

Original Paper

The African Allegations towards Ignorance of International Criminal Court: Does International Criminal Court unfairly focusing on Africa?

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Abstract

Though, African continent has the highest number of state parties to the Rome Statute, recently several criticisms and allegations have been leveled against ICC interventions in Africa. AU and African higher official apparently call for non-cooperation of ICC. They believed that, ICC is unfairly targeting Africa and Africans, and it is a neo-colonial plaything and that Africa has been a place to experiment with their ideas. Such allegation begs question that is really the ICC unfairly focusing Africa and Africans? Therefore, it needs evaluating these accusations by considering the whole process and function of ICC. Accordingly, when we evaluate the allegations, it seems too far from trues. Because, on one hand, many of allegation and criticism itself is not representative of African peoples rather it is the allegation of some African political leaders of authoritarian nature of power those who fears the prosecution for the commission of mass crime and atrocities in their respective countries. On other hand the composition of the court by itself is Africans. It is a global court with historically strong African support. It would not be the court it is today without the valuable input, involvement and support of the majority of African states. The court seeks justice for victims of grave crimes, including African victims; it needs the ongoing support of African government, civil society and public in order to achieve justice. It was intended to be a credible, independent judicial body, able to adjudicate the most serious of international crimes fairly and impartially, where National judicial systems have failed and fight against impunity all over the world.

Keywords

International criminal court, Africa, Allegations, unfair targets, western, crime, heinous, jurisdiction, justice

1. Introduction

The research reveals that, out of 122 member states of International criminal court, Africa constitutes 34 members (Note 1). This shows that the African continent has the highest number of state parties to the Rome Statute and has played a fundamental role in solidifying up the Rome Statute system over the years. The expectation is that, these high numbers inevitably translate into incredible support for the Court in Africa. The reality, however, is that there is an escalating trend of disharmony between Africa and the ICC. The African Union has become increasingly hostile towards the International Criminal Court, particularly in the wake of the ICC arrest warrant for Sudanese President Omar al-Bashir (Note 2), and up on the investigation started on the alleged commission of crime against humanity in Kenya. The AU has passed resolutions calling for non-cooperation with the ICC in the arrest and surrender of heads of states and has also called for the withdrawal of the Kenyan cases from the ICC by reasoning that, ICC is unfairly targeting on Africa and Africans. (Note 3) Such allegation spreads and became famous among many African politician and head of states. This in turn leads to black shedding the International criminal courts at the level of African union organization.

Accordingly at the start of a special African Union (AU) meeting to discuss a possible pull-out of the ICC, a senior African Union official criticized ICC as it is treating Africa unfairly. Senior officials and high ranked African union Official continued to accusing International criminal court. For instance, Tedros Adhanom Ghebre yesus who is the then chairman of the AU's Executive Council and Ethiopian Foreign Minister said that, the court was unfairly targeting Africa and Africans; it was condescending towards the continent (Note 4). As these arguments are supported by many Africans, it is also objected by some observers that, AU's concern lies mainly in shielding heads of state from liability for international crimes rather than in favour of justice for victims and deterring future crimes (Note 5). So, this Article is aims to evaluate and analysis whether The ICC is unfairly targeting on African and Africans as allegedly aggrieved by African leaders and AU.

2. Methodology of the Study

In this study the Author mainly aimed to evaluate the validity of these allegations brought against International criminal Court. Therefore, doctrinal methodology of study was primarily used. The study has attempted to review and consult relevant literature especially, an academic literature; books, journals, articles, Reports, recommendations, General comments, Cases and other legal documents were employed as secondary sources. In doing this I divided this article into different topics and sub-topics. 1stly analyzing the establishment and function of ICC, 2ndly discuss some allegations against ICC, 3rdly Evaluate the validity of these allegations and lastly I will put my concluding remarks.

2.1 What is International Criminal Court (ICC)?

An International Criminal Court (ICC) is a judicial organ which functions at the international level and tried the heinous international crime. It is established under auspices of United Nation. It is a permanent institution and shall have the power to exercise its jurisdiction over persons for the most serious crimes of international concern, as referred to in Rome Statute, and shall be complementary to national criminal jurisdictions (Note 6). The International Criminal Court was intended to be a credible, independent judicial body, able to adjudicate the most serious of international crimes fairly and impartially, where national judicial systems have failed. From the very beginning International criminal court was not aimed to target specific region, group or nations, rather perpetrator of serious crime of international concern to maintain international peace and order.

The jurisdiction and functioning of the Court shall be governed by the provisions of Rome Statute. It tries the heinous international crimes such as crimes of genocide, crimes against humanity, crimes of aggression and war crimes according to Article (5, 6, 7 & 8) of Rome statutes.

2.2 Establishment and Function of International Criminal Court (ICC)

The ICC was established in 1998 to help end impunity for the perpetrators of the most serious crimes of concern to the international community, including genocide, war crimes, and crimes against humanity. It investigates heinous international crimes from the signatory and voluntary or non-signatory states. Investigations in signatory states may be voluntary submissions or the initiative of the ICC's special prosecutors (Note 7). The United Nations Security Council (UNSC) is the only institution empowered to refer cases in non-signatory states. The court's prosecutor must determine whether there is reasonable basis to initiate an investigation and is not bound to pursue cases, regardless of the referring party.

The international criminal court has complimentary jurisdiction with respected state. The court can only exercise its jurisdiction when the state concerned cannot, does not, or is unwilling to prosecute the perpetrators itself. Accordingly, a case may come before the Court in three ways; first, a State Party may refer a case over which the Court would have jurisdiction to the Prosecutor, Second, the Prosecutor may initiate an investigation and third, the Security Council may refer situation acting under Chapter VII of the UN Charter. It is often the case that individuals and leaders who have been accused of planning, financing, instigating and executing atrocities, all in the name of civil war, can be investigated by the ICC if the respective country is a State Party to the ICC or if the issue is referred to the Court by the UN Security Council. According to Article 27 of Rome statutes, immunity cannot be a defense which African Leaders always claim for the crime they committed. This Statute shall apply equally to all persons without any distinction based on official capacity. In particular, official capacity as a Head of State or Government, a member of a Government or parliament, an elected representative or a government official shall in no case exempt from criminal responsibility under this Statute, nor shall it, in and of itself, constitute a ground for reduction of sentence.

This clearly reveals that Immunity cannot be a defense under international criminal court in which AU insists on to non-cooperation of ICC in case of arrest warrants of head of states including Al-Bashir. And also ICC is not court of absolute jurisdiction at any and every where without restrictions; it has done only according to Rome statutes basing its jurisdiction and power accordingly.

2.3 African Allegations against International Criminal Court (ICC)

Hearing the African voice against the international criminal court is not new. Most of African leaders were accusing the ICC as established merely for hunting Africa and Africans. The criticism against ICC transformed from individual accusation to collective accusation at organizational level. The cumulative language of various African Union (AU) Assembly decisions especially from 2009 (all of which were specifically reaffirmed in the May 2013 decision) and most of African leaders clearly suggests that the organization is becoming more stuck in its belief that the ICC process is selective, skewed, biased, and even condescending, western weapon neo-colonialism towards Africa. Moreover, official statements by the representatives of the organization (the then chair of the AU, the prime minister of Ethiopia, Hailemariyam Desalegn and the AU commissioner for peace and security) contain serious charges that the ICC is targeting Africans and engaging in race hunting. (Note 8) Such allegations become increasing among African leaders throughout the time. Even most young leaders become dominated by these accusations at organizational level.

During the summit itself, some leaders reportedly expressed the view that, despite its name, the ICC has ceased to be international and has become a Western court targeting Africans. These strong sentiments echo the words of former AU Commission chairperson, Jean Ping, who suggested to journalists, at the AU summit in 2009, that the court is a 'neo-colonial plaything and that Africa has been a place to experiment with their ideas. He accused the ICC of ignoring crimes in other parts of the world: 'In which its application is only confined to Africa. (Note 9) They believed that the court has no power on western super power state, rather on Africa. George W. Bush of America and Tony Blair of Britain do not brought before the ICC for crime they committed in Iraq and Afghanistan and the ICC by itself did not try to do that.

2.4 What is Triggers Allegation?

This allegation has break out on certain occasion of court activities. As I have try to discussed earlier, A large number of African states are states parties to the ICC's Rome Statute and most of them at one time strongly supported the ICC. They were very active in the negotiation of the Rome Statute in the late 1990s. (Note 10) However, the turning point came in 2000 when Belgium issued an arrest warrant for the Democratic Republic of Congo's (DRC's) the then-minister of foreign affairs, Abdoulaye Yerodia Ndombasi. (Note 11) This was not well-received in Africa and began to sour relations between Africa and Europe over the issue of sovereign immunity. Because, as showed earlier, the African leaders insisted on sovereign immunity and they never want to compromise sovereign immunity status. Then, in 2008, the chief of protocol to President Paul Kagame of Rwanda, Rose Kabuye, was arrested in Germany pursuant to a French arrest warrant in connection with the shooting down of the former

Rwandan president's plane, which allegedly triggered the 1994 genocide. (Note 12) These are just two examples in a series of cases in which Africans are approached to hating western affiliated courts believing that, it is aimed to harass Africa and African leaders.

In 2008, the AU reacted to the increased use of universal jurisdiction in European states by adopting a resolution denouncing certain Western governments and courts for abusing the doctrine of universal jurisdiction and urging states not to cooperate with any Western government that issued warrants of arrest against African officials and personalities in its name. (Note 13)

However, Moreover, the watershed moment for the AU's relationship with the ICC came in March 2009, following the issuance of the first arrest warrant for President Omar al Bashir of Sudan who was suspected by commission of genocide on his own peoples. (Note 14) This arrest warrant caused the relationship between the ICC and the AU to deteriorate for two reasons. First, members of the AU felt that the issuance of the arrest warrant was an impediment to the organization's regional efforts to foster peace and reconciliation processes in Sudan. And that the ICC failed to appreciate the effect that its actions were having on these efforts. Secondly, diplomatic umbrage was taken over the indictment of a sitting head of state, which sparked a debate over whether the Rome Statute can legitimately extinguish diplomatic immunity instates that are not parties to it, such as Sudan. (Note 15) In the subsequent sup-topics, I will try to discuss some African allegations toward international criminal court.

2.5 The Allegation That, ICC is Weapon of the West

As we have observed, one of the allegation perceived is that, the court as weapon of the west and neo-colonialism propagator. Accordingly, in 2009, the AU adopted the Sirte Resolution calling for non-cooperation by African ICC member states in the arrest of Bashir. (Note 16) Consequently many African state parties to the Rome status were hosting indicted person instead of apprehending them. For instance, Malawi (during the presidency of the late Binguwa Mutharika), Chad, Kenya and Djibouti - all ICC state parties?—have hosted Bashir since the arrest warrant was issued and did not apprehend him. Hence, many scholars suggest that, Bashir's arrest warrant as the flashpoint that spawned a raft of allegations by the AU against the ICC, with the AU accusing the ICC of being a hegemonic tool of Western powers and of having double standards. (Note 17)

They strongly alleged that, the ICC has disregarded peace as a priority in cases, focusing exclusively on justice by indicting individuals, which reduces the diplomatic leeway and drives those indicted towards a bunker mentality. The result then may be the conflict goes on longer and more crimes are committed. Peace and preventing future crimes should come before justice for past crimes. However, there isn't such a balancing act—without justice there cannot be peace as it is simply likely to lead to attempts at retribution or vigilante justice. Justice is a universal value, an end in itself. It is not something that can be given away as bargaining goods.

2.6 Allegation against ICC as Race Hunting

The African Union (AU) has accused the International Criminal Court (ICC) of "hunting" Africans because of their race. They belied that, the court is hunting African only instead of extending its

jurisdiction to other regions and to western super power. Most African leaders and African Union (AU) criticized ICC by supporting allegedly suspected of African leaders and higher officials. African leaders believed that, many international crimes are committed outside Africa; by developed state which ICC has no power on them. For instance, the then Ethiopia's Prime Minister Hailemariam Desalegn was opposed to the ICC trying Kenya's President Uhuru Kenyatta on charges of crimes against humanity, and he said that,

"African leaders were concerned that out of those indicted by the ICC, 99% are Africans (Note 18). They alleged that, The ICC had been formed more than a decade ago to end the culture of impunity, but now the process has degenerated into some kind of race hunting, they declare as something is flawed within the system of the ICC which bent it to race hunting only Africa and Africans."

This clearly shows that there are deep allegations against ICC especially by different AU leader from time to time. Even they have been leveling criticism against individual persons, the former ICC prosecutor, and Moreno campo as he personally hated African leaders and organizations.

2.7 The Allegation that, ICC Undermines the Africans Peace Process

It is obvious that, African and Africans insists on their cultures. Their culture of dispute resolution and peace process is not by judiciary only, they believed more to reconciliation, arbitration and other ritual and cultural peace value process for the century. For Africa and Africans, court adjudication is the recent phenomena. They do not believe court adjudication than their cultural value for peace process. Accordingly, they are stickier to their culture, shared value than justice, and believe that justice would become achieved through peace process. These suggestions ultimately arise from a preference expressed by the AU for African solutions to African problems, and they believe that in particular for African peace efforts on the continent not to be undermined by the ICC believing that ICC may devalue their culture and their everlasting cultural peace process. Accordingly it is deemed to be necessary for them to focus in some detail on the call by the AU for the ICC and/or the Security Council to give peace a chance.

2.8 Evaluating allegations of African against International Criminal Court (ICC)

As I have tried to discuss earlier, several criticisms have been leveled against ICC interventions in Africa. For example, one line of criticism argues that Africa is the unfair target of ICC interventions believing that, all extant situations and cases before the ICC involve African countries. (Note 19) The dominant view, held by the AU, suggests many existence of the selective application of international justice tools such as the ICC, the Doctrine of Universal Jurisdiction and the Responsibility to Protect (R2P) to achieve the interests of the most powerful states at the expense of weaker states in the International system. Different African politician argued in light of these accusations while African human rights scholars are against such allegations as ICC is established to end impunity.

However, when we see different literature, cases and conference discussions held regarding Africa & International Criminal Court (ICC) (Note 20), it emphasis that this argument is significantly weakened by evidence pointing that most of these situations were self-referrals. Even the situation before the Court in Darfur, Sudan was referred by the UN Security Council in 2005; there were no dissenting

votes among Council members on this resolution, including African Council members. Specifically, Benin and Tanzania voted for the referral and Algeria abstained from voting.

On the other hand, there are situations which may demonstrate the prevalence of international crimes in the region, because of many international crimes have been committed in the region by higher officials of political leaders in which the national courts have no ability to prosecute them. For instance, the Ethiopian former spy chief Ato Getachio Aseffa has been suspected for crimes against humanity he has committed even the attempt assassination of Ethiopian Prime Minister, Abiyi Ahimed. The Ethiopian court issued arrest warrant. But the government of Ethiopia unable to arrest him and brought before the court till now. In such circumstance, the intervention of ICC is fair. Moreover to evaluate these allegations, in the following sub-topics, I will try to discuss and evaluate even the credibility of allegation, about composition of the court, the fair bent of pivotal of ICC and about self-referral.

2.9 No Credibility of Allegation: Does Allegation by Leaders or African Peoples?

As we have so far discussed, undeniably, Africa allegedly criticizing ICC as unfairly targets Africa and Africans. However, the point worth mentioning here is that, does this criticism by African peoples as a whole or some African dictators those who in fear of prosecution for the mass crime they committed? This is very crucial issue. Because, identifying “the allegations by whom?” is helping us to know whether really African peoples are not interested to the operation of ICC or not. When we look into different literature, summit discussion, and conference minutes, undeniably, the allegation is pressing by African leaders, not by peoples as general. African scholars, activist, human rights professionals and others are supporting the activities of ICC. For instance five rounds of surveys were conducted by Afro barometer on democracy, governance, economic conditions, and related issues across more than 30 countries in Africa between 1999 and 2013, reveals that, Allegation is not conclusive; it is pressed by only certain groups of African political leaders and authoritarian government. (Note 21) Moreover, Comparative data from Afro barometer demonstrates that African publics regard the legal impunity of political leaders as a problem throughout the continent. The data reveal that, on average 56% of African citizens believe that officials always go unpunished.

This clearly shows that, allegation by itself is not representative of African peoples rather it is the allegation of some African political leaders of authoritarian nature of power those who fears the prosecution for the commission of mass crime and atrocities in their respective countries. This manifests that since the allegations are inconclusive, it is not credible, rather than simply a manifestations of some individual leaders.

2.10 The International Criminal Court (ICC) Is for Africa and by Africans

The allegation that, ICC is western court of neo-colonial weapon is far from truth. It is only by ignoring the history of the court's creation and the serious engaged involvement of African states in that history that one can assert that the ICC is a western court. Moreover, the suggestions that the court is a western creation, or anti-African, must defeat the overwhelming evidence of African involvement in the court. In other hand, when we see composition of the judges of International criminal court and office of

prosecutor, African nationality has a lion share. Even, there are a number of Africans who occupy high-level positions at the Court, including the following: Former Deputy Prosecutor, now chief prosecutor Fatou Bensouda (The Gambia); Judge Fatoumata Dembele Diarra (Mali), First Vice President Akua Kuenyehia (Ghana), and Deputy Registrar Didier Preira (Senegal). (Noet 22) The court has been regarded by the majority of Africa's leaders as supportive of African ideals and values, including the goal of ridding the continent of its deserved reputation as a collage of despots, crackpots and hotspots where impunity for too long has followed serious human rights violations (Note 23). Undeniably this reveals that, the court higher positions are held by Africans which is unlikely that, those African origin judges are unfairly targeting Africa and Africans. Hence, on this regard the allegation directed against the ICC is not hold water rather mere rhetoric.

2.11 Pivotal of International Criminal Court (ICC) Fairly Bent on Africa

Undeniably, many cases ongoing in ICC are African matters. It may come to someone's mind that, why many cases are African matters, in which it leads to the perception of unfair targeting. But the reality is the opposite. In the past decade alone, millions of Africans have lost their lives in conflicts and have been the target of war crimes, crimes against humanity, and, in some cases, genocide against them by their own leaders. There are also more than 5 million African victims displaced, more than forty thousand (40 000) African victims killed, hundreds of thousands of African victims transformed into killers and rapists, thousands of African victims raped (Note 24). There are a preponderance of conflicts in Africa which in turn are reasonable explanations for the fact that all the active situations before the ICC are in Africa and as the biggest regional bloc of states. The government has no interest to overcome the situation and the national court has no power to see the cases and punish those perpetrators. Hence, by attempting to punish those responsible for these crimes, the Court is standing up for African victims and endeavoring to prevent the future occurrence of atrocities. In doing this the chances of cases being generated from Africa are high.

On the other hands, the crime was committed by higher official in whom the national court has no power to prosecute them; as well they did not want to prosecute them more than western state. And thus why the ICC more steps in to the Africa by selects the gravest situations under the Court's jurisdiction. According to the Rome statutes, the Court shall only step in when the domestic authorities do not pursue accountability themselves. When the legal criteria are met, the Office of the Prosecutor shall open investigations fairly and try to prosecute the criminals of mass atrocities. Hence, no unfairly ICC pivotal bent is revealed rather fair bent since the gravest situations existed in Africa.

2.12 Most Referrals of Cases to ICC Are by Africans (Self-Referrals)

When we see the initiation of African cases, many of them are referred to the ICC by Africans themselves. The mechanism of self-referral is bearings in Article 14 of the Rome Statute which provides that a State Party to the Rome Statute may refer to the Prosecutor a situation in which one or more crimes within the jurisdiction of the Court appear to have been committed, requesting the Prosecutor to investigate the situation for the purpose of determining whether one or more specific

persons should be charged with the commission of such crimes. Accordingly, there are the interventions of the ICC in different African matters. The majority of situations before the ICC were instigated by African states themselves referring alleged crimes to the prosecutor.

The top leadership in the Countries opted to refer the situations in their individual countries to the Court because of the absence of effective domestic institutions and adequate resources to pursue the investigation and prosecution of the perpetrators of grave crime. For instance, The African leaders requested the Court to intervene in six of African situations: President Museveni in Uganda referred the situation in Uganda to the Office of the Prosecutor; President Kabila referred the situation in the Democratic Republic of Congo (DRC) to the Office of the Prosecutor; President Bozize referred the situation in Central Africa Republic (CAR).

On other hand, in case of Security Council referral by itself, Benin and Tanzania voted in the UN Security Council to refer the Darfur situation; South Africa, Gabon and Nigeria voted in the Security Council referral of the Libya situation to the ICC; and in Ivory Coast both presidents Gbagbo and Ouattara accepted jurisdiction of the ICC. These decisions, taken by African states, reflect leadership and commitment to ensuring that international crimes do not go unpunished. This clearly manifest that there is no unfair targeting and bias towards Africa and African rather it should be perceived in the perspective of favoring victims of international crimes committed in Africa.

3. Conclusions

Though, African continent has the highest number of state parties to the Rome Statute and has played a fundamental role in firming up the Rome Statute system over the years, recently several criticisms and allegations have been leveled against ICC interventions in Africa. But when we evaluate the allegations, it seems too far from trues. Because, on one hand, many of allegation and criticism itself is not representative of African peoples rather it is the allegation of some African political leaders of authoritarian nature of power those who fears the prosecution for the commission of mass crime and atrocities in their respective countries. On other hand, the word “peace” which African leaders and AU sing for is absurd. Because, without justice there cannot be peace as it is simply likely to lead to attempts at retribution or vigilante justice. Justice is a universal value, an end in itself. It is not something that can be given away as a bargaining cheap. The court is Africa and by African. As the same talken, the court higher positions are hold by Africans which is unlikely that, those African origin judges and prosecutor are unfairly targeting Africa and Africans.

The ICC is not western court unfairly focusing on Africa as of said. It is a global court with historically strong African support. It would not be the court it is today without the valuable input, involvement and support of the majority of African states. The court seeks justice for victims of grave crimes, including African victims; it needs the ongoing support of African government, civil society and public in order to achieve justice. The International Criminal Court was intended to be a credible, independent judicial body, able to adjudicate the most serious of international crimes fairly and impartially, where National

judicial systems have failed and fight against impunity all over the world. It is not the court only limited to Africa and unfairly targeting Africa. Hence, I did not found credibility of allegation brought against International criminal court. The allegation directed against International criminal court has no relevance by any parameter as ICC is fighting impunity whenever and where ever throughout the world without discriminating anyone; based on race, economic status, political view, religious believes, social status and other.

References

- Cassese, A. et al (Eds.). (2002). *The Rome Statute of the International Criminal Court: A commentary*, 1. Oxford: OUP. <https://doi.org/10.1093/law/9780198298625.001.0001>
- Akande, D. (2004). *International law immunities and the International Criminal Court*. American Journal of International Law 98. <https://doi.org/10.2307/3181639>
- Henry, R. (2013). *Africa and the Future of International Criminal Justice, 81*. Temple University. *Africa and the International criminal court: mending Fences*. Retrieved from <http://www.icc-cpi.int/Menus/ASP/states+parties/>
- Kurt, M. (2012). “*Bashir is Dividing Us*”: *Africa and the International Criminal Court*. Human Rights Quarterly 34. <https://doi.org/10.1353/hrq.2012.0030>
- Jemima, K. (2014). *Reflection on The African Union’s ICC relationships*.
- African Union Accuses ICC of “Hunting” Africans*. (2013). BBC News, 27 May 2013. Retrieved from <http://www.bbc.co.uk/news/world-africa-22681894>
- Rorisang, L. et al. (2015). *Support for the International Criminal Court in Africa*. Afro barometer Policy Paper.
- David, B. (2013). *Why is the International Criminal Court Picking only on Africa*. Washington Post.
- Max, du Plessis et al. (2013). *African and international criminal court*. Retrieved from <http://www.chathamhouse.org>
- Max, Du Plessis. (2013). *The International court that Africa wants*. Pretoria, South Africa.
- Ciampi, A. (2008). The proceedings against President Al Bashir and the prospects of their suspension under article 16 of the ICC Statute. *Journal of International Criminal Justice*. <https://doi.org/10.1093/jicj/mqn078>
- Gaeta, P. (2004). Is the practice of “self-referrals” a sound start for the ICC? *Journal of International Criminal Justice*. <https://doi.org/10.1093/jicj/2.4.949>

Notes

Note 1. Africa and the International criminal court: mending Fences Available at <http://www.icc-cpi.int/Menus/ASP/states+parties/>, July 2018, Many Africa boasts as states parties to the Rome Statute. Inter alia: Benin, Botswana, Burkina Faso, Burundi, Central African Republic, Chad, Comoros, Congo (Brazzaville), Democratic Republic of the Congo, Djibouti, Gabon, Gambia, Ghana,

Guinea, Kenya, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritius, Namibia, Niger, Nigeria, Senegal, Seychelles, Sierra Leone, South Africa, Tanzania, Uganda and Zambia.

Note 2. Kurt Mills “Bashir is Dividing Us”: Africa and the International Criminal Court ,Human Rights Quarterly 34 (2) 2012,

Note 3. Decision on the Application by the International Criminal Court (ICC) Prosecutor for the Indictment of the President of the Republic of the Sudan, Assembly/AU/Dec.221(XII), February 1-3, 2009; Decision on the Meeting of African States Parties to the Rome Statute of the International Criminal Court (ICC), Assembly/AU/Dec.245(XIII) Rev.1 July 1-3, 2009.

Note 4. African Union Accuses ICC of “Hunting” Africans, BBC News, 27 May 2013, Retrieved from <http://www.bbc.co.uk/news/world-africa-22681894>. Last visited 12 July 2018

Note 5. Jemima Kariri, Reflection on The African Union’s ICC relationships, (2014), p. 1

Note 6. Article 1 of Rome Statutes, document A/CONF.183/9 of 17 July 1998

Note 7. Rorisang Lekalake et al., Support for the International Criminal Court in Africa, Afro barometer Policy Paper 23(2015).pp.3

Note 8. African Union accuses ICC of “hunting” Africans’ BBC News 27 May 2013 Available at <http://www.bbc.com/news/world-africa-24489059> Last visited 12 July, 2016.

Note 9. David Bosco, Why is the International Criminal Court Picking only on Africa? Washington Post, 29 March 2013, Retrieved from http://articles.washingtonpost.com/2013-03-29/opinions/38117212_1_international-criminal-court-african-union-centralafrican-republic .Last visited 12 July 2018

Note 10. Max du Plessis et al., African and international criminal court (2013), p. 5 Available at www.chathamhouse.org Last visited 8 April 2019

Note 11. Case Concerning the Arrest Warrant of 11 April 2000 (DRC v Belgium) 14 February 2002, Available at www.icj-cij.org last visited 13 July 2018

Note 12. On 9 November 2008, Rose Kabuye, Rwandan President Paul Kagame’s Chief of State Protocol, was

arrested by German police officers at Frankfurt airport on a warrant authorized by a French investigative judge, Jean-Louis Bruguière. Kabuye was transferred to Paris. Kagame took up the issue at the UN, framing it as an abuse of universal jurisdiction by European states aimed at humiliating African political leaders.

Note 13. Decision on the Report of the Commission on the Abuse of the Principle of Universal Jurisdiction, Doc. Assembly/AU/14(XI), http://www.minec.gov.mz/index2.php?option=com_docman&task=doc_view&gid=12&Itemid=48Last visited 15 April 2019.

Note 14. The president Omer Al-Bashir of Sudan is overthrown recently by the Military Junta and he has been in prison. Defferent peoples suggest different things at the scene of his step-down whether he will be handover to the ICC or not. But meanwhile, the military junta said that, Omar Al-Bashir case

will be seen by the national courts of Sudan.

Note 15. But see Article 27 of Rome Statutes, document A/CONF.183/9 of 17 July 1998

Note 16. Id at 3

Note 17. Id at 8

Note 18. Id at 6

Note 19. But The Office of the Prosecutor is currently conducting preliminary examinations in a number of situations outside Africa including but not limited to Afghanistan, Georgia, Colombia, Palestine, Honduras and Korea; Available at <http://www.iccpi.int/Menu/ICC/Situations+and+Cases/> Last visited 9 April 2019

Note 20. Advancing International Criminal Justice in Africa: State Responsibility, the African Union and the International Criminal Court Conference Report, 14 th to 16 th November, 2011, pp.10 (Nairobi – Kenya).

Note 21. Rosinget al, Supporter for the International criminal court in Africa, Afro barometer policy paper 23(2015) pp.2

Note 22. Max Du Plessis, The International court that Africa wants (2010), pp.24, Pretoria, South Africa.

Note 23. Ibid

Note 24. Id at 17