

" Limitations on the Effectiveness of the Complementarity Jurisdiction of the
International Criminal Court"

Limitations on the Effectiveness of the Complementarity Jurisdiction of the International Criminal Court

القيود المفروضة على فعالية الاختصاص التكميلي للمحكمة الجنائية الدولية

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Received: 13/03 /2025

Accepted: 22/04 /2025

Published: 13/05 /2025

Abstract:

The principle of complementarity is the cornerstone of the International Criminal Court's (ICC) function, defining the boundaries between international criminal justice and national jurisdictions. Despite its practical significance, this principle faces several limitations that restrict its effectiveness. This study aims to examine the constraints that hinder the proper application of complementarity.

Keywords: International Criminal Justice – Complementarity – Deferral of Investigations – In Absentia Judgments

Introduction:

The drafters of the Statute of the International Criminal Court ensured that it included various types of jurisdiction. These include **subject-matter jurisdiction**, which defines the specific crimes that fall exclusively under the Court's authority; **temporal jurisdiction**, meaning that the Court has jurisdiction over crimes committed only after the statute entered into force; and **territorial jurisdiction**, which means that the statute applies to all regions and countries that are parties to it.

Since the purpose of establishing the Court is to intervene when national judicial systems fail to take

the necessary steps to investigate and prosecute crimes under **Article 5** of the Statute, the drafters adopted the **principle of complementarity**. This principle establishes the boundaries between the jurisdiction of the International Criminal Court and that of national judicial systems. It means that the Court's jurisdiction does not replace national jurisdiction but rather complements it. In other words, the jurisdiction of the International Criminal Court supplements national criminal jurisdiction, not the other way around. This was confirmed in **paragraph 10 of the Preamble**, which states that the Court established under this statute shall be **complementary to national criminal jurisdictions**.

Despite the importance of this principle in defining the relationship between international and national justice, practical experience has shown several limitations that hinder its effectiveness and restrict the Court's operations. Some of these challenges arise from **conflicts between different legal sources** (international and domestic), which can lead to contradictions in rulings, negatively affecting the application of the complementarity principle.

Additionally, **judicial immunity** granted to certain individuals may be viewed as linked to state sovereignty, preventing the Court from exercising its complementary jurisdiction. General amnesty laws and in absentia judgments are also among the most significant procedural obstacles,

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as they carry absolute legal authority that blocks the Court from prosecuting criminals and ending impunity. Furthermore, **the powers granted to the UN Security Council** to defer investigations and prosecutions have posed yet another challenge to the Court's work.

This study will examine the main constraints limiting the effectiveness of the complementarity principle by addressing the following question: **What are the procedural and substantive limitations that hinder the effectiveness of the complementarity jurisdiction of the International Criminal Court?**

1/First Section: Limitations Related to Immunity:

Legal immunity is one of the main legal obstacles preventing the International Criminal Court (ICC) from exercising its **complementarity jurisdiction** and holding individuals accountable for crimes under its mandate. National laws grant certain high-ranking officials special immunity, protecting them from criminal prosecution due to considerations of public interest or established international customs. This includes immunity granted to heads of state and diplomatic officials, justified by national and international legal frameworks. However, such immunity may shield individuals whose actions constitute crimes under international law¹. This section explores the concept of **immunity** and how it serves as a limitation on the Court's ability to exercise its jurisdiction .

1/1 Definition of Immunity in Light of the Development of International Criminal Justice

Immunity is a **legal barrier** that prevents the initiation of criminal proceedings against those who enjoy it, making it impossible to charge them under the national laws in which their violations occur. It acts as a shield from prosecution, based on the principle that states operate within the international legal system only through natural persons who represent them². Consequently, certain individuals are granted privileges and immunities to effectively fulfill their roles.

However, this concept **weakened significantly after World War II in 1945**, when the **Nuremberg Tribunal** ruled that immunity would no longer apply, particularly concerning the most serious crimes that threaten humanity and violate human rights and international humanitarian law. The tribunal rejected the notion that an official position, whether as a head of state or a senior official, could be used as a defense or grounds for reducing punishment.

Article 7 of the Nuremberg Tribunal's Charter played a crucial role in this shift. During the **1945 London Conference**, both the **United States and the Soviet Union** presented proposals on this matter. The **U.S. proposal** stated that a defense based on the accused's position as a current or former head of state was legally unacceptable. Meanwhile, the **Soviet proposal** explicitly rejected official status as an exemption from responsibility for war crimes, regardless of whether the perpetrator was a head of state or a high-ranking official.

Furthermore, the Nuremberg Tribunal ruled that international law does not grant protection to state representatives who engage in criminal activities. It established that perpetrators of such crimes cannot invoke their official capacity to evade prosecution or punishment. The tribunal emphasized that violating the laws of war cannot be justified by claiming state authorization, as such authorization would exceed internationally recognized limits.

The Tokyo Tribunal's Confirmation of the Rejection of Immunity

The **Tokyo Tribunal** reaffirmed the principle of **non-recognition of immunity** in **Article 6 of its Charter**, stating: *"The official status of an accused at any time, or the fact that they acted in accordance with orders from their government or a superior, shall not, in itself, be sufficient to absolve them of responsibility for any crime charged. However, these circumstances may be considered for sentencing mitigation if the court deems it necessary for justice."*

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This provision suggests that the **Tokyo Tribunal** considered official positions as a **mitigating factor** in sentencing, **contrary to Article 7 of the Nuremberg Charter**, which completely disregarded official status as a defense or a reason for reducing punishment.

Additionally, **Article 4(1) of Control Council Law No. 10** established the principle that official status does not exempt heads of state from prosecution. The issue of immunity was also debated during the drafting of the **1948 Genocide Convention**, where the **Sixth Legal Committee of the United Nations** unanimously adopted the **general rule** applicable to all international crimes: **Heads of state are not immune from prosecution for international crimes**. This principle has since become a **cornerstone of international criminal law**³, solidifying the responsibility of state leaders and the rejection of official status as a defense for committing serious crimes.

This principle was further reinforced in the **Statute of the International Criminal Tribunal for the Former Yugoslavia (Article 82)**, the **Statute of the International Criminal Tribunal for Rwanda (Article 82)**, and the **Statute of the International Criminal Court (Article 27)**. These provisions reflect the **determination of the ICC's founders to eliminate the effects of immunity** whenever it obstructs national courts from prosecuting accused individuals. However, concerns persist that **immunity remains a political challenge**, especially given opposition from **certain powerful states that refused to join the ICC**⁴.

This raises a crucial issue: **political pressures backed by explicit provisions in the ICC Statute, particularly concerning immunity**.

1/2 Cases Where Immunities Apply

Article 98(1) of the ICC Statute states:
"The Court may not proceed with a request for assistance that would require the requested state to act inconsistently with its obligations under international law regarding state immunity or diplomatic immunity of a person or property of a third state, unless the Court first obtains the cooperation of that third state for the waiver of the immunity."

This provision assumes a scenario where an individual **enjoying immunity** (e.g., a head of state, monarch, military commander, or diplomat) is present in a **state other than their own** while facing **ICC charges**. The Court may **request the state hosting the individual** to surrender them for prosecution. However, under **Article 98(1)**, the Court **must first secure the cooperation of the individual's home state** to waive immunity before making such a request.

Although **Article 27 of the ICC Statute** affirms that **immunity does not prevent prosecution**, **Article 98(1)** imposes a **legal obstacle** by requiring the Court to obtain prior consent from the accused's home state before proceeding. This limitation applies **not only to individuals but also to property**, such as **embassies**, which serve as **sovereign extensions of a state's territory** and may contain crucial **evidence** for investigations⁵.

As a result, the **ICC cannot prosecute certain individuals or access crucial evidence** unless their home state **agrees to waive immunity**. This creates a significant **constraint on the Court's ability to exercise its complementarity jurisdiction**. Moreover, the ICC Statute **lacks an enforcement mechanism** for securing the transfer of accused individuals, leaving this responsibility to **national authorities**.

The ICC Statute takes into account the **sensitivity of international relations**, as direct intervention by the Court could **escalate diplomatic tensions** and disrupt international stability. This concern has often been **exploited politically**, making immunity a key **barrier** to the Court's jurisdiction.

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1/3. Possible Solutions to Overcome Immunity-Based Restrictions

One potential solution to this challenge is to treat a **state's refusal to surrender an immunized individual** as a **case of non-cooperation with the ICC**. In such situations, the issue should be referred to:

- **The Assembly of States Parties (ASP)**, which oversees ICC operations.
- **The United Nations Security Council (UNSC)**, if the case was referred to the ICC by the UNSC.

By formally **escalating cases of non-cooperation**, the ICC could exert **diplomatic pressure** on states refusing to comply, thereby strengthening the enforcement of international criminal justice.

1/4 Second: The Status of Dual and Stateless Nationals Regarding Immunity before the Court

The issue becomes more complex when an individual enjoying immunity holds dual nationality—one from a state that grants them certain immunity and another from a state where they are present but that does not offer such immunity. Can the state where this individual is present cooperate with the Court directly without waiting for the Court to obtain cooperation from the other state granting immunity⁶?

The wording of the article places the burden of securing cooperation from states that grant immunity on the Court rather than on the state receiving the request. Consequently, the state where the requested individual is present cannot surrender them to the Court before the necessary cooperation is obtained. However, based on a literal interpretation of the text, the Court could, in principle, require the state where the individual is located to cooperate before securing cooperation from the other concerned state. This is because Article 98(1) is drafted in general terms and does not explicitly differentiate between dual nationals and others.

It is worth noting that this issue does not arise for stateless persons, though the Rome Statute does not contain specific provisions addressing their situation. However, Article 1, Paragraph 2 (3/a) of the 1954 UN Convention relating to the Status of Stateless Persons states that the convention does not apply to individuals who:

- a) Have committed a crime against peace, a war crime, or a crime against humanity as defined in international legal instruments;
- c) Have engaged in acts contrary to the purposes and principles of the United Nations.

From this provision, it is clear that stateless persons do not enjoy international protection if they have committed any of the crimes mentioned in paragraphs (a) and (c) above.

2/ Conflicts between the Court's Sources of Jurisdiction:

Conflicting legal provisions represent one of the most significant limitations affecting the effectiveness of the Court's complementary jurisdiction. The question of determining the applicable law in the Rome Statute of the International Criminal Court was of great importance and complexity during the extensive discussions at the Preparatory Committee meetings in Rome. This was due to the wide range of legal options available for cases involving crimes under the Court's jurisdiction. These options appear more flexible—and perhaps more ambiguous and difficult to delineate—compared to national legal systems, which tend to be more clearly defined and strictly regulated, particularly in criminal law, where legislation serves as the exclusive source of legal norms for criminalization and punishment.

This issue raises several points regarding conflicts between applicable laws, which will be elaborated on as follows:

1/2 Determining the Applicable Law:

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The Rome Statute is the primary legal source that the Court is required to apply. Following that, applicable treaties, principles of international law, and rules of international humanitarian law come into play. Additionally, the Court may rely on general principles of law derived from national legal systems, provided they do not conflict with the provisions of the Rome Statute (Article 21/1)⁷.

From this overview, it is evident that the Rome Statute serves as the foundational source, both in terms of precedence in application and in cases of conflict with other legal provisions. This provision clearly outlines the hierarchy of legal⁸ sources that the Court must adhere to, within the framework of the complementarity principle. Furthermore, it stipulates that general legal principles derived from national legislation must not contradict the Rome Statute.

However, what happens in cases of such conflict? How does it impact the Court's complementary jurisdiction?

The wording of the article indicates that if national legislative provisions conflict with the Rome Statute, the latter prevails whenever the Court's jurisdiction is engaged. Moreover, even if a conflict arises between the Rome Statute and the procedural rules and rules of evidence applicable to the Court, the Rome Statute remains the primary legal reference (Article 51/1)⁹.

This does not negate the applicability of national law when jurisdiction rests with domestic courts, as states retain the right to apply penalties prescribed in their legal frameworks, even if they differ from those outlined in the Rome Statute (Article 80 of the Rome Statute).

Despite the complementary nature of the applicable legal framework, certain situations may still arise where provisions of the Rome Statute conflict with other legal sources. Such conflicts could negatively impact the principle of complementarity, as will be discussed in further detail below.

2/2 The Negative Impact of Legal Conflicts on the Principle of Complementarity:

National legislation is one of the most significant manifestations of a state's sovereignty over its territory, as it reflects the state's will in formulating the legal system that regulates relationships among those residing within its borders. The key factor in determining the applicable law is not its source but rather the jurisdiction in which it applies. If jurisdiction falls under national courts, then national legislation is applicable. However, if jurisdiction is vested in international criminal justice, the Rome Statute and its supplementary sources must be applied¹⁰.

Since the principle of complementarity is based on determining whether jurisdiction belongs to national or international courts, it is clear that no court can exercise jurisdiction unless authorized¹¹ by a law granting it such authority. This implies that judicial power and legislation are inseparable, as jurisdiction is contingent upon the existence of corresponding legal provisions. This leads to an important conclusion: there can be no judiciary without legislation. Therefore, judicial complementarity necessitates legislative complementarity that defines the scope of both national and international judicial authorities.

Certain provisions of the Rome Statute impose obligations on states, the violation of which may constitute crimes leading to individual criminal responsibility and triggering the Court's jurisdiction. One such provision is Article 7 of the Rome Statute, which states in its first paragraph that certain acts constitute crimes of genocide¹², including the persecution of a specific group for reasons such as religion, race, or gender. The concept of persecution, however, may be interpreted in ways that contradict national customs and traditions.

For instance, some governments prohibit women from working or participating in political and public life. Would such practices be considered persecution warranting prosecution? Should heads of state be held accountable for national laws that restrict employment opportunities for certain religious groups? Other provisions of the Rome Statute could also create conflicts between national legislation and the Court's legal framework, as illustrated below.

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2/3 Article 26 and Its Limitation on the Effectiveness of Complementarity and the Court's Jurisdiction:

One of the most notable examples of provisions in the statute of the International Criminal Court that may hinder the application of the principle of complementarity is the provision that considers the recruitment of children under the age of fifteen as a war crime. This implies that recruiting or accepting the voluntary enlistment of children over the age of fifteen is not classified as a crime. Consequently, if states use fighters between the ages of fifteen and eighteen, this would not be considered a crime under the jurisdiction of the Court.

This absolute wording effectively means that the Court does not have jurisdiction over individuals who were under eighteen at the time they committed a crime within its jurisdiction. However, what if the crime committed by a child soldier is not classified as a crime under the national legal framework of their home country? In such a case, the state would be unable to prosecute the child under the principle of legality, which requires that no act be punished unless it is defined as a crime by law.

Additionally, such a child soldier would have fought under the orders of their superiors and state leaders, making them immune from prosecution. As a result, the child would not be held accountable for actions that, in reality, constitute an international crime.

It is evident that Article 26 of The Statute of the International Criminal Court presents a significant obstacle to the application of complementary jurisdiction. A possible solution would be to lower the legal age to fifteen or remove the age restriction altogether. The latter option seems more practical, as responsibility should fall on those who recruit child soldiers, regardless of age. A more appropriate approach would be to impose lesser penalties on younger offenders, in line with the criminal policies of national legislations.

Finally, it can be said that ensuring the application of the principle of complementary jurisdiction of the International Criminal Court requires subjecting anyone who commits a crime within the Court's jurisdiction to accountability, while taking into consideration special provisions regarding age and establishing procedures and penalties appropriate for minors. This is to prevent Article 26 from allowing perpetrators under the age of eighteen to escape punishment, especially in cases where national judicial systems are corrupt or have collapsed¹³.

3/General Amnesty:

3/1 General Amnesty in Domestic Law:

It refers to the renunciation by society, represented by the head of state, of all or some of its rights arising from a crime. Amnesty is of two types: amnesty for the crime and amnesty for the punishment¹⁴.

Amnesty for the punishment is defined as a form of tolerance or clemency exercised by the head of state toward some convicted individuals, which may be granted either fully or partially, despite the fact that the punishment is originally enforceable. It is also defined as a mechanism adopted by various legal systems to mitigate the severity of the imposed punishment due to a legal obstacle that prevented the court from adjusting the sentence to the circumstances of the accused or to achieve justice and equality, which existing legal provisions at the time of sentencing may not have allowed¹⁵.

Thus, amnesty—whether for penalties or crimes—is one of the rights modern legislations reserve for the head of state as a last resort to rectify judicial errors or address considerations dictated by the public interest.

3/2 Amnesty in International Criminal Law:

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On December 8, 1992, the United Nations issued Resolution 47/33 on the protection of persons subjected to enforced disappearances. Article 10 of this resolution explicitly states that *"No person who commits an act of enforced disappearance shall benefit from an amnesty decision."*

Additionally, the Inter-American Commission on Human Rights ruled that the amnesty laws issued by Argentina and Uruguay to prevent the prosecution of individuals accused of political assassinations, torture, and enforced disappearances would not be effective in U.S. courts when trying perpetrators of such crimes.

Similarly, the government of Sierra Leone declared that amnesty would not apply to individuals found guilty of crimes against humanity, genocide, or war crimes.

In general, a state's internal amnesty is not legally binding on another state. This includes situations where peace agreements are reached between governments and rebel groups, between warring factions to end civil wars, or between outgoing and incoming regimes during political transitions.

However, when amnesty results from mediation between two or more states—such as in the context of a peace agreement ending an international armed conflict—it is considered a contractual matter of international law and is binding only on the states involved. In treaties regulating the transfer of criminal proceedings, contracting states generally commit to preventing prosecution where a person has been pardoned or granted amnesty in another state, in accordance with the principle of *ne bis in idem* (prohibition of double jeopardy)¹⁶.

In this regard, Article 14(7) of the **International Covenant on Civil and Political Rights** reaffirms the principle that no one should be tried twice for the same offense. However, it clarifies that prosecution in another state is not precluded simply because the accused benefited from a regional amnesty, as amnesty does not amount to acquittal¹⁷.

3/3 The Impact of Amnesty on the Complementary Jurisdiction of the International Criminal Court (ICC):

During the Rome negotiations on the ICC's Statute, amnesty was rejected in the context of the prohibition against double jeopardy. Some delegations in the preparatory committee for the ICC emphasized the need to address national amnesty decisions and provide guidelines on when the Court could disregard domestic amnesty and intervene before its issuance.

It is worth noting that **Article 27 of the Statute of the International Criminal Tribunal for Rwanda** states that requests for amnesty or commutation of sentences fall exclusively under the jurisdiction of the tribunal's president, not any state authority. The same principle is enshrined in **Article 28 of the Statute of the International Criminal Tribunal for the Former Yugoslavia**. However, the **Rome Statute of the ICC does not explicitly address the issue of amnesty**.

A key concern is the possibility of manipulating the ICC's complementary jurisdiction through national judicial proceedings. For instance, national courts could prosecute individuals accused of crimes under Article 5 of the Rome Statute in a seemingly fair and legitimate manner, impose appropriate and deterrent penalties, only to have national authorities later issue an amnesty for those responsible for crimes such as genocide, war crimes, or crimes of aggression.

Some argue that if national amnesty is merely a façade to shield individuals from prosecution before the ICC, the Court has the authority to disregard it and retry the accused. However, there are no objective standards to regulate this process¹⁸.

Others contend that the issue of amnesty should be explicitly addressed in the Rome Statute to ensure clarity and prevent its misuse as a tool to obstruct international justice¹⁹.

4/ The Authority of the Security Council in Conducting Investigations or Prosecutions

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The United Nations Security Council holds a uniquely significant position among all UN bodies and mechanisms, as it serves as the executive arm of the organization and is directly responsible for maintaining international peace and security. Due to this critical role, some observers have referred to it as the "**international police**", given its ability to intervene in international disputes that threaten peace and security without requiring the consent of the involved states.

Although the drafters of the Rome Statute sought to ensure the **independence** of the International Criminal Court (ICC) from any international organization (as stated in Article 4(1)), the Statute still grants the Security Council the power to refer cases to the ICC under **Chapter VII** of the UN Charter. Additionally, the Statute allows the Council to defer investigations or prosecutions **without clear restrictions**, raising concerns about the influence of **power politics** on the work of the Court²⁰.

4/1 The Limits of the Security Council's Authority in Deferring Investigations or Prosecutions:

The Rome Statute uses the term "**deferral**" to indicate the suspension of investigation or prosecution proceedings. **Article 16** of the Statute states:

"No investigation or prosecution may be commenced or proceeded with under this Statute for a period of 12 months after the Security Council has requested the Court to that effect, by a resolution adopted under Chapter VII of the Charter of the United Nations; that request may be renewed by the Council under the same conditions."

Analysis of Article 16:

1. This article grants the Security Council the power to **suspend investigations or prosecutions even after they have already begun**.
2. It specifies a deferral period of **12 months**, but it does not clarify whether this period begins from the date the request is made or from the date the Court is notified.
3. The provision **excludes the Assembly of States Parties** from any role in the deferral process, despite being the body that established the Rome Statute.
4. The article does not impose a **limit on the number of renewals**, allowing the Security Council to **issue successive deferral requests**, potentially leading to the **complete obstruction of prosecutions**.

4/2 The Negative Impact of the Security Council's Authority on the Principle of Complementarity:

The jurisdiction of the ICC is based on the **principle of complementarity**, meaning that the Court intervenes **only when national judicial systems are unwilling or unable** to prosecute serious crimes. However, the Security Council's intervention through **Article 16** effectively **paralyzes** this jurisdiction, allowing perpetrators to escape justice, especially in cases where the national judicial system has collapsed or is incapable of conducting fair trials²¹.

4/3 The Nature of the Relationship between the ICC and the Security Council:

1. **Article 16 grants the Security Council a supervisory authority over the ICC**, undermining the relationship between two independent international bodies.
2. The ICC is **not a subsidiary organ** of the Security Council, yet the deferral power **places it under the Council's influence**.
3. The **mandatory nature** of Article 16 **legally binds** the ICC to suspend investigations as soon as a deferral request is issued by the Security Council, giving **permanent members of the Council dual political and judicial influence**.

Conclusion

Article 16 provides the Security Council with a powerful tool to obstruct the work of the ICC, undermining its independence and **weakening the principle of complementarity**. The lack

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of restrictions on deferral renewals allows this authority to be misused as a **political instrument** to shield individuals responsible for serious crimes, thereby reinforcing **impunity in international justice**.

The Deferral Authority Granted to the Security Council under Article 16 of the Rome Statute

The deferral authority granted to the Security Council under **Article 16** of the **Rome Statute** places the **International Criminal Court (ICC)** in an **unlimited state of subordination** to the Council. This subordination negatively affects the Court's role in **prosecuting the most serious international crimes**, weakening **efforts to combat impunity in international law** and **hindering the application of the principle of complementarity**.

The impact of **deferral** on complementarity lies in the fact that the ICC was established as a **complementary institution to national jurisdictions**. If a state is **unable or unwilling** to investigate or prosecute a case, the ICC has the right to intervene and assume jurisdiction to ensure **criminal justice**. However, granting the **Security Council the authority to defer investigations or prosecutions** effectively **paralyzes the normal and natural application of complementarity**.

The **principle of complementarity** ensures that the ICC acts as a **secondary** mechanism for achieving **international criminal justice** when national courts fail to do so. However, the Security Council²²'s **deferral authority suspends investigations and prosecutions**, thereby **halting the pursuit of justice altogether**.

While **complementarity** is a **legal principle**, the **deferral authority** granted to the **Security Council** is predominantly **political**. This creates a **constant tension between law and politics**, where **political considerations often obstruct the proper application of legal principles**. This is evident in the case of complementarity versus the **deferral authority**²³.

4/4 The Impact of Deferral on National Jurisdictions:

Some legal scholars argue that **deferral** not only **suspends ICC proceedings** but also **prevents national courts from prosecuting cases within their jurisdiction**. The ICC's jurisdiction only arises when a **national judiciary is unwilling or unable** to ensure justice. Thus, suspending ICC proceedings inevitably **closes all avenues for prosecuting criminals**, leading to **absolute impunity**.

The Risks of Article 16

The **greatest risk posed by Article 16** is that it **politicizes the prosecution of the most serious crimes**, removing them from **judicial accountability**. This provision allows **international crimes to be overlooked** whenever the **Security Council deems it necessary in the name of maintaining international peace and security**. Consequently, it **disrupts the ICC's complementary jurisdiction** and **undermines one of its core objectives: ending impunity for perpetrators of grave crimes**.

Conclusion

Despite incorporating **the principle of complementarity**, which mitigates conflicts between national and international legal systems, **practical experience** has demonstrated **the limitations of the ICC's work**. The Court faces **numerous procedural and substantive restrictions**, creating **barriers** that prevent it from **fulfilling its mission of ending impunity**.

Findings and Recommendations

1/ Findings:

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1. The **primary objective** of the ICC and its **complementarity principle** is to provide the **international community with a reliable, independent, and impartial body** for prosecuting crimes against individuals and **combating impunity**.
2. If a state **grants amnesty** for a crime or its punishment, the ICC **cannot** reopen investigations unless it is proven that the **amnesty was granted to shield perpetrators from justice**. This **limits the ICC's ability** to act in such cases.
3. The **Security Council's authority to defer investigations and prosecutions** places a **significant burden** on the ICC's work.
4. **Coordination** between the **ICC and national judicial systems** is essential for **cooperation and judicial assistance**. The **absence of such coordination** restricts the Court's ability to perform its duties effectively.

2/Recommendations:

1. **Amend national criminal laws to criminalize acts** specified in the ICC's **Rome Statute**.
2. **Abolish immunities and official status** as a defense against **criminal responsibility**.
3. **Ensure the ICC's independence** by **limiting the Security Council's authority to defer investigations and prosecutions**.

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