

The drafters of the ICCs founding document, the Rome Statute, foresaw what would become the main challenge to the Courts legitimacy: that it could violate national sovereignty. To address this concern, the drafters added the principle of complementarity to the ICCs jurisdiction, in that the Courts province merely complements the exercise of jurisdiction by the domestic courts of the Statutes member states. The ICC honours the authority of those states to conduct their own trials. This book asserts that the principle of complementarity, both dynamic and powerful, is the key legal underpinning for domestic jurisdiction of international crimes, and has been the impetus for the rise of a new trend toward domestic war crimes prosecutions. However, if the principle of complementarity is to be applied, states must ensure that their own judicial systems and trials are consistent with international standards of independence and fairness. At a minimum, states will have to adhere to standards of due process found in international human rights instruments. In addition, for complementarity to work, the ICC must be willing to actively support, embrace, and implement the principle. If the Court holds on too tightly to a self-aggrandising view of its role in promoting international justice, then it will lose all credibility in the eyes of nation states. Finally, the international community, in calling on states to address war crimes committed within their borders, must provide some of the financial, technical, and professional resources that many struggling states need in this endeavour. This book sets forth several innovative recommendations to fulfil these goals in order to strengthen and unify the principle of complementarity between the ICC and nation states so as to make future domestic war crimes courts work more effectively.

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