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# *Balancing Universal Jurisdiction and State Sovereignty under the Rome Statute: An Analysis of Legal Conflicts and Coordination Mechanisms*

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***Abstract.*** The issue of universal jurisdiction continues to be one of the most disputed doctrines in international criminal law, and to be sure, this is mostly based on its clash with the sovereignty principle of states. On the one hand, this jurisdiction aims at no impunity for serious international crimes; on the other, one of the problems it faces is the overreach of jurisdiction. The research looks into where and to what extent the Rome Statute of the International Criminal Court (ICC) is able to reconcile universal jurisdiction and state sovereignty. By means of three principal conflict dimensions (jurisdictional, legislative, and practical issues), the paper examines the degree to which these tensions are revealed both in theoretical approaches and the real world. Through an analysis of legal doctrine and key case studies, the study concludes that the Rome Statute does not technically introduce universal jurisdiction. It produces, however, an almost equivalent functional effect via the complementarity mechanism, granting the ICC power to act only when national courts are not prepared or competent to execute authentic prosecutions. This mechanism is implemented through the admissibility assessments in Articles 17–19, which determine the genuineness and consequently the meaning of the domestic trials, and also the Pre-Trial Chamber oversight that ensures the respect of state authority in the prosecutorial decisions. Furthermore, the complementarity is supported by procedural safeguards. All the safeguards demonstrate that the ICC operates as a cooperative partner rather than a opposition to the national courts. However, the existence of enforcement gaps, inconsistent state cooperation, and political interference continues to hinder the process.

***Keywords:*** Universal Jurisdiction, Sovereignty, Rome Statute

## 1. Introduction

International criminal law is intended to penalize those responsible for genocide, war crimes, and crimes against humanity, but its enforcement of it many times is at odds with the notion of state sovereignty.

Intricate questions about the legal, political, and moral issues over the boundaries of state power and the legitimacy of foreign intervention are often raised. Yet, the Rome Statute of the International Criminal Court regulates such situations by establishing controls that balance international oversight

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with the recognition of sovereign equality. Universal jurisdiction gives states the right to prosecute crimes regardless of its links to territory or nationality factors, this makes sure that accountability is present in the places where domestic systems are not able to do the same.

The value of this study lies in the deliberation of how the Statute reconciles the universal jurisdiction and the sovereignty issue while still conducting effective prosecution of international crimes. This paper spotlights three aspects of the conflict: the jurisdictional, legislative, and practical, and investigates how these tensions are reflected in theory and practice. Earlier works have studied similar disagreements through the use of doctrinal legal analysis and case studies, analyzing how national law, procedural frameworks, and global mechanisms interact to determine accountability [1-10]. The findings of these researchers indicate that the ICC's complementarity system acts as a functional equivalent to universal jurisdiction, by interfering only when the national courts are not willing or able to take genuine action.

This paper intends to be in agreement with the previous research by merging doctrinal analysis with case studies to uncover how the Rome Statute governs disputes and aligns mechanisms. Taking into account the difficulties related to jurisdiction, laws, and practice alongside the procedural and collaborative frameworks, the research highlights the positive developments and the unresolved issues in finding a middle ground between universal jurisdiction and state sovereignty. The findings provide significant direction for the advancement of international criminal justice in the areas of legitimacy, fairness, and efficiency, thereby recognizing state authority.

## 2. Conflict dimensions between universal jurisdiction and state sovereignty

Universal jurisdiction is a doctrine in international criminal law that has attracted much debate and controversy. The proponents of this doctrine argue that the international community is so deeply affected by certain crimes that, regardless of the crime's location or the nationality of the perpetrators, any state has the right to impose sanctions. However, this ideal of jurisprudence is in constant friction with the principle of state sovereignty, which is the highest and independent power of a political community over its area of influence and internal affairs; it still serves as the main organizing principle of the international legal order.

The Rome Statute was not a universal jurisdiction deal, but its complementarity mechanism leads to effects very similar to a functional universal jurisdiction, mainly in the case of countries not taking any sincere actions. These three conflict types are interlinked. While jurisdictional conflicts form the core premise, legislative conflict illustrates how countries resist or adopt international law, and practical conflict indicates the real-world outcomes of these tensions. All together, they portray how theory, law, and reality intersect in efforts to better balance universal jurisdiction and state sovereignty.

### 2.1. Jurisdictional conflicts

The first group of conflicts is engendered by the competing assertions of jurisdiction. Territorial jurisdiction is a principle of state sovereignty, and thus it is frequently considered that states have entirely exclusive rights to control all criminal activities that take place in their territories. However, the concept of universal jurisdiction, in its turn, impedes this hierarchy and legitimizes not only the intervention of foreign or international systems of justice but also the intervention of foreign or international systems of justice even when a state has a clear territorial link.

It is true that the International Criminal Court does not legally exercise universal jurisdiction, but it does have a complementarity system that allows the Court to take action. This is the scenario in

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which a country is "unable or unwilling" to conduct a real investigation or prosecution, thereby creating a functional parallel that many countries regard as a challenge to their sovereignty [1]. The proceedings of the post-election violence in Kenya show this friction quite clearly. The authorities in Kenya claimed that their domestic processes were sufficient, thereby asserting sovereign primacy over the inquiry into the violence within their jurisdiction. The ICC, on the other hand, ruled that the investigations done in the country were not thorough and had not been genuine. Consequently, it initiated its own proceedings [2]. This conflict laid bare the radical differences in the understanding of jurisdictional power. One was based on the independence of the sovereign, while the other was on the international supervision aimed at preventing impunity. Similar patterns appeared in the other cases where countries argued that they had already investigated the alleged crimes, and the ICC's evaluation of the genuineness of the case was felt as an intrusion into the domestic decision-making process.

Another issue regarding conflict of jurisdiction is the handling of cases against foreign nationals. It is a significant political and constitutional issue for states when exercising their power over their citizens. On the other hand, universal jurisdiction allows the prosecution of the offending party without any connection, be it national or territorial, to the country; hence, anyone in the world could be included. This also refers to each state's officials. The conflict becomes more pronounced in such situations when the alleged wrongdoer is a politician, as the foreign trial is seen as diminishing the sovereign equality. Thus, some nations vehemently oppose universal jurisdiction or react fiercely when the ICC's indirect impact on their nationals or officials happens [3]. The problem of the prosecution of a country's own citizens makes universal jurisdiction less acceptable and the relations of states to the ICC more affected.

The conflict over justice in Darfur, Sudan, clearly depicts conflict between courts. The situation in Darfur was referred to the ICC by the UN Security Council Resolution 1593, which was adopted in 2005. The Sudanese government, however, denied the Court's power to rule. They contended that the prosecution of these crimes was a matter of domestic jurisdiction and that international intervention would infringe upon the country's sovereignty. This position showed that the international community is still facing the problem of the struggle for impunity to be dealt with through international means, and states that assert their authority over the whole territory. The Darfur case, thus, uncovers how the international criminal justice system has to keep on moving in the middle of the coexisting demands for accountability and respect for state sovereignty.

### 2.2. Legislative conflicts

Conflicts and disagreements have erupted at the legislative level as well as in the courts. The application of universal jurisdiction varies a lot from one system to another. To a certain degree, most states allow for universal jurisdiction, but impose conditions such as the presence of the accused, dual criminality, or prosecutorial discretion. These conditions indicate the boundaries that the sovereign states draw to prevent the phenomena of extraterritoriality and, above all, to protect themselves from being selective or targeted by politically motivated prosecutions [4]. This, at the same time, might make the principle of equality before the law less effective.

The colorfulness of diverse laws has a direct connection with the functioning of the Rome Statute in a coherent way. Countries that have more restricted universal jurisdiction laws may find that their national legislation does not permit them to fully and legally assist the ICC investigations, thus rendering their cooperation less effective. The opposite is true for some non-party countries that have enacted laws aimed at protecting their citizens from ICC authority, including no-surrender or immunity laws. This can be illustrated through the position of the United States regarding the Rome

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Statute. In 2002, the United States, not being a party to the treaty, passed the American Servicemembers' Protection Act, delimiting the jurisdictional powers that the ICC could assert over American nationals. This law explicitly contradicts the very purpose of the Rome Statute and shows how national laws can be used to obstruct international criminal jurisdiction. These divergences are indicative of a sovereignty that is expressed not only in general principles but also in the specifics of domestic criminal laws. By influencing what states can or will do when supporting international prosecutions, domestic legislation becomes a crucial and decisive factor in determining whether universal jurisdiction can be adequately exercised [5].

### 2.3. Practical conflicts

Universal jurisdiction is considered normatively necessary as a last resort method, which can fill in the accountability gaps where no state can or is willing to truthfully prosecute serious international crimes. Thus, the legitimacy of universal jurisdiction is very solidly supported when there is an impunity vacuum. However, when a vacuum does not exist, the legal and moral grounds of universal jurisdiction completely disappear. In situations where domestic trials are successful, ongoing, and seem sincere, the application of universal jurisdiction runs the risk of being seen as a means of intrusion that is both invasive and disproportionate. Therefore, universal jurisdiction may be perceived as an excess of judicial power, especially in cases where a foreign court is actively interfering, replacing, or ignoring the functioning national processes. In addition, the exercise of universal jurisdiction becomes much harder to justify both legally and morally, thus its legitimacy is further diminished within the international legal order.

The issue is further complicated in contexts that are politically and historically sensitive. The Democratic Republic of Congo, for instance, in the Arrest Warrant case, contended that Belgium's application of universal jurisdiction was inappropriate because it had the effect of infringing on Congo's sovereignty by putting a former colonial power in a position of moral judge over its former colony [6].

On a more concrete and practical level, the very conflicts that have arisen have been represented through the discussion about the execution of the ICC arrest warrant concerning the ICC case of the former Libyan ruler Muammar Gaddafi. To be more precise, the problems related to the execution of the arrest warrant have shown that the ICC is very much dependent on state cooperation. In such situations, universal jurisdiction might be seen not as a remedy for impunity or a protection against injustice, but as a misuse of power that erodes the principle of sovereign equality. Thus, what could be a potentially helpful instrument might in fact turn out to be a source of disruption for local legal systems and a further politicisation of criminal accountability in the eyes of the public.

Moreover, the probe into extraterritorial crimes always needs access to crime scenes, state records, witnesses, and the suspects in custody. These activities cannot be carried out without the participation of cooperating countries. Therefore, it must be acknowledged that practical feasibility is one of the biggest obstacles to the effective exercise of universal jurisdiction.

Enforcement becomes an even bigger problem than it already is. A great number of ICC arrest warrants, including those for the highest officials, still await execution. Frequently, states give diplomatic concerns, political pressures, or other commitments as reasons for their non-compliance. This behavior is not only a political will failure but also a selective political will one. When states decide to act only on the arrest warrants that are favorable to their strategic interests and, at the same time, ignore others, it allows the universal jurisdiction to be turned from a tool of impartial justice into an instrument of power abuse. It must be universally applied if universal jurisdiction is to be credible and withstand its criticisms. The lack of impartiality undermines the very foundation of

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universal jurisdiction, causing its very notion to be eroded, and we cannot assure that its implementation will be devoid of political or historical motives.

## 3. Coordination mechanisms under the rome statute

Even though universal jurisdiction and sovereignty are often seen as conflicting concepts, the Rome Statute represents a thoughtful attempt to bridge the gap between the two principles. The Statute, rather than removing the national power, builds a scenario of different assumptions where the local courts are still the most important, and the ICC is only coexisting as a long-term facilitator. The main ways to enhance the coordination are through complementarity and supportive mechanisms like procedural safeguards and structured cooperation mechanisms. The intention behind these attributes is to allow sovereign autonomy to exist concurrently with the need for international crimes to be held accountable.

### 3.1. Core mechanism: complementarity

Complementarity is the Rome Statute's key compromise between sovereignty and international justice. It means that national courts have the primary responsibility and right to prosecute core international crimes. The ICC only steps in when states are unable or unwilling to act genuinely. This principle is therefore a crucial political and legal factor as it made the ICC more acceptable to states that were worried about claims of universal jurisdiction being overly broad [7]. It respects state authority while still acting as a safety net against impunity.

In evaluating the question of a case's admissibility under Articles 17-19, the Court considers the genuineness and significance of the domestic proceedings. Among other things, factors like the protection of the accused, unwarranted delay, and the absence of an impartial judiciary inform such decisions. Importantly, the threshold is not merely enough for a state to start a case, but also whether the proceedings must show a real commitment to justice. Complementarity, therefore, establishes a procedural filter that limits ICC's international intervention to exceptional circumstances. Rules on case seriousness and judicial review also help keep the Court's powers limited and respectful of state autonomy.

Complementarity thus reframes the ICC as a cooperative partner designed to act when domestic systems fail to deliver justice instead of a competitor to domestic courts. It shows that sovereignty and international justice can work mutually and do not need to be individually exclusive. In fact, sovereignty is strengthened when states fulfil their responsibilities and is limited only when they fail to do so.

### 3.2. Supportive procedural mechanisms

Complementarity is strengthened by a variety of procedural safeguards. The prosecutor, before commencing a formal investigation, is bound to perform the preliminary examination, which includes the assessment of the alleged crimes' seriousness and the domestic proceedings' sufficiency. This evaluation allows the jurisdictions to genuinely make claims of their jurisdiction over the matter before the interference of the International Criminal Court.

Besides, the Pre-Trial Chamber's supervisory function, which is a limit on the prosecutor's discretion, comes into play. The states have the right to contest the admissibility and jurisdiction of the cases at various stages, thus retaining their power to decide whether or not the ICC applies to

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their case. These measures create a scenario where the court and the states cooperate, meaning that the court does not simply displace domestic authority unilaterally.

Moreover, the establishment of a new regime for victim participation under the Rome Statute is a significant change in the direction of justice delivery. Unlike the previous state-centric systems, victims now have the option to participate individually in the proceedings. The court's legitimacy is fortified by this development since the victim, who is the major contributor, will be able to participate in the process of justice delivery [8]. On the other hand, the victims' role is under court supervision through legal representation, which contributes to the preservation of state sovereignty.

### 3.3. Cooperation frameworks

Cooperation duties under Part IX of the Rome Statute form the practical foundation of the ICC's operation. These duties arise from state consent, as states accept these duties by joining the treaty, which preserves state sovereignty. States that are parties must commit with key tasks such as arrests, evidence collection, and witness protection, but these duties are implemented through domestic legal procedures, maintaining national legal independence.

In practice, cooperation among states shows a great degree of variability, which affects the functional efficiency of this court. Some states are completely cooperative, while others either withhold their cooperation as a political gesture or fail to comply. The Statute employs the Assembly of States Parties policies, political pressure, and the United Nations Security Council referrals in suitable situations to overcome this gap. In general, cooperation seeks to offer a fine line between the state's rights and accountability.

## 4. Optimising coordination between universal jurisdiction and sovereignty

Although the Rome Statute aims to merge sovereignty with international justice, there are still loopholes. The lack of arrested suspects, the lack of political will, and the lack of impunity are evidence that it must be perfected further. Upgradations can be done in three related but different levels: rules, country, and cooperation.

### 4.1. Rules level

One of the most enduring limitations of the Rome Statute is its partial membership. The absence of several influential powers weakens the reach of the court and creates political tension when it investigates nationals of non-party states. The ICC is able to gradually reduce the difference between members and non-members by providing non-member states with formal and predictable avenues of engagement. However, the uneven membership leads to a reduction in the power of enforcement and also compromises the international criminal norms' consistency. This reduces political conflict and helps move expectations toward a more coherent global standard, even without expanding membership.

Another challenge concerns the complementarity criteria. The terms "unwillingness" and "inability" remain inherently broad, allowing for open political disputes about when ICC intervention is justified. More detailed guidance, whether through case law or Assembly of State Parties resolutions, would make these standards clearer and help states understand what is required of them [9].

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### 4.2. State level

Sovereign immunity is the most difficult problem at the state level. The traditional immunity rules, especially for heads of state and senior officials, usually prevent prosecutions [10]. These doctrines are indeed based on the principle of sovereign equality, but at the same time, they are contrary to the aims of international criminal justice today. Hence, the domestic legislation should state clearly immunity limits in the national laws so national jurisdictions can evolve with international ones, and thus litigation conflicts can be eliminated.

The states could also improve their coordination by establishing specialized units that would be responsible for communicating with the ICC. Such units could take care of cooperation requests, make the admissibility assessments faster, and facilitate the resolution of overlapping jurisdictions. In this way, both the national judicial systems and the ICC's effectiveness would be enhanced while the sovereignty would be exercised in a structured and predictable manner.

### 4.3. International cooperation level

International collaboration is a must for the successful practice of universal jurisdiction and the proper operation of the ICC. After the commission of a crime, the gathering of evidence will have to be broad and will require the involvement of different countries in sharing their intelligence. Current arrangements tend to be ad hoc and inconsistent too often. The development of multilateral evidence-sharing platforms, the formulation of standard procedures for the treatment of sensitive information, and the launching of joint witness protection programs are the types of protocols that can increase efficiency while keeping sovereignty intact at the same time.

Enforcement remains the most serious challenge the ICC faces. Many arrest warrants issued by ICC are still not executed due to political unwillingness, busy diplomatic competing priorities, or solidarity in the region. Stronger compliance incentives leveraging regional organizations, diplomatic accountability mechanisms, or structured cooperation frameworks could very much trickle down to better enforcement. With such measures in place, sovereignty concerns would not be eliminated but would help ensure that sovereignty does not become an impossible barrier to justice.

## 5. Conclusion

This paper has shown how the Rome Statute manages to maintain a balance between universal jurisdiction and state sovereignty principles, the latter frequently viewed as opposites but actually integrated in the Rome Statute through a rigorous system of rules. Although the statute does not explicitly commit to the principle of universal jurisdiction, the complementarity provision creates a functional equivalent that allows for international intervention only in instances where member states are not adequately dealing with the issue at hand.

To a certain extent, the Rome Statute works through these issues by welcoming mechanisms for coordination, which, in a way, give priority to the jurisdiction of the home country, organizing conditions for international intervention, and allowing cooperation through the consent of the involved states. The notions of complementarity, judicial reviews, and victims' participation played essential roles in making sure that the right to immunity from sovereignty is not used arbitrarily. However, the present shortcomings in the whole process of enforcement, non-cooperation, and political selectivity cause universal responsibility to be perceived as less effective and less legitimate than it actually is.

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In the end, the Rome Statute establishes the co-existence of sovereignty and universal jurisdiction as a peaceful situation. It is the opposite, and sovereignty not only is not undermined by responsibility but actually is enhanced when countries take up their obligation to try the serious international crimes that fall under the category of universal jurisdiction. Therefore, the long-term credibility of universal jurisdiction does not rely on an increase in power by means of cooperation, equality, and consistency, but rather on the strengthening of these factors through the already existing legal framework.

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