OUTSOURCING JUSTICE:
AFRICA AND THE POLITICS OF
THE INTERNATIONAL CRIMINAL
COURT

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How do states respond
to the increasing transnational
caracter of criminal justice
and the international diffusion
of human rights norms and
regimes? Whereas it is often argued that
such transnational regimes of criminal
justice may erode state sovereignty, my
dissertation explores the ways in which
states — especially those presumed to be
weaker in the international system — use
the International Criminal Court (ICC) as
leverage in their domestic conflicts and
to empower themselves in the pursuit
of their political interests. To that end,
with the ICC as a focal point, I argue that
African states engage in the perversion
of international legal norms and regimes.

The premise of my arguments is
based on the exploration of the ways in
which African states engage in political
calculations of the costs and benefits of
referring “situations” in their territory to
the ICC. It appears that the states that
have used the self-referral mechanism
have deferred to the ICC jurisdiction in
an attempt to pursue their own political
agendas by inviting the ICC to deal
with their local adversaries — whether
political opponents or rebel leaders.
Through an internationalization of the
crimes that may have been committed in
their territory, these states forgo their
responsibility to investigate and prosecute.

By exploring the ways in which
states self-refer cases to the ICC pros-
ecutor, I posit that the political elites are
mostly guided by their self-interests, not
the rules and expected norms of behavior
for upholding human rights and delivering
justice. The end result may be either a
violation of the norms and their de-legit-
imization, or simply their perversion,
by which I mean their use for purposes
other than what they were intended for.

Using an interpretive methodology,
my dissertation research is grounded in
Critical Theory of International Relations
with an empirical component focused
on the relationship between the ICC and
four African states: Kenya, Uganda, Côte
d’Ivoire, and Libya. Therefore, my project
seeks to shed light on the intersection
of state power and interests vis-à-vis
international human rights norms and
regimes of transnational criminal justice.
Moreover, I offer a critical reading of
transnational legal processes that challenges
the conception of an international criminal
justice regime as an unmitigated good.

In May and June 2014, I completed
six weeks of fieldwork at the ICC in The
Hague, Netherlands, where I did archival
research, and interviewed officials in the
Office of the Prosecutor, the Public Affairs
Unit, and defense lawyers. While at The
Hague, I also interviewed representatives
of civil society organizations working in
the area of international criminal justice.
As a participant observer, I was also
able to watch the Court proceedings of
the trials of Kenyan Deputy President
William Ruto, former DRC militia leaders
German Katanga, and Thomas Lubanga,
and the admissibility challenge of the
Libyan government before the ICC.

The next step in my project is to
do fieldwork research in Kenya, Uganda,
and Côte d’Ivoire where I will conduct
interviews with political leaders, judges, and
officials at the ministries of justice who are
involved in the criminal investigation and
prosecution of mass atrocities. I will also
do archival research focusing on primary
sources in order to better understand the
local debates that animate the relation-
ship between the political and judicial
apparatus in those countries with the ICC.

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