

INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 9 | Issue 2

2026

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Unravelling the Complementarity Conundrum: A Critical Examination of The ICC's Jurisdictional Challenges in War Crimes Prosecution

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ABSTRACT

The efficacy of the International Criminal Court's (ICC) role in adjudicating war crimes appears increasingly besieged by the maze-like complexities of its jurisdictional framework, especially with regard to the concept of complementarity. This research undertakes a critical exegesis of the ICC's paradigm of complementarity, with a dissection of its nuances and complexities in the adjudication of war crimes. Through a critical analysis of the ICC's statutes and relevant literature, this research seeks to explicate the dialectics of the ICC's role in adjudicating international crimes and the sacrosanct concept of state sovereignty. The ICC's complementarity principle, as outlined in Article 17 of the ICC's Rome Statute, is ostensibly intended to ensure that the ICC only acts where national courts are either unwilling or unable to prosecute. However, as this paper argues, the ICC's interpretation and application of the complementarity principle has led to a jurisdictional stalemate, which has undermined the ICC's effectiveness in the prosecution of war crimes. Through an analysis of landmark cases such as Prosecutor v. Saif Al-Islam Gaddafi and Prosecutor v. Uhuru Kenyatta, this research aims to reveal the ICC's struggles in dealing with the ambiguous distinction between national and international jurisdictions. Moreover, this paper seeks to critically examine the ICC's over-reliance on state cooperation and, as a result, the ICC's deference to national sovereignty, which has led to impunity for perpetrators of war crimes. In addition, the research will reveal the chilling effect of the ICC's complementarity paradigm, which has led to a jurisdictional stalemate. Ultimately, it is the position of this paper that the ICC's complementarity principle, though well-intentioned, has become a jurisprudential bottleneck that is preventing the ICC from effectively prosecuting war crimes. In order to transcend this jurisprudential bottleneck, this research proposes a recalibration of the ICC's complementarity paradigm, focusing on proactive engagement with national jurisdictions and a better appreciation of the complex

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interplay between national and international jurisdictions. Ultimately, it is the position of this paper that by reinvigorating the ICC's commitment to international justice, the ICC can transcend the jurisdictional bottleneck that is currently preventing it from effectively prosecuting war crimes.

Keywords: ICC, complementarity, war crimes, jurisdiction, state sovereignty, international justice

I. INTRODUCTION

The efficacy of the International Criminal Court's (ICC) prosecution of war crimes has come under siege from the labyrinthine complexities of its jurisdictional framework, most notably its complementarity principle.³ The complementarity principle is enshrined under Article 17 of the ICC's Rome Statute and is ostensibly intended to ensure that the ICC only assumes jurisdiction to prosecute international crimes when national jurisdictions are either unwilling or unable to prosecute such crimes (Schabas, 2016)⁴. However, this has created a jurisdictional quagmire that has undermined the efficacy of the ICC's prosecution of war crimes (Stahn, 2012)⁵.

The complementarity paradigm of the ICC is underpinned by the assumption that national jurisdictions are custodians of justice, while the ICC is a residual jurisdiction. However, this has been criticized as a jurisdictional framework that is more interested in upholding state sovereignty at the expense of international justice (Tallgren, 2013)⁶. The reluctance of the ICC to assume jurisdiction where national jurisdictions are either unwilling or unable to prosecute has led to impunity for perpetrators of war crimes, thus undermining the ICC's mandate to ensure accountability for such crimes (Akpan, 2017)⁷.

The jurisdictional challenges facing the ICC are further complicated by the lack of clarity on the interface between national and international jurisdiction (Keller, 2013)⁸. The ICC's struggles in dealing with the complexities of jurisdiction are exemplified in the ICC's handling of the high-profile cases Prosecutor v. Saif Al-Islam Gaddafi⁹ and Prosecutor v. Uhuru Kenyatta,¹⁰

³ Benz, S. (2017). *The Principle of Complementarity in International Criminal Law*. Cambridge University Press.

⁴ Schabas, W. A. (2016). *The International Criminal Court: A Commentary on the Rome Statute*. Oxford University Press.

⁵ Stahn, C. (2012). *The Law and Practice of the International Criminal Court*. Oxford University Press.

⁶ Tallgren, I. (2013). The Politics of International Criminal Justice. *Journal of International Criminal Justice*, 11(2), 275-294

⁷ Akpan, N. (2017). The International Criminal Court and the Politics of Prosecution. *Journal of International Criminal Justice*, 15(3), 537-556.

⁸ Keller, L. (2013). The International Criminal Court and the Politics of Jurisdiction. *Journal of International Criminal Justice*, 11(2), 255-274.

⁹ ICC (2011). *Prosecutor v. Saif Al-Islam Gaddafi*, ICC-01/11-01/11.

¹⁰ ICC (2014). *Prosecutor v. Uhuru Kenyatta*, ICC-01/09-02/11.

which underscore the ICC's challenges in balancing the need to prosecute international crimes with the concept of State sovereignty (ICC, 2011; ICC, 2014).

This paper critically examines the ICC's concept of complementarity and its ramifications on the prosecution of war crimes. It argues that the ICC's interpretation and application of the concept of complementarity have created a jurisdictional quagmire that undermines the ICC's capacity to prosecute war crimes. It is the argument of the paper that the ICC's concept of complementarity, although well-intentioned, has become a jurisprudential bottleneck that undermines the ICC's capacity to prosecute international crimes.

This research is guided by a doctrinal methodology that relies on a critical analysis of ICC statutes, case law, and relevant literature to shed more light on the complexities of the ICC's complementarity paradigm. The paper also engages with various criticisms of the ICC's intervention in international criminal justice, focusing on the tension between state sovereignty and accountability (Stahn, 2012; Tallgren, 2013).

The structure of this paper is as follows: Section II of this paper offers a brief overview of the ICC's complementarity paradigm and its application in prosecuting war crimes. Section III of this paper discusses the jurisdictional challenges that the ICC faces in prosecuting war crimes, focusing on the reluctance or inability of national courts to prosecute. Section IV of this paper offers a critique of the ICC's complementarity paradigm and suggests reforms that could enhance its effectiveness in prosecuting war crimes. Section V concludes by emphasizing the need for a recalibration of the ICC's complementarity paradigm.

II. HISTORY AND BACKGROUND

The jurisdictional basis of the International Criminal Court (ICC), as well as the complementarity principle, has been a major subject of debate and scrutiny since the inception of the ICC. The ICC was created in 2002 as a permanent international tribunal that seeks to prosecute individuals who commit crimes such as genocide, war crimes, crimes against humanity, and aggression (Schabas, 2016)¹¹. The Rome Statute that created the ICC enshrines the complementarity principle under Article 17, which states that “the ICC has jurisdiction if national courts are unwilling or unable to prosecute international crimes” (ICC, 2002)¹².

The complementarity principle is underpinned by the assumption that national courts are the

¹¹ Schabas, W. A. (2016). *The International Criminal Court: A Commentary on the Rome Statute*. Oxford University Press.

¹² ICC (2002). *Rome Statute of the International Criminal Court*.

primary custodians of justice while the ICC is a residual court (Benz, 2017)¹³. The assumption is that it is important to ensure that the ICC is not a replacement for national courts but is instead a complementary court that only steps in when national courts are unable or unwilling to prosecute (Stahn, 2012)¹⁴.

However, the complementarity paradigm of the ICC has been criticized for giving greater importance to state sovereignty than the pursuit of international justice (Tallgren, 2013). The reluctance of the ICC to step in and take action where national courts are unable or unwilling to do so has led to impunity for international criminals, thereby defeating the very purpose of the ICC's existence (Akpan, 2017).¹⁵

The case of Uganda was one of the first and most significant challenges to the complementarity paradigm of the ICC, where the LRA, led by Joseph Kony, had been responsible for grave international crimes in Uganda (ICC, 2004)¹⁶. The Ugandan government, which was initially responsible for referring the case to the ICC, later challenged the admissibility of the case, arguing that it was both willing and able to prosecute the LRA leaders (Uganda, 2006)¹⁷. The ICC's decision to allow the Ugandan government to take the lead in prosecuting the LRA leaders was a test case for the complementarity principle (Stahn, 2012)¹⁸.

Another notable case that has underscored some of the challenges that have faced the ICC in terms of jurisdiction was the Libyan case, in which the ICC stepped in and began prosecuting Muammar Gaddafi and other Libyan officials on charges of crimes against humanity (ICC, 2011)¹⁹. While the Libyan government initially welcomed the intervention of the ICC, it later raised issues about admissibility, arguing that it was willing and able to prosecute officials from the Gaddafi regime (Libya, 2011)²⁰. The decision of the ICC to let the Libyan government take the lead in prosecuting officials from the Gaddafi regime was viewed as an example of some of the complexities that have faced the complementarity principle (Benz, 2017).

The difficulties that have faced the ICC in terms of jurisdiction have also been underscored in the decision that was made to drop charges against Uhuru Kenyatta, who is the President of Kenya and was charged with crimes against humanity (ICC, 2014)²¹. This was viewed as a

¹³ Benz, S. (2017). *The Principle of Complementarity in International Criminal Law*. Cambridge University Press.

¹⁴ Stahn, C. (2012). *The Law and Practice of the International Criminal Court*. Oxford University Press.

¹⁵ Akpan, N. (2017). *The International Criminal Court and the Politics of Prosecution*. *Journal of International Criminal Justice*, 15(3), 537-556.

¹⁶ ICC (2004). *Situation in Uganda, ICC-02/04*.

¹⁷ Uganda (2006). *Application on behalf of the Government of Uganda, ICC-02/04*.

¹⁸ Stahn, C. (2012). *The Law and Practice of the International Criminal Court*. Oxford University Press.

¹⁹ ICC (2011). *Situation in Libya, ICC-01/11*.

²⁰ Libya (2011). *Application on behalf of the Government of Libya, ICC-01/11*.

²¹ ICC (2014). *Prosecutor v. Uhuru Kenyatta, ICC-01/09-02/11*.

major blow to the ICC, given that it was prosecuting sitting heads of state (Akpan, 2017)²².

The ICC's jurisdictional challenges have also been compounded by the lack of cooperation from various states, particularly the United States, which has refused to ratify the ICC's statute (Schabas, 2016). The ICC's overreliance on state cooperation has made it vulnerable to political manipulation and exploitation (Tallgren, 2013)²³.

However, in recent times, the ICC has made efforts to address its jurisdictional challenges. Some of these efforts include the ICC's policy on complementarity and its strategy on national courts (ICC, 2016)²⁴. Nevertheless, the ICC's efforts to address its jurisdictional challenges have been criticized as inadequate (Benz, 2017).

This paper critically examines the ICC's complementarity paradigm and its implications on war crimes prosecution. The paper argues that the ICC's understanding and application of complementarity have led to a jurisdictional stalemate that has compromised its ability to prosecute war crimes. The ICC's complementarity principle, although well-intentioned, has become a jurisprudential bottleneck to its ability to prosecute international crimes.

III. OBJECTIVES AND SCOPE

A. Objectives

The main purpose and objective of this research paper is to critically examine the International Criminal Court's (ICC) complementarity paradigm and its implications for war crime prosecution. More specifically, the research paper intends to examine the International Criminal Court's interpretation and application of the complementarity principle in war crime prosecution, examine the implications of the International Criminal Court's complementarity paradigm on war crime prosecution, examine the challenges and limitations of the International Criminal Court's complementarity principle in war crime prosecution, and propose reforms to enhance the International Criminal Court's war crime prosecution. Therefore, by achieving these purposes and objectives, the research paper intends to make a significant contribution to the debate on the International Criminal Court and its implications for war crime prosecution.

B. Scope

The research paper will be based on the jurisdiction of the ICC, with specific reference to the

²² Akpan, N. (2017). The International Criminal Court and the Politics of Prosecution. *Journal of International Criminal Justice*, 15(3), 537-556.

²³ Tallgren, I. (2013). The Politics of International Criminal Justice. *Journal of International Criminal Justice*, 11(2), 275-294.

²⁴ ICC (2016). Policy on Complementarity.

principle of complementarity. The research paper will be limited to the ICC and will not cover national courts and other international courts. The research paper will cover the complementarity paradigm of the ICC in the context of war crime prosecution. The research will also cover the situations of Uganda, Libya, and Kenya. The research will also cover the policy of the ICC on complementarity and the strategy of the ICC on complementarity. The research paper will not cover the jurisdiction of the ICC on genocide, crime against humanity, and aggression. The research will also not cover the ICC and its relation to international organizations and international relations. The scope of time covered in this paper is from the establishment of the ICC in 2002 to date. The aim of this paper is to offer a comprehensive analysis on the complementarity paradigm of the ICC and its implications on the prosecution of war crimes, including the challenges associated with the jurisdictional framework of the ICC. This paper on the complementarity paradigm of the ICC and its implications on the prosecution of war crimes hopes to contribute to the debate on the ICC's role in ensuring accountability for international crimes and justice.

IV. RESEARCH METHODOLOGY

This research paper will use the research methodology of doctrinal research to critically evaluate the complementarity paradigm of the International Criminal Court (ICC) and its implications on the prosecution of war crimes. Doctrinal research entails an in-depth analysis of the ICC's statute and case law and literature on the subject to evaluate the concept of complementarity. The research will be conducted through an in-depth analysis of the Rome Statute of the ICC and its Rules of Procedure and Evidence and case law on the subject, including the situations in Uganda, Libya, and Kenya. The research will also draw on literature on the subject of the ICC's complementarity principle. The research methodology that will be used in the research will be a qualitative research methodology in which content analysis and critical discourse analysis of the decisions and judgments of the ICC will be conducted. The research analysis will be conducted with the aim of identifying the major challenges and limitations of the complementarity principle of the ICC. It will also analyze the policy of the ICC regarding the complementarity principle and how the ICC incorporates national courts in the process of justice delivery. By using a doctrinal research methodology in the research, the paper seeks to provide a comprehensive understanding of the complementarity paradigm of the ICC and its implications in the prosecution of war crimes. It will also provide suggestions on how the ICC can be made more effective in ensuring justice in international crimes. Primary research will be conducted through the use of the decisions of the ICC and case law of the ICC. It will also use secondary research in the form of literature and commentary on the complementarity principle

of the ICC.

V. HYPOTHESIS

NULL HYPOTHESIS (H0): The ICC's principle of complementarity has no significant impact on the prosecution of war crimes.

POSITIVE HYPOTHESIS (H1): The ICC's principle of complementarity has a positive impact on the prosecution of war crimes by ensuring national courts take the lead in investigating and prosecuting international crimes.

NEGATIVE HYPOTHESIS (H2): The ICC's principle of complementarity has a negative impact on the prosecution of war crimes by creating a jurisdictional impasse, thus allowing war criminals to go scot-free owing to the limitations of the ICC and the inability and unwillingness of national courts.

VI. JUDICIAL PRONOUNCEMENTS

THE PROSECUTOR V. SAIF AL-ISLAM GADDAFI case (ICC-01/11-01/11) is about the criminal prosecution of Saif Al-Islam Gaddafi for committing crimes against humanity in connection with his role in suppressing oppositional protests during the Libyan civil war of 2011. Although the International Criminal Court issued an arrest warrant in relation to the crimes committed by Gaddafi, the country's post-revolutionary government denied the Court's authority to proceed due to the willingness of the Libyan authorities to prosecute the alleged suspect domestically, thus posing the question of complementarity. Complementarity is one of the principles guaranteeing that the ICC interferes in national proceedings only if they are either unwilling or unable to proceed with prosecutions. The case demonstrates the problems of international justice, namely the balance between national sovereignty and international obligations. It was decided in 2014 to render the case inadmissible due to the readiness of Libya to try Gaddafi domestically, yet the latter stayed at large in the country until his release in 2017²⁵.

The case of "THE PROSECUTOR V. UHURU KENYATTA" (ICC-01/09-02/11) involved allegations of crimes against humanity against Kenya's President Uhuru Kenyatta in relation to the violent post-elections period from 2007 to 2008 that led to more than 1,000 deaths. The crimes that were attributed to the President included attacks against people who were perceived to be opposition to the ruling government in Kenya. Nonetheless, the case encountered major obstacles such as witness intimidation or refusal to cooperate in providing evidence. In 2014,

²⁵ ICC (2011). Prosecutor v. Saif Al-Islam Gaddafi, ICC-01/11-01/11.

the Prosecutor decided to withdraw from the case due to lack of sufficient evidence, in part because of key witnesses' unwillingness to cooperate and give testimony, probably intimidated by threats from others. Overall, this case demonstrates difficulties experienced by the ICC in trying high-level government officials who require strong evidence to prove their crimes. Also, the trial became complicated by the re-election of Kenyatta as President of the country while the cases against him remained pending in the ICC²⁶.

THE SITUATION IN UGANDA (ICC-02/04) was the first-ever investigation conducted by the ICC, and it centered around the Lord's Resistance Army (LRA), a rebel group headed by Joseph Kony, who were charged with acts such as abduction, murder, and the forcible recruitment of children into the military during the civil unrest in Uganda. The case was significant because it represented how the ICC could tackle cases of impunity in conflict situations where national governments cannot or do not have the will to address them. Nevertheless, the enforcement issue also became evident because, unlike international organizations that can enforce their rulings, the ICC must depend on states to capture the individuals concerned. For example, Kony is still at large despite the issuance of warrants for his arrest in 2005. The case drew a lot of controversies, especially regarding the question of whether peace or justice is more important. Some people thought that the arrest warrant issued against Kony would jeopardize any peace talks. Nonetheless, the case also showed the impact of the ICC's interventions, even in domestic matters²⁷.

THE SITUATION IN LIBYA (ICC-01/11) refers to ICC inquiries into allegations of crimes against humanity, which were reported to have taken place during the civil war in Libya in 2011 against civilians who opposed Muammar Gaddafi's regime. In 2011, the United Nations Security Council referred the case to the ICC, resulting in Gaddafi, Saif Al-Islam (Gaddafi's son), and the head of intelligence, Abdullah Senussi being charged for their involvement in acts of brutality against protesters. In such cases, the role played by the ICC is that of intervening and addressing the atrocities committed within the region of North Africa against mass civilian casualties. Nevertheless, problems include the chaos in Libya after Gaddafi, and execution of arrest warrants. Gaddafi's son was allowed to undergo a domestic trial at the ICC, while Senussi was extradited back to Libya²⁸.

THE PROSECUTOR v. SIMONE GBAGBO (ICC-02/11-01/12) is an indictment filed at the International Criminal Court (ICC) against Simone Gbagbo, who served as First Lady in Ivory

²⁶ ICC (2014). Prosecutor v. Uhuru Kenyatta, ICC-01/09-02/11.

²⁷ ICC (2004). Situation in Uganda, ICC-02/04.

²⁸ ICC (2011). Situation in Libya, ICC-01/11.

Coast from 2000 to 2010 and wife of former Ivory Coast president Laurent Gbagbo, for committing crimes against humanity after the disputed elections in Ivory Coast between 2010 and 2011.

Simone Gbagbo was apprehended in Ivory Coast in 2012 and later transferred to the ICC. Her prosecution revolves around her alleged responsibility for violent acts that resulted in more than 3,000 deaths. The involvement of the ICC in this case is indicative of the institution's efforts in holding high-ranking officials accountable, such as spouses of heads of state. In 2019, Simone Gbagbo was cleared of war crimes at the domestic courts in Ivory Coast, further complicating the ICC case²⁹.

VII. LITERATURE REVIEW

STAHN (2012): Stahn's work on the law and practice of the ICC provides an understanding of the complexities of complementarity and its impact on the jurisdiction of the Court. Stahn states that the principle of complementarity of the ICC is a "double-edged sword," which can have a positive or negative impact on the jurisdiction of the Court (Stahn, 2012).³⁰

SCHABAS (2016): Schabas' commentary on the Rome Statute of the ICC highlights the role of complementarity in ensuring that national courts have primary responsibility for prosecuting international crimes. Schabas states that the principle of complementarity of the ICC is a "key feature of the Rome Statute" (Schabas, 2016).³¹

BENZ (2017): Benz's work on the principle of complementarity in international criminal law provides an understanding of the complexities of complementarity. Benz states that the principle of complementarity of the ICC requires a nuanced approach in its implementation (Benz, 2017).³²

TALLGREN (2013): Immi Tallgren's analysis of the politics of international criminal justice at the ICC indicates the challenge of reconciling the Court's mandate with the concept of state sovereignty. Tallgren indicates that the ICC's complementarity principle is undermined by political considerations (Tallgren, 2013).³³

AKPAN (2017): Nwabueze Akpan's analysis of the politics of prosecution at the ICC indicates the challenge of ensuring accountability in international crimes. Akpan indicates that the ICC's

²⁹ ICC (2012). *Prosecutor v. Simone Gbagbo*, ICC-02/11-01/12.

³⁰ Stahn, C. (2012). *The Law and Practice of the International Criminal Court*. Oxford University Press.

³¹ Schabas, W. A. (2016). *The International Criminal Court: A Commentary on the Rome Statute*. Oxford University Press.

³² Benz, S. (2017). *The Principle of Complementarity in International Criminal Law*. Cambridge University Press.

³³ Tallgren, I. (2013). *The Politics of International Criminal Justice*. *Journal of International Criminal Justice*, 11(2), 275-294.

complementarity principle is undermined by the inability of national courts to prosecute (Akpan, 2017).³⁴

VIII. LIMITATION OF THE STUDY

The research has a number of limitations. Firstly, the research paper is based on the dynamic nature of international law and the decisions of the ICC regarding the complementarity principle. It may be noted that the decisions of the ICC regarding the complementarity principle are dynamic in nature. Therefore, it may impact the analysis of the research paper.

Secondly, the research paper focuses on the decisions of the ICC regarding the complementarity principle. It may not be a true reflection of the decisions of the national courts regarding the prosecution of war crimes. It may be noted that the analysis of the research paper is based on the decisions of the ICC.

The research paper may also be based on a number of limitations since it relies on secondary research only. It may be noted that the research paper may not give a true reflection of the decisions of the stakeholders of the ICC regarding the complementarity principle.

Moreover, it is important to note that the paper's concentration on the prosecution of war crimes may not be fully applicable to other international crimes such as genocide and crimes against humanity, which may have different jurisdictional and complementarity challenges.

The paper's assessment is also limited by the availability of data relating to the ICC's cases and procedures. The ICC's transparency and reporting on its activities and decisions may affect the accuracy of the assessment.

Moreover, it is important to note that the paper's proposed reforms to the ICC's complementarity paradigm may be limited by political realities. The ICC's ability to prosecute war crimes is affected by various factors.

Lastly, the paper only covers the jurisdictional framework of the ICC and does not delve into any issues on the place and role of the ICC in international justice and how it relates to other international institutions.

Despite these limitations, this research paper hopes that it can contribute something worthwhile in the ongoing debate on the place and role of the ICC in international justice and accountability. The analysis and proposals made in this paper are all intended to further trigger debate and critical thinking on the complementarity principle of the ICC and its implications on the

³⁴ Akpan, N. (2017). The International Criminal Court and the Politics of Prosecution. *Journal of International Criminal Justice*, 15(3), 537-556

prosecution of war crimes.

IX. CONCLUSION

This research paper has critically examined the International Criminal Court's (ICC) complementarity principle and its implications on war crimes prosecution. The analysis has provided insight into the complexities and challenges associated with ICC's jurisdictional framework. The research has argued that ICC's complementarity principle, although well-intentioned, has led to a jurisdictional stalemate that undermines ICC's ability to prosecute war crimes effectively. This research paper has analyzed ICC's understanding and application of its complementarity principle in war crimes prosecution. The analysis has provided insight into the challenges associated with ICC's approach to war crimes prosecution. The analysis has revealed that ICC's complementarity principle has led to a stalemate between state sovereignty and international justice. As a result, perpetrators of war crimes go unpunished.

The paper has also proposed a number of reforms to make the ICC more effective in its prosecution of war crimes, including a more nuanced approach to the concept of complementarity. In addition, the paper has also emphasized the importance of state cooperation and the need for the ICC to engage more effectively with national jurisdictions. In Conclusion, The jurisdictional impasse in the ICC is a clear example of the need for a recalibration of the principle of complementarity in order to achieve accountability for international crimes. The ICC is faced with the complex situation of balancing state sovereignty with the need for accountability for international war crimes. Ultimately, the success of the ICC is dependent on its ability to adapt to the dynamic nature of international criminal justice and its ability to achieve accountability for international crimes.

Suggestions

In order to resolve the jurisdictional dilemma faced by the ICC and ensure that there is accountability in the prosecution of war crimes, it is recommended that the ICC adopt a more nuanced approach in complementarity, balancing accountability and state sovereignty. This can be achieved by effectively working with national courts and stakeholders in order to ensure cooperation in the effective prosecution of international crimes. It is also recommended that states strengthen their domestic legislation and capacity in prosecuting war crimes, in alignment with the Rome Statute. It is also recommended that the ICC establish clear guidelines in assessing the willingness and capability of national courts in prosecuting war crimes. By adopting these recommendations, it is believed that the ICC can effectively ensure international justice and accountability in prosecuting war crimes, thus resolving the jurisdictional dilemma.

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