

RESOLVING THE CONFLICT IN JURISDICTION BETWEEN THE
INTERNATIONAL CRIMINAL COURT AND THE PROPOSED AFRICAN
CRIMINAL COURT APROPOS THE KENYAN ICC CASES

By

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10-1216

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APPROVAL

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DECLARATION

RESOLVING THE CONFLICT IN JURISDICTION BETWEEN THE INTERNATIONAL
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KENYAN ICC CASES

I declare that this thesis is my original work and has not been submitted to any other college or university for academic credit.

Signed: _____

Date: 4th October 2022

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DEDICATION

This thesis is dedicated to my family who inspired me and has been very supportive and influential in the realization of this great academic achievement.

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LIST OF ACRONYMS AND ABBREVIATIONS

ACC:	African Criminal Court
ACJHR:	African Court of Justice and Human Rights
AFRICOG:	African Centre for Open Governance
AU:	African Union
EAC:	East African Community
EU:	European Union
ICC:	International Criminal Court
ICJ:	International Court of Justice
ICTR:	International Criminal Tribunal of Rwanda
NATO:	North Atlantic Treaty Organization
UN:	United Nations
UNGA:	United Nations General Assembly
UNSC:	United Nations Security Council
NGO:	Non- governmental Organization

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ABSTRACT

This study examined how the Kenyan cases at the International Criminal Court influenced moves by the African Union to establish an African Criminal Court with jurisdiction that resembles that of the International Criminal Court regarding international crimes. The creation of this court will create several problems. It is doubtful whether the political goodwill that brought about the proposed African Criminal Court will allow this court to operate independently. Equally bothersome are questions related to the competence of the proposed African Criminal Court to deliver on its mandate of investigating and prosecuting international crimes against the powerful people in the continent. Of chief concern is how the proposed African Criminal Court would relate to the International Criminal Court. This study used the liberal institutionalism theory. The study pursued three objectives: The first objective was to analyse how the Kenyan cases at the International Criminal Court energized moves by the African Union to establish the proposed African Criminal Court. The second objective was to examine how the African Union can strengthen the proposed African Criminal Court to make it effective in executing international crimes. The last objective was to explore strategies for resolving the conflict in jurisdiction between the International Criminal Court and the proposed African Criminal Court. This study used a descriptive study design. Quantitative and qualitative methodologies were used for data collection. Quantitative methodologies did see the distribution of questionnaires to a convenience sample of respondents while the qualitative methodology saw to the conducting of in-depth interviews of the respondents. These respondents had expert knowledge on the history, context, issues, strategies, and outcomes related to the African Union's move to create a regional court to handle international crimes. The findings provided insights into the political and legal arguments that shaped the design and mandate of the African Criminal Court. The study established that 100% of the respondents interviewed were fully familiar with the Kenyan International criminal cases which could bring international accountability to end impunity in Kenya and the 2007 post-election injustices. The study found out that these two courts needed a cooperation framework to strengthen the effectiveness of international crimes of African Criminal Court. The third objective saw 40% of the respondents indicate that African Union has adopted creation procedures for collecting evidence and having the capacity to prosecute political leaders. Recommendations for future studies may consider exploring further on the political and diplomatic factors that animate the African Union's plan to constitute an African Criminal Court as well as researching more on giving direction on areas that require policy guidelines in relation to the weaknesses and challenges of establishing the proposed African Criminal Court.