty being a major problem for many states. Effective cooperation will increase ICC credibility and allow it to act much more freely and effectively on an international scale, while also solving sovereignty concerns due to the willing cooperation.

### **Capacity-Building for National Courts**

Another way to provide sufficient results is to redirect international crimes to national courts. By training domestic institutions to handle international crimes, not only will the load of cases handed to the ICC be lowered, but also the states' reliance on the ICC will be reduced due to their own ability to prosecute international crimes. This can be achieved through training from the OTP, providing specialized training for local judges and lawyers, and improving the law infrastructure. Potential challenges include individual political will and stable legal systems on which the whole solution depends. Effectiveness will largely vary from state to state.

### **Use of Sanctions and Diplomatic Pressure**

Using sanctions and applying diplomatic pressure targeting individuals and states who are purposely obstructing justice will encourage compliance without military intervention. Risks involve the politicization of the ICC, effectively deterring states from cooperation and the ratification of the Rome Statute. International consensus and accountability are the two main aspects that influence its

effectiveness.<sup>48</sup> These can complement judicial measures to strengthen accountability and ensure that proceedings are adequate.

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