TOAEP | Torkel Opsahl Academic EPublisher

POLICY BRIEF SERIES

Revitalizing Complementarity a Decade after the Stocktaking Exercise

By Carsten Stahn

Policy Brief Series No. 115 (2020)

We are now a decade after the 2010 Kampala stocktaking exercise on complementarity. In light of the various initiatives to review practices of the International Criminal Court ('ICC'), it is timely to reflect on some of the macro perspectives on complementarity, and in particular its relationship to states. This policy brief focuses the application of complementarity towards national jurisdictions, and potential means to strengthen dialogue and consultations.

1. Application of Complementarity towards National Jurisdictions

Many of the foundations of complementarity have been shaped by jurisprudence. Complementarity has several dimensions. In its most narrow form it is an admissibility device, namely an instrument to decide on competing claims for jurisdiction. This is mainly regulated by Articles 17, 18 and 19 of the ICC Statute.[1] It is also a means to organize the interaction between international and domestic jurisdictions in a more holistic sense. This may be called the 'systemic function of complementarity'. It is reflected, *inter alia*, in the preamble and Article 1.

This second function involves policy decisions on timing of ICC action, dialogue in relation to potential cases or a division of labour between the Court and national jurisdictions, co-ordination with domestic authorities, or even co-operation of the Court with domestic jurisdictions (Article 93(10)). These issues are not directly regulated by the jurisdictional regime, but rather linked to the operation of the ICC Statute as a system of justice. They are determined by the broader goals of the Statute, part of prosecutorial powers and strategies or governed by provisions on consultation and co-operation. As the Appeals Chamber of the ICC put in Katanga, such decisions need to strike "a balance between [...] the primacy of domestic proceedings […] and the goal to "put an end to impunity"".[2]

According to this systemic vision, complementarity has at least four functions. It protects sovereignty, also in the sense of responsibility, by reaffirming the primary responsibility of states to exercise criminal jurisdiction over international crimes. It seeks to promote effective investigation and prosecution, by encouraging states to make genuine efforts to hold perpetrators accountable in line with their duty to investigate and prosecute crimes. It facilitates a certain division of labour by resolving conflicts of jurisdiction and limiting cases that come before the ICC; and it stimulates co-operation and sharing of good practices between international and domestic justice actors.

1.1. ICC Practice

The Court has interpreted Article 17 to require domestic jurisdictions to model their action after that of the Court, in order to be able to challenge complementarity. This approach has been grounded in a literal and systemic reading of the Statute. The Statute links the possibility of states to challenge admissibility to cases before the ICC. If a state seeks to investigate or prosecute a 'different case', for instance different conduct of the same person, the Statute promotes consultations to allow both cases to proceed in sequence.

The degree of symmetry between ICC action and domestic action is not strictly defined by the Statute. During preliminary examination and investigation, no clear case exists yet. The point of reference relates thus to 'potential cases'. Article 18, which has not been used thus far, except recently in relation to Afghanistan, therefore leaves some leeway to defer cases to domestic jurisdictions. The state has to substantiate its request. But the test is rather general, namely whether investigations relate to "criminal acts which may constitute crimes referred to in article 5".[3]

In the context of admissibility challenges under Article 19, the Appeals Chamber has adopted a strict approach. In the Simone Gbagbo case, the Appeals Chamber noted that the "presumption in favour of domestic jurisdiction only applies where it has been shown that there are (or have been) investigations and/or prosecutions at the national level".[4]

The existing test is strict in light of three elements: the fact that the challenge fails in case of inaction; states need to show concrete investigative steps; the timing requirement, which requires admissibility to be assessed at the time of the Court's determination on admissibility; and the standard of review, namely the 'substantially the same conduct test' which has been interpreted to require "overlap between incidents being investigated by the Prosecutor and those being investigated by a State".[5] This is a relatively strict standard. It is not based on the comparative seriousness of the conduct, prospects of a genuine proceeding at the domestic level or the desirability of national proceedings, but on parallelism of international and domestic conduct.

The combination of these three elements, required as part of the admissibility test, has implications for the broader systemic dimensions

[1] Rome Statute of the International Criminal Court, 17 July 1998 ('ICC Statute' or 'Statute') (https://www.legal-tools.org/doc/9c9fd2/).

[2] ICC, Situation in the Democratic Republic of the Congo, *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*, Appeals Chamber, Judgment on the Appeal of Mr. Germain Katanga against the Oral Decision of Trial Chamber II of 12 June 2009 on the Admissibility of the Case, 25 September 2009, ICC-01/04-01/07-1497, para. 85 ('Katanga Appeal Judgment') (https://www.legal-tools.org/doc/ba82b5/).

[3] Rome Statute, Article 18(2), see *supra* note 1.

[4] ICC, Situation in the Republic of Côte d'Ivoire, *The Prosecutor v. Simone Gbagbo*, Appeals Chamber, Judgment on the appeal of Côte d'Ivoire against the decision of Pre-Trial Chamber I of 11 December 2014 entitled "Decision on Côte d'Ivoire's challenge to the admissibility of the case against Simone Gbagbo", 27 May 2015, ICC-02/11-01/12-75-Red, para. 59 (https://www.legal-tools.org/doc/cfc2de/).

[5] ICC, Situation in Libya, *The Prosecutor v. Saif Al-Islam Gaddafi*, Appeals Chamber, Judgment on the appeal of Libya against the decision of Pre-Trial Chamber I of 31 May 2013 entitled "Decision on the admissibility of the case against Saif Al-Islam Gaddafi", 21 May 2014, ICC-01/11-01/11-547-Red, para. 72 (https://www.legal-tools.org/doc/0499fd/).

of complementarity. Complementarity is more ICC-centric, rather than state-centred. It is focused on charges and outcomes, rather than dialogue and process. As Marieke Wierda has shown in her work,[6] this may lead to a situation where the ICC and domestic jurisdictions mirror each other's strengths and weaknesses, rather than complementing each other. This result conflicts with the idea that "the Court and States should work in unison – complementing each other – in reaching the Statute's overall goal", namely to ensure effective investigation and prosecution of core crimes.[7] The legal case law has created a situation which the jurisprudence on admissibility creates results that stand in contrast to the systemic dimensions of complementarity.

1.2. Critiques

This approach has been criticized from several angles. Some judges have expressed reservations in individual opinions. For instance, Judge Song and Judge Ušacka have criticized the narrow interpretation of the 'same conduct test' in the Libya jurisprudence.[8] Moreover, defence teams and states making challenges under Article 19 have questioned the premises of the test since it offers only remote chances of success.

Requiring a national investigation to cover exactly the same acts makes the national investigators' task impossible. It creates a race to open investigations that mirror those of the ICC if a state wants to prosecute a case itself. In this race, states are perpetually seeking to 'catch up' with the ICC.

This methodology causes problems for states with limited resources, which are willing but unable to cover the same acts or incidents. They are rarely in a position to meet this standard of review. The existing approach significantly restricts states' legitimate prosecutorial choices and may thus ultimately undermine the primary responsibility of states. It may deter states that may be willing to pursue criminal investigations and prosecutions but see little hope of successfully doing so. The Yekatom Appeals Brief refers to the fair opportunity principle: national jurisdictions "should be given a fair opportunity to exercise jurisdiction".[9]

The very idea of the mirror image, voiced in the admissibility jurisprudence, turns the systemic rationale of complementarity on its head. The Statute requires the ICC to recognize legitimate differences between the ICC and domestic jurisdictions.[10] The principle of legitimate difference also underpins complementarity. It does not require uniformity but at most a certain degree of equivalence between international and domestic justice approaches.[11] This foundation is undermined by the current approach, which carries the risk of strengthening ICC control.

1.3. How to Fix Problems

1.3.1. Abandoning the 'Same Person, Same Conduct' Test

A first option would be to get rid of the 'same person, same conduct' test altogether. This view has been defended by some scholars, such as Kevin Jon Heller.[12] For instance, one could take the view that any genuine case at the domestic level should be sufficient to challenge admissibility. This approach would turn around the mirror approach. It would put the state at the centre. But it would also come with significant drawbacks.

It would rely on an assessment of the genuineness of state conduct. This criterion is difficult to assess and rather vague. It would make it easy to manipulate the ICC. As Rod Rastan has argued, it poses a risk that "any one national case could 'block' the entire situation before the ICC".[13] In a case where a domestic jurisdiction investigates or prosecutes the same person for different conduct, there may be a remaining legal interest to allow the ICC to proceed even after genuine domestic investigation or trial, for instance if the underlying case was based on weak evidence and led to acquittal. As a matter of policy, the ICC Office of the Prosecutor ('OTP') can of course at any time decide not to pursue such cases based on case prioritization and selection criteria.[14]

Moreover, giving up the 'same person, same conduct' test might require a more comprehensive review of the Statute. Complementarity was adopted as a package. It is closely linked to the co-operation provisions under Part 9. If states want to pursue a different case, they need to consult the ICC in case of co-operation problems. If the criterion of sameness are abandoned under Articles 17 and 19, the corresponding provisions under Article 20 (*ne bis in idem*) and Part 9 in sequencing relating to different cases would need to be amended too.

1.3.2. Contextual Interpretation

A second, less intrusive way is to adopt a more contextual interpretation of the notion of the case. Judge Ušacka supported this reading in her dissent. She argued that conduct is only one element of a case. Consequences or circumstances should be taken into account.[15] Systemic considerations could be taken into account by greater reliance on object and purposes specified in the preamble.

Such a flexible reading has been supported in scholarship. For instance, Kai Ambos has argued that the "identity of domestic and international proceedings must be construed flexibly, taking into account the context".[16] This would leave space for a comprehensive comparison, which would allow to take other elements into account and prevent a too strict reading of the complementarity test. Payam Akhavan has argued that the conditions of states under political transition should be taken into account.[17]

A greater focus on context would enable a more flexible reading of the 'substantially the same case' jurisprudence. For instance, in the comparison of charges, the incident-related requirement might easily be dropped. The main test would be whether domestic charges capture the essence of criminality, rather than the same incidents. Even an investigation of different incidents domestically might satisfy the threshold.

1.3.3. Qualified Deference

A third way to address the problem of ICC centricity in complementarity is to provide greater space to the concept of the qualified deference. It may enable a more dialogue and process-based understanding of complementarity which takes into account context.

This concept was originally developed in the context of transitional justice. It leaves a certain margin of appreciation to states to develop accountability mechanisms. It accommodates both, the case for greater deference to domestic jurisdiction in the determination of admissibility, and the interests of the court in keeping control, since it has invested into case and needs to be vigilant to avoid manipulation. It provides an opportunity to enable the exercise of domestic jurisdiction, while maintaining ICC authority and avoiding a 'blind retreat' to national authorities based on assertions of good faith. Deference is qualified, and thus rebuttable.

---

[6] Marieke Wierda, "The Local Impact of a Global Court: Assessing the Impact of the International Criminal Court in Situation Countries", Doctoral Thesis, Leiden University, 1 September 2019.

[7] ICC, Situation in the Central African Republic II, *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona*, Yekatom Defence Appeal Brief – Admissibility, 19 May 2020, ICC-01/14-01/18-523, para. 36 ('Yekatom Defence Appeal Brief') (https://www.legal-tools.org/doc/kgv91c/).

[8] ICC, Situation in Libya, *The Prosecutor v. Saif Al-Islam Gaddafi*, Appeals Chamber, Dissenting opinion of Judge Anita Ušacka, 29 August 2014, ICC-01/11-01/11-547-Anx2, paras. 52 ff. ('Judge Ušacka, Dissenting Opinion') (https://www.legal-tools.org/doc/b1cc88/).

[9] Yekatom Defence Appeal Brief (quoting Payam Akhavan), para. 59, see *supra* note 7.

[10] Steven Kay and Joshua Kern, "Complementarity and a Potential Settlements Case: A Response to the OTP's Report on its Preliminary Examination of the Situation in Palestine", *Opinio Juris*, 14 March 2019.

[11] Carsten Stahn, *A Critical Introduction to International Criminal Law*, Cambridge University Press ('CUP'), 2019, p. 225.

[12] Kevin Heller, "Radical Complementarity", in *Journal of International Criminal Justice*, 2016, vol. 14, no. 3.

[13] Rod Rastan, "What is 'Substantially the Same Conduct'? Unpacking the ICC's 'First Limb' Complementarity Jurisprudence", in *Journal of International Criminal Justice*, 2017, vol. 15, no. 1, p. 23.

[14] *Ibid*., p. 28.

[15] Judge Ušacka, Dissenting Opinion, paras. 50-51, see *supra* note 8.

[16] Kai Ambos, *Treatise on International Criminal Law, Volume III: International Criminal Procedure*, Oxford University Press ('OUP'), 2016, p. 284.

[17] Payam Akhavan, "Complementarity Conundrums: The ICC Clock in Transitional Times", in *Journal of International Criminal Justice*, 2016, vol. 14, no. 5.

The concept of deference fits the idea of complementarity. It is contained in Article 18(2) which foresees the possibility to suspend or conditionally defer ICC investigation(s), subject to re-initiation if domestic proceedings prove inadequate.

A more clearly articulated and consistent application of a deference principle could permit the Court to maintain its current case-by-case approach to admissibility determinations without radically departing from the framing of admissibility structures.[18] For instance, it would allow the ICC to award the state reasonable time to investigate and build the case after the notice of an admissibility challenge and prior to a final decision on admissibility.

1.3.3.1. Unable v. Unwilling Scenarios

This test has gained support in the literature.[19] There is some debate to what scenarios it would apply. Qualified deference seems in particular suited for cases in which a state is actually willing to exercise jurisdiction over a person. In this way, it would be perfectly compatible with the Katanga Appeal judgment, in which the Appeals Chamber expressed concern that the ICC should not defer cases to domestic jurisdiction where "the State has no intention of" investigating or prosecuting.[20] The ICC could contemplate a fixed time period by which the state must initiate an investigation and prosecution.

Qualified deference poses more problems if it is uncertain what the state seeks to do or if the state a state 'is able and theoretically willing' but lacks the intention to do so. Deference merely based on good faith might not be enough. Good faith is not presumed, but must be demonstrated. There must be indicia of willingness to investigate or prosecute before national court. Otherwise, deference may create accountability vacuums.

1.3.3.2. What Criteria Should Be Used?

The second question is what criteria should be used for qualified deference. This is an area where further guidance is needed. In the context of the *ad hoc* tribunals, this was done through the Rules of Procedure and Evidence.[21] At the ICC, such a framework is missing. Criteria can only be inferred through an interpretation of complementarity and a systematic reading of the Statute.

What are some of the relevant parameters? The first is the nature of domestic proceedings. Complementarity is process-based, rather than outcome based. Qualified deference should thus take into account the genuineness of the national investigation or prosecution, in line with the chapeau element of Article 17.

Second, deference requires close consultation with the state. It would require the Court to stay in regular contact with states and rely on reporting or monitoring proceedings. This idea is already contained in Article 19(11) which allows the OTP to "request the relevant state" to make "information on the proceedings" available to the Prosecutor, in case of the deference of an investigation.

Third, deference must be subject to fairness and due process. Domestic investigations or prosecutions must respect a basic degree of fairness. Otherwise the ICC might become complicit in flawed domestic proceedings.

Fourth, the fair opportunity principle must be subject to some timelines. As Payam Akhavan said, "at some point, the ICC clock must expire so that proceedings at The Hague can progress to the trial stage".[22] The accused has a right to a trial without undue delay. Delays may impede legitimate interests of victims. The OTP may rightly invoke that qualified deference should not require the OTP to suspend its own investigation indefinitely in light of Article 19(7). These factors should be taken into account.

One way forward to stimulate a more flexible reading of complementarity may be to specify a set of guidelines, enabling the exercise of qualified deference in line with Article 17. Such criteria are necessary to accommodate the risks of qualified deference. For instance, it may be difficult for the ICC, once it has deferred to a state, to exercise jurisdiction in the future if the national proceedings turn out not to be genuine.

1.3.3.3. Treatment of Qualifiers

The application of the qualified deference concept relies on the use of qualifiers. Some might argue that this creates a third way towards complementarity, namely a status of conditional admissibility, where the case is admissible before both the ICC and domestic jurisdictions, in light of the application of qualifiers.

The traditional reading of admissibility is that a decision under Article 19 is based on an 'all or nothing' decision, that is, the case either admissible domestically or before the ICC. But the existing drafting does not exclude the introduction of qualifiers in relation to deference. If a Chamber is entitled to make a final finding on admissibility, based on the criteria of Article 17, it must have the power to rule on the steps leading to that result. Deference would thus constitute, in effect, an interim decision on inadmissibility.[23] The Prosecutor might be given opportunity to submit a request for a review of the decision when "he or she is fully satisfied that new facts have arisen which negate the basis on which the case" has been deferred, as signalled in Article 17(10).

2. Role of the Assembly of States Parties

A further way to strengthen complementarity through dialogue and consultation is to re-think the role of the ICC Assembly of States Parties ('ASP') in relation to complementarity.

ICC jurisprudence, such as the Yekatom admissibility decision, has made it clear that "[i]ssues arising from the admissibility of cases before the Court under article 17 of the Rome Statute all remain a judicial matter to be addressed by the judges of the Court".[24] However, this does not *per se* exclude that the ASP can, on a political level, foster a constructive and continuing dialogue on complementarity. One novel step, in the spirit of the Kampala stocktaking exercise on complementarity, would be the creation of a more structured forum inside the ASP, composed of selected representatives of States Parties, which could help to address some of the more systemic dimensions of complementarity, such as an ASP Task Force on Complementarity.

2.1. Towards a New Forum

The Kampala Resolution recognized the "desirability for States to assist each other in strengthening domestic capacity".[25] Options for technical inter-state assistance exist within the Secretariat. But there is no political structure for States Parties to consult or co-ordinate collectively on the systemic dimensions of complementarity, galvanize support for capacity building strategies or facilitate communications between the Court and non-States Parties.

Why would such a forum be desirable? As many have previous-

[18] See Carsten Stahn, "Admissibility Challenges before the ICC: From Quasi-Primacy to Qualified Deference?", in Carsten Stahn (ed.), *The Law and Practice of the International Criminal Court*, OUP, 2015, p. 228.

[19] See generally Mark Drumbl, *Atrocity, Punishment, and International Law*, CUP, 2007, p. 188 ("rebuttable presumption in favor of local or national institutions"); Mark Drumbl, "Policy Through Complementarity: The Atrocity Trial as Justice", in Carsten Stahn and Mohamed El Zeidy (eds.), *The ICC and Complementarity: From Theory to Practice*, CUP, 2011, pp. 197, 224; Ambos, 2016, see *supra* note 16, p. 284; Karolina Wierczynska, "Deference in the ICC Practice Concerning Admissibility Challenges Lodged by States", in Lukasz Gruszczynski and Wouter Werner (eds.), *Deference in International Courts and Tribunals*, OUP, 2014, pp. 355-370; Christian De Vos*, Complementarity, Catalysts, Compliance*, CUP, 2020, p. 282.

[20] Katanga Appeal Judgment, para. 79, see *supra* note 2.

[21] International Criminal Tribunal for the former Yugoslavia, Rules of Procedure and Evidence, IT/32/Rev.50, 8 July 2015, Rule 11 *bis* (https://www.legal-tools.org/doc/30df50/); International Criminal Tribunal for Rwanda, Rules of Procedure and Evidence, 29 June 1995, Rule 11 *bis* (https://www.legal-tools.org/doc/c6a7c6/).

[22] Akhavan, 2016, see *supra* note 17.

[23] Stahn, 2015, see *supra* note 18, p. 257.

[24] ICC, Situation in the Central African Republic II, *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona*, Decision on the Yekatom Defence's Admissibility Challenge, 28 April 2020, ICC-01/14-01/18-493, para. 22 ('Yekatom Admissibility Decision') (https://www.legal-tools.org/doc/p6mb1w/). The Court quotes the Bureau on complementarity.

[25] ICC Assembly of States Parties, Resolution RC/Res.1, 8 June 2020, para. 5 (https://www.legal-tools.org/doc/de6c31/).

ly said, the Court is only to a limited extent equipped to strengthen domestic capacity to investigate and try atrocity crimes. This task is mostly incumbent on States Parties and other stakeholders, including international organizations and civil society. Through its political leverage, the ASP can play a stronger political role in co-ordination and mobilizing political support. This is, for instance, urgently needed to facilitate sustainable completion strategies in relation to ICC situations or longer-term aspects of reparations. The ICC can learn in this respect from the practice of the *ad hoc* tribunals. The creation of a new structure would benefit both the ASP and the Court and deepen ideas voiced in the Kampala stocktaking exercise, while respecting the judicial and prosecutorial independence of the Court in relation to the admissibility of specific cases before it.

2.2. Potential Functions

2.2.1. Facilitating Dialogue and Co-operation

An ASP Task Force on Complementarity could have a facilitating role that is missing in the existing ICC system. In the current system, complementarity is mainly treated as an issue between affected states and the ICC. There is no intermediary. The unique asset of the ASP is its ability to co-ordinate efforts of states. Currently, it mainly has a role in case of findings on non-compliance. It could be used more actively to foster a positive and constructive relationship between States Parties and the Court – beyond issues of non-compliance. It could in some contexts serve as a gateway between the ICC and States Parties. It could serve as a collective platform to create leverage for effective investigations or prosecutions, channel knowledge and expertise to facilitate domestic justice efforts, engage with states that face impediments or serve as a broader sounding board for concerns.

Important complementarity issues also arise in the implementation of ICC reparations, which often require sustained state engagement and reparative complementarity beyond the closure of cases. Such functions might in the interest of both the Court and States Parties. They might become important especially if the Court would adopt a less ICC-centric vision of complementarity. Of course, the Court, and in particular the OTP, should be adequately represented in such a forum, and limits to the mandate are set by the independence of the Court.

2.2.2. Strengthening Positive Complementarity on a Political Level, Including in Completion Strategies for ICC Situations

A more targeted ASP mechanism may strengthen complementarity on a political level, including in completion strategies for situations. Such a mechanism may become more desirable, the more the Court and the OTP develop completion strategies for situations. As the Trial Chamber said in Yekatom, the "ICC has no specific mandate to develop the domestic criminal justice sector".[26] It is precisely in this space that the ASP may come in and offer competitive advantages. It can galvanize support or link actions of different international actors, including state support or engagement of international organizations or NGOs, in order to enhance the prospects that ICC engagement leaves a positive impact.

2.2.3. Mediating Role

Through its diplomatic channels, the ASP could have a certain mediating role. In some situations, direct relations between the Court and states may be difficult or break down. The consultation mechanism under Article 97 may not always work. There may be a need for an additional interlocutor. For instance, state withdrawal from the Statute may raise ongoing complementarity issues in relation to pending investigations or prosecutions by virtue of Article 127(2). Complementarity is in many situations a cornerstone for a constructive relationship with non-States Parties and a possible solution for accountability challenges. This requires not only legal interaction, but political dialogue.

Two years ago, former United States Ambassador David Scheffer has suggested the creation of a Select Committee of ICC State-Party Representatives to engage politically with both non-States Parties and non-cooperative or withdrawing States Parties.[27] This would be political body, using the political organs of states to mitigate tensions or support a co-operative relationship. An ASP mechanism on complementarity may be a modest step in this direction. It may help to create a more open and constructive relationship with states, through a targeted and sustainable co-ordination structure beyond the Bureau, potentially composed of state representatives from capitals, experts and stakeholders involved in transitional justice or rule of law assistance.

3. Concluding Remarks

Ten years after the Kampala stocktaking exercise, it is time to rethink approaches towards complementarity. ICC jurisprudence has partly become trapped by a literal and systematic reading of the Statute. It has interpreted admissibility in a way which conflicts with some of the broader systemic functions of complementarity. This approach is understandable from the Court's perspective which has to interpret the Statute and has an interest in retaining cases in which it has invested significant time and investigative efforts. However, it sits uneasily with the broader goals of complementarity which seek to stimulate domestic jurisdiction. It may not be advisable to drop the 'same conduct same person approach' as a whole. But serious consideration should be given to a more contextual reading of Articles 17 and 19 and the possibility of qualified deference, in particular in situations of transition.

At the same, it is useful to rethink the structures of the ASP. Much of the innovative spirit of Kampala has waned over the past decade. Initiatives like the Greentree process have lost part of their momentum. It is thus necessary to reflect about new approaches. One innovative way to fill this gap is to provide greater attention to the systemic dimensions of complementarity in the structures of the ASP, and to give it a broader co-ordinating and facilitating role beyond the Secretariat and the Bureau. This may connect the work of the Court more closely to the work of other institutions and agents, including rule of law and development agencies, help to address political stalemate, reduce tensions with non-States Parties and serve to develop sustainable strategies for completion of ICC situations and the longer-term aspects of reparations.

These proposals might strengthen the Court, while addressing at the same time some of the concerns and shortcomings that have arisen over the past decade.

Carsten Stahn *is Professor of International Criminal Law and Global Justice at Leiden Law School and Queen's University, Belfast.*

ISBN*: 978-82-8348-153-2.*
TOAEP-PURL*: https://www.toaep.org/pbs-pdf/115-stahn/.*
LTD-PURL*: https://www.legal-tools.org/doc/nvxxgf/.*

[26] Yekatom Admissibility Decision, see *supra* note 24, para. 22.

[27] David Scheffer, "Create a Select Committee of ICC State Party Representatives", *ICC Forum*, 28 June 2018.

TOAEP | Torkel Opsahl Academic EPublisher

Torkel Opsahl Academic EPublisher (TOAEP)
Via San Gallo 135r, 50129 Florence, Italy
URL: www.toaep.org