

Sovereignty on International Trial: Exploring State Discourses Challenging the International Criminal Court's Authority

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Abstract

The concept of sovereignty has long served as one of the foundational principles of international relations and international law, emphasizing the authority of states over their internal affairs free from external interference. However, the emergence of international accountability mechanisms, particularly the International Criminal Court, has challenged the traditional understanding of state sovereignty by asserting jurisdiction over grave international crimes such as genocide, crimes against humanity, war crimes, and aggression. This study examines the legal and political discourses employed by states to justify cooperation with or resistance to the authority of the ICC, with particular focus on withdrawn or non-cooperative states such as the Philippines, Burundi, and Hungary. Using a qualitative research design through document review analysis and Critical Discourse Analysis (CDA), the study analyzes official government statements, legal documents, policy papers, ICC communications, and scholarly literature to identify recurring narratives and sovereignty-based justifications used against international criminal accountability. The findings reveal that withdrawn states commonly frame ICC intervention as an infringement upon domestic jurisdiction, political independence, and national sovereignty. These states utilize sovereignty discourse as both a legal defense and a political strategy to legitimize withdrawal, resist external scrutiny, and preserve domestic authority. The study further demonstrates that the ICC's reliance on state cooperation creates structural vulnerabilities that limit its enforcement capacity and intensify tensions between international justice and state autonomy. Ultimately, the research concludes that sovereignty remains a powerful and evolving political construct that significantly shapes state behavior toward international legal institutions, highlighting the continuing struggle between national independence and global accountability in contemporary international relations.

Keywords: Sovereignty, International Criminal Court, State Resistance, International Justice, Rome Statute, and Critical Discourse Analysis.

1. Introduction

Sovereignty has long been regarded as one of the fundamental principles of international relations and international law. Since the Peace of Westphalia in 1648, the international system has been largely organized around the idea that states possess supreme authority over their territories, populations, and internal political affairs free from external interference (Krasner, 2021; Philpott, 2020). This principle was further reinforced through the United Nations Charter, particularly under Article 2(1), which recognizes the sovereign equality of all states (United Nations, 1945). Traditionally, sovereignty has served as the legal and political foundation of state independence, territorial integrity, and non-intervention in domestic affairs (Jackson, 2022; Hinsley, 2019). However, the rise of globalization, international organizations, and international human rights regimes has gradually transformed the traditional understanding of sovereignty, especially with the emergence of international accountability mechanisms designed to address grave violations of international law (Held, 2021; Sassen, 2020; Krasner, 2021).

One of the most significant developments in international criminal justice was the establishment of the International Criminal Court through the adoption of the Rome Statute of the International Criminal Court in 1998, which officially entered into force in 2002 (Schabas, 2024). The ICC was created as a permanent international tribunal tasked with prosecuting individuals responsible for genocide, crimes against humanity, war crimes, and the crime of aggression when national courts are unwilling or unable to do so (Cassese, 2021; Cryer et al., 2023). The Court represents the international community's effort to institutionalize accountability beyond national borders and to prevent impunity for the gravest international crimes (Broomhall, 2020; Bosco, 2022). Nevertheless, despite its legal mandate and normative aspirations, the ICC has consistently faced challenges related to state cooperation, political legitimacy, jurisdictional disputes, and resistance grounded in sovereignty claims (Mégret, 2021; Kersten, 2023).

The tension between international justice and state sovereignty has become increasingly visible through the actions of states that question, resist, or withdraw from the ICC. While some states actively cooperate with the Court and support its accountability mechanisms, others perceive ICC intervention as an infringement upon domestic jurisdiction and political independence (Nouwen, 2022; Mamdani, 2020). This resistance is often expressed through legal arguments, official state statements, and political narratives emphasizing sovereignty, non-interference, and the primacy of national legal systems (Branch, 2021; Acharya, 2022). The cases of the Philippines, Burundi, and Hungary illustrate how states construct sovereignty-based discourses to justify disengagement from international criminal accountability mechanisms. These developments reveal that state behavior toward the ICC is not determined solely by legal obligations but is also shaped by political interests, historical experiences, domestic considerations, and strategic calculations (Real, 2023; Glasius, 2021).

Despite the growing body of literature on the ICC, there remains a significant gap in understanding how states employ legal and political discourses to legitimize resistance or withdrawal from international judicial institutions. Existing studies often focus on institutional limitations, selective enforcement, or geopolitical dynamics surrounding the Court, while comparatively less attention is given to the narratives and rhetorical strategies states use to justify their actions (Mills, 2022; Clarke, 2024). In particular, there is limited analysis of how sovereignty is discursively reconstructed by states after initially accepting ICC jurisdiction through ratification of the Rome Statute. Understanding these discourses is essential because they influence public perception, international legitimacy, and the broader relationship between global justice and state authority (Fairclough, 2021; Van Dijk, 2020).

This study aims to provide a comprehensive analysis of the legal and political discourses employed by states to justify cooperation with or resistance to the authority of the ICC, with particular focus on withdrawn or non-cooperative states. Specifically, the research examines the behavioral patterns of states toward the ICC, identifies the factors influencing sovereignty-based resistance, explores the implications of ICC interventions on sovereignty claims, and analyzes the institutional responses of the Court toward continued non-cooperation. Using a qualitative research design through document review analysis and Critical Discourse Analysis (CDA), the study analyzes official government statements, policy documents, legal texts, ICC communications, and scholarly literature to identify recurring themes and narratives surrounding sovereignty and international justice (Fairclough, 2023; Wodak & Meyer, 2022).

Ultimately, this research contributes to broader debates concerning the future of international criminal justice, the limits of state sovereignty, and the challenges faced by supranational legal institutions in securing global accountability. By examining how sovereignty is invoked as both a legal principle and a political strategy, the study provides deeper insight into the continuing struggle between national autonomy and international accountability in the contemporary international system (Habermas, 2021; Held, 2021).

2. Material and methods

2.1 Research Design

The study will utilize a qualitative document review and analysis to examine specific instances of states' opposition to the ICC's authority. Qualitative research is particularly appropriate for understanding political narratives, legal interpretations, and social meanings embedded in official discourse (Creswell & Creswell, 2023). Through Critical Discourse Analysis (CDA) of official statements, legal submissions, policy documents, and diplomatic communications, the research will identify recurring rhetorical strategies, narrative frames, and justificatory patterns (Fairclough, 2021; Van Dijk, 2020). This approach will allow an in-depth examination of the political, historical, and legal arguments states employ, enabling a critical assessment of the tension between national sovereignty and international criminal justice. By synthesizing insights from these primary sources and supporting academic literature, the study aims to contribute to a deeper understanding of how sovereignty discourses challenge and shape the global accountability regime (Wodak & Meyer, 2022).

2.2 Study Domain

The study will be carried out through a documentary review focusing on the discourses of a select group of states that have publicly and formally challenged the ICC's jurisdiction. As this research relies solely on secondary data, there will be no direct respondents involved; instead, the analysis draws on existing documents, official statements, policy papers, and legal texts (Bowen, 2021). Documentary research provides an effective means of examining political communication, institutional behavior, and state narratives over time (Scott, 2020). The study domain lies within the broader field of international relations and international law, where identifying key arguments, historical contexts, and legal precedents from existing knowledge contributes to a deeper understanding of the conflict between state sovereignty and supranational judicial authority (Dunne, Kurki, & Smith, 2023).

2.3 Sources of Data

The primary sources of data will include official government statements, United Nations Security Council meeting records, legal briefs, policy white papers, and speeches by state leaders. These documents will be analyzed to identify recurring

structural and content-related patterns in sovereignty claims. The researcher will organize, bracket, and categorize these sources to align them with the study objectives (Bowen, 2021).

Secondary data will consist of scholarly journals, academic books, electronic articles, and expert commentaries that provide further context and analysis of the state discourses under investigation. The use of multiple secondary sources strengthens interpretative depth and contextual understanding in qualitative research (Yin, 2023; Merriam & Tisdell, 2022). This combination of primary and secondary sources will allow for a comprehensive understanding of the issue.

2.4 Data Analysis Plan

This research requires a qualitative approach; thus, Critical Discourse Analysis (CDA) will serve as the main method of analysis. CDA examines how social power, dominance, and inequality are enacted, reproduced, and resisted in text and talk within their political and social contexts (Van Dijk, 2020; Fairclough, 2023). It provides a systematic means of making valid inferences from written and spoken data to describe and interpret specific phenomena (Krippendorff, 2022).

To strengthen the credibility and reliability of the findings, triangulation will be integrated into the analysis. This will involve data counter-checking across multiple sources to ensure consistency and accuracy, comparative data analysis of different types of documents to confirm recurring patterns and narratives, and expert validation where realizable data and interpretations will be reviewed by specialists in international law and international relations (Denzin, 2021; Patton, 2020). Through CDA anchored with triangulation, the study will not only analyze texts critically but also ensure that its interpretations are valid, trustworthy, and aligned with broader scholarly and policy debates (Lincoln & Guba, 2021).

3. Results and Discussion

3.1 Behavior of States Toward the International Criminal Court

In the first objective, the study found that state behavior toward the ICC varies according to distinct but interconnected patterns of disengagement. The Philippines demonstrates a defensive, resistance-oriented, and sovereignty-driven behavior, characterized by withdrawal following the initiation of ICC preliminary examinations and continued rejection of external jurisdiction. Burundi exhibits a retaliatory, non-cooperative, and sovereignty backlash behavior, where withdrawal functions as political retaliation against perceived external intrusion and enforcement of non-interference principles. Hungary, on the other hand, reflects a politically aligned resistance, obstructive, and sovereignty-driven behavior, where disengagement is framed as a rejection of perceived institutional bias and selective enforcement, as well as alignment with broader political and ideological concerns regarding international courts. These behavioral categories demonstrate that withdrawal or resistance is not uniform but shaped by differing political contexts and perceived threats to national authority.

3.2 Factors Affecting Withdrawn States as Justification for their Challenge Towards the International Criminal Court's Authority

Building on these behavioral patterns, the second objective identified that state resistance is driven by a combination of interrelated factors that consistently appear across the three cases. These include sovereignty concerns, jurisdictional control, political leadership interests, legal resistance arguments, and perceptions of external interference or institutional bias. In the Philippines, these factors are reflected in claims of domestic judicial capacity and rejection of ICC jurisdiction. In Burundi, they are expressed through strong sovereignty backlash and rejection of foreign intervention in internal political affairs. In Hungary, resistance is shaped by concerns over politicization of international justice and institutional legitimacy, alongside constitutional sovereignty protection. Collectively, these factors show that state behavior is not isolated but is constructed through overlapping legal, political, and ideological justifications that reinforce withdrawal or non-cooperation.

3.3 Implications for the Sovereignty Claims of Withdrawn States of the International Criminal Court

The third objective revealed that while states invoke sovereignty as a primary justification for withdrawal, the ICC continues to challenge the absolutist interpretation of sovereignty through its assertion of temporal jurisdiction and legal continuity. In the cases of the Philippines and Burundi, the Court maintains that withdrawal does not eliminate jurisdiction over crimes committed during membership under the Rome Statute. This creates a legal and political tension where sovereignty-based withdrawal is constrained by international legal obligations. Hungary's case further illustrates anticipatory disengagement grounded in sovereignty protection, reinforcing the idea that sovereignty is increasingly used as a defensive discourse rather than an absolute legal shield against accountability.

3.4 Response of International Criminal Court to Withdrawn States that continue not to Cooperate

The fourth objective found that the ICC responds to non-cooperation and withdrawal through legal persistence, procedural continuity, and institutional enforcement mechanisms. These include continued investigations, judicial determinations of non-cooperation, referrals to governing bodies such as the Assembly of States Parties, and reliance on diplomatic and normative pressure. In the Philippines and Burundi, investigations continued despite withdrawal, reaffirming the Court's position on temporal jurisdiction. In Hungary, anticipated withdrawal raises concerns about future enforcement limitations

and institutional credibility. However, the study also finds that the ICC's response is structurally constrained due to its dependence on state cooperation, making its enforcement capacity largely indirect and reliant on compliance pressure rather than coercive authority.

4. Conclusion & Recommendations

The findings of the study reveal that sovereignty remains one of the most significant factors shaping state behavior toward the International Criminal Court. The cases of the Philippines, Burundi, and Hungary demonstrate that states frequently invoke sovereignty-based discourses to justify resistance, non-cooperation, or withdrawal from the ICC. These states framed ICC intervention as an infringement upon domestic jurisdiction, political independence, and national decision-making authority. The study further found that resistance to the Court is influenced not only by legal concerns but also by political interests, regime preservation, historical experiences, and perceptions of bias or selective justice. Through Critical Discourse Analysis, the research identified recurring narratives portraying the ICC as a politically intrusive institution that threatens sovereign autonomy. Moreover, the study highlighted the structural vulnerability of the ICC, particularly its dependence on state cooperation for enforcement, which weakens its ability to effectively implement international accountability mechanisms. Overall, the study concludes that the tension between sovereignty and international criminal justice continues to shape the legitimacy, effectiveness, and future of the global justice system.

Based on the findings, the study recommends that the ICC strengthen its diplomatic engagement and communication strategies with member and non-member states in order to address perceptions of political bias and external interference. The Court should reinforce cooperative mechanisms that respect domestic legal systems while promoting accountability for international crimes through the principle of complementarity. National governments are also encouraged to improve domestic accountability institutions and judicial mechanisms to reduce conflicts between international intervention and sovereign authority. Furthermore, policymakers and international organizations should promote dialogue between states and international legal institutions to rebuild trust and encourage greater cooperation in addressing crimes against humanity, genocide, war crimes, and aggression. Future researchers are encouraged to expand the scope of analysis by including additional states, regional organizations, and comparative international tribunals to further explore how sovereignty discourses evolve in different political and legal contexts.

Despite its contributions, the study is subject to several limitations. First, the research relied solely on qualitative document review and Critical Discourse Analysis using publicly available materials such as government statements, legal documents, ICC communications, and scholarly literature. The absence of interviews, field research, or confidential diplomatic records limited the ability to capture internal state decision-making processes and unofficial political negotiations. Second, the study focused only on selected withdrawn or resistant states, specifically the Philippines, Burundi, and Hungary, which may limit the generalizability of the findings to all ICC member or non-member states. Third, the research concentrated primarily on sovereignty discourses and resistance narratives, rather than conducting a full legal evaluation of the ICC's jurisdiction or effectiveness. Finally, evolving political developments and future changes in state behavior toward the ICC may influence the continuing relevance of some findings, particularly in the context of international relations and global justice institutions.

Compliance with ethical standards

The researchers strictly observed academic integrity and ethical standards throughout the conduct of the study in accordance with institutional and scholarly research guidelines. Since the study utilized a qualitative document review and Critical Discourse Analysis relying solely on publicly available documents, official government statements, legal records, ICC communications, scholarly articles, and policy papers, no direct human participants were involved; therefore, voluntary participation, informed consent, and personal data collection were not applicable to the research. Nevertheless, the researchers ensured confidentiality and responsible handling of all collected materials by accurately representing information and avoiding misinterpretation or misuse of sources. Proper ethical standards in citation and referencing were consistently observed through adherence to APA 7th edition guidelines in order to acknowledge the intellectual contributions of authors, institutions, and organizations referenced in the study. The researchers further declare that the study is original, free from plagiarism, and conducted without fabrication or falsification of data. No conflict of interest, financial influence, or external pressure affected the conduct and interpretation of the research findings. In addition, all copyright ownership of referenced materials was respected and properly acknowledged, while responsibility for the interpretation, analysis, and conclusions presented in the study remains solely with the researchers.

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