

**“State Cooperation regarding the International Criminal Tribunals
and the International Criminal Court”**

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“State Cooperation regarding the International Criminal Tribunals and the International Criminal Court”

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Introduction

A fundamental building block in international law is “State Cooperation”. The international community ‘develops a certain specific set of values, social, economic and political, and this stamps its mark on the legal framework which orders life in that environment.’¹ In this context, international law results of its environment. It has evolved in accordance with the prevailing concepts of international relations and to be profitable and effective it needs to be corresponding with the realities and circumstances of the era. Since the foundation of the United Nations (UN) in 1945, international cooperation has been a basic column of the international system. The latter is structured horizontally and embraces 191 independent states so far, ‘all equal in theory and recognizing no one in authority over them.’² Traditional mechanisms of international cooperation in penal matters contemplate relationships between co-equal sovereigns. However, things have changed and public international law which traditionally comprised nation-states as its principal subjects has expanded itself through the years to include within its scope individuals, groups and international organizations as well.

On the other hand, international criminal justice has grown slowly as a feasible legal system. Nonetheless, it has developed strong foundations such as law, custom, principles, institutions, procedures and doctrines. Since the establishment of the four *ad hoc* international criminal tribunals, namely the International Military Tribunal at Nuremberg (IMTN), the International Military Tribunal for the Far East (IMTFE), the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for

¹ SHAW, Malcolm N., “*International Law*”, Fourth Edition, Cambridge University Press, 1997. p. 6

² *Ibid.*

Rwanda (ICTR), and the recently entry into force of the International Criminal Court (ICC),³ the first permanent international criminal court, the system of international criminal justice definitely constitutes the most innovative and complex discipline in public international law so far. One of its major achievements lies on incorporating for the first time individual responsibility as the spine of the international criminal law. However, the system has proven its weakness whenever law enforcement is concerned. Every international criminal tribunal has followed diverse paths which make them wholly different in structure and functioning; despite the fact, each of them faces the same stake: they merely depend on international cooperation to properly function and successfully aim its commitments.

This paper will focus on state cooperation in regard of the ICTY, the ICTR and the ICC. Evidently, in the case of these international criminal tribunals, state cooperation is essential to the effectiveness of judicial process. Since international tribunals have no enforcement agencies at their disposal, without the assistance of national authorities they cannot execute and fulfill their mandates.

In this essay I shall attempt to consider how "State Cooperation" deeply influences the effectiveness of international criminal tribunals and in consequence the system of international criminal justice.

General Considerations

Any international criminal court, whether created on an *ad hoc* or a permanent basis, depends heavily on the willingness of States and

³ The IMTN and IMTFE and its Charters were created by the victors of the Second World War to which Germany and Japan unconditionally surrendered, for the persecution of (a) crimes against peace, (b) war crimes, (c) crimes against humanity. In contrast, the ICTY and ICTR and its Charters were created by resolution of the Security Council acting under Chapter VII of the UN Charter. On the other hand, the ICC is product of a multilateral agreement between States to establish a permanent international criminal court.

international organizations to provide support and to assist it in its work.⁴ This affirmation undoubtedly comprises how significant the assistance, support and cooperation by States stands on the international arena in regard to the successful achievement of justice. Admittedly, this holds true for all international institutions, which need the support of states to be able to operate.⁵

Domestic criminal courts function within an integral governmental structure, with enforcement agencies at their disposal to *inter alia* implement arrest warrants, seize evidentiary material, require witnesses to give testimony and carry out on-site investigations where crimes have supposedly been committed. In other words, national legal systems grant national criminal courts direct powers of coercion and place at their immediate disposal a complex state apparatus to allow them to perform their investigations and to put into effect their orders and decisions. On the other hand, requests, orders and decisions by international criminal courts can only be enforced by others, specifically States and its national authorities and sometimes even by international organizations.

Usually, international criminal courts have limited human and financial resources to fulfill their responsibilities, and this makes them dependent upon the aid of others. In this context, international criminal courts are in a position that differs deeply from that of national criminal courts. Without State support, international courts cannot operate; hence they constantly request State authorities for assistance to the courts' officers and investigators. Taking into account that on an ideal judicial system 'trials must be expeditious; evidence must be collected before it becomes stale and the court must be able to summon witnesses to testify at short notice,'⁶

⁴ **SWART, Bert and SLUITER, Göran**, "*The International Criminal Court and International Criminal Cooperation*", in **VON HEBEL, Herman A.M., et al**, "*Reflections on the International Criminal Court, Essays in honour of Adriaan Bos*". T.M.C. ASSER Press, The Hague, 1999, p. 91.

⁵ **CASSESE, Antonio**, "*The Statute Of The International Criminal Court: Some Preliminary Reflections*", *European Journal of International Law*, EJIL 1999, 10, p. 164.

⁶ **CASSESE, Antonio**, *supra* no. 5, p. 164

responsibility and compromise rest strongly on States to accomplish their duties under international law in order to attain peace, security and justice as the world community's primary commitments.

In criminal matters, the international legal system does not provide the legal framework for the international cooperation and the mutual assistance of States. Accordingly, there is no universal agreement to rule and to make possible the reciprocal cooperation and assistance of States in the enforcement of their respective national criminal laws.⁷ However, under certain circumstances States have an obligation to cooperate and to assist in the investigation and the prosecution of persons suspected of committing crimes such as war crimes and crimes against humanity ruled under international law.⁸

Criminal law has long been an affair of national jurisdiction and one of the major expressions of national sovereignty. Therefore, international cooperation in topics such as extradition of its own nationals to another jurisdiction or the implementation of arrest warrants is usually an unenthusiastic and susceptible topic for States. As a result, national sovereignty profoundly influences the implementation and the enforcement of criminal law limiting State's international cooperation and assistance.

As far as the ability of States to cooperate in criminal justice and law enforcement matters is concerned, politics and international relations play an imperative role. The more complicated and complex the relations remain between States, 'the more sensitive such cooperation is likely to be especially when different ideologies or value system are in play or when the levels of

⁷ This type of cooperation is generally provided by States either on informal basis or pursuant to bilateral or multilateral agreements. See, **MORRIS, Virginia & SCHARF Michael**, "*The International Criminal Tribunal for Rwanda*", Transnational Publishers, Inc. New York, 1998, p. 628.

⁸ In the case of grave breaches to the Geneva Conventions, an obligation exists as a matter of conventional law for the vast majority of States which are parties to the conventions and as a matter of customary law for the limited number of States which are not parties thereto. See **Ibid** p. 629.

respect for human rights and freedom differ.⁹ Political considerations comprise a fundamental factor in determining the extent to which a State will be able to cooperate with an international tribunal whose jurisdiction is limited to crimes which by their especially nature have political implications. In consequence, cooperation and assistance in the investigation or prosecution of crimes will result in political repercussions which inevitably affect domestic affairs. In political words, this represents a serious risk for the internal equilibrium as well as for the maintenance and control of power within a State.¹⁰

Under this framework, is clear that the capability of the international criminal tribunals to achieve its mandates effusively depends on whether States are willing and able to provide the necessary assistance and cooperation in criminal justice and law enforcement matters.

Therefore, neither the ICC nor the ICTY and ICTR are gifted with direct enforcement powers. Thus, the absence of law enforcement agents at its disposal entitled to carry out investigations, subpoena witnesses, or serve arrests warrants in the territories of States Members of the UN results in the lack of enforcement power. So, to accomplish these tasks, the international criminal tribunals have got to bear upon the domestic legal system and their enforcement apparatus. In other terms, 'all requests from the Tribunals for arrest, search, surrender or transfer of persons are addressed to, and processed by, the municipal system of the relevant State.'¹¹

In this sense, all States require to endorse implementing legislation to harmonize their municipal legal system with the requirements of the

⁹ **Ibid.**

¹⁰ Whereas the ICTY was established over the objections of the former Yugoslavia, the new Government of Rwanda requested the Security Council to establish an international tribunal to prosecute and punish the individuals who were responsible for the genocide which occurred under the previous government. See **MORRIS, Virginia & SCHARF Michael**, *supra* no. 7, p. 643.

¹¹ **BASSIOUNI, Cherif, & MANIKAS, Peter**, "*The Law of the International Criminal Tribunal for the Former Yugoslavia*", Transnational Publishers, INC, New York, 1996, p. 781.

international criminal tribunal's statutes to meet the terms of its cooperation obligation.¹²

The ICTY and ICTR

The first and most important thing to mention in regard of these international criminal tribunals (ICT) is that both were established by Security Council (SC) resolutions, acting under Chapter VII of the UN Charter.¹³ As a consequence, States are compelled to provide the necessary cooperation and assistance to both ICT. The basis for this affirmation derives from Article 25 of the UN Charter, where all Member States agree to accept and to carry out SC decisions. In addition, Member States are constrained under Article 103 of the UN Charter to carry out the obligations deriving from it, further, Article 2 (6) of the same Charter comprises that non-Member States are required to act in accordance with the UN principles to the extent necessary for the maintenance of international peace and security. In this context, the UN Charter settles an obligation to collaborate with the ICTY and ICTR for Member States and non-Member States of the UN. Moreover, the constitutional relationship between the UN, its organs, and Member States originates from the treaty obligation that States take for granted in ratifying the UN Charter. 'That obligation includes the recognition by the Member States of the competence of UN organs, and the competence of the Security Council to bind States by resolutions, requiring Member States to comply with the mandate of the resolution in question.'¹⁴

Another basic element of both ICT is they work under concurrent jurisdiction with national courts. This means national jurisdictions were made subjects to the primacy of the international tribunal; hence, at any stage, they can

¹² Such legislation has already been promulgated by a number of States, while other States are in the process of passing it: E.g. legislation has been harmonized with the Statute of the ICTY in: Greece, Romania, Hungary, Republic of Croatia, United Kingdom, Austria, Belgium, Switzerland, Australia, New Zealand, The Republic Germany, Bosnia Herzegovina, France, Denmark, Sweden, Norway, Spain, The Netherlands, Finland, United States and Italy.

¹³ The ICTY was created by Security Council resolution 827 of 25 May 1993. On the other hand, the ICTR was established by Security Council resolution 955 of 8 November 1994.

¹⁴ **BASSIOUNI, Cherif, & MANIKAS, Peter**, *supra*, no. 11, p 777.

formally request national courts to defer to the competence of the ICT. The Statute for the ICTY states in article 9 that the Tribunal and national courts shall have concurrent jurisdiction. On the other hand, the Statute for the ICTR contains a similar provision in article 8.¹⁵

In regard of jurisdiction, the ICTY and ICTR follow the coercive, 'supranational' model. This progressive model assumes that the Tribunal is vested with sweeping powers not only vis-à-vis individuals subject to the sovereign authority of states, but also towards states themselves.¹⁶ A further exclusive feature of this model is the categorical and supreme nature of the obligation to cooperate. 'States may not invoke national interests, national law or competing obligations under international law as grounds for refusing to cooperate.'¹⁷ This assumption turns relevant when the International Courts attempts to enforce its requests, orders and decisions. The fact that the SC backs and supports the ICTY and ICTR actions plays a fundamental role in its effectiveness. However, successful results are not always achieved, even with the SC's rope.

Furthermore, it must be said that the law of the ICTY and ICTR as it concerns state co-operation is largely judge-made. Article 29 of the ICTY Statute and the equivalent Article 28 of the ICTR Statute comprises that States shall co-operate with the ICT and as well comply without undue delay with any request for assistance or an order issued by a Trial Chamber.¹⁸ Though, arrest warrants and orders for transfer of an accused, requests for assistance and subpoenas among others were left to the Judges to define.¹⁹ Therefore, the duty of States to collaborate with the ICTR is contained in Article 28 of its Statute, which is based on the corresponding provision embraced in Article 29 of the ICTY. In this regard, there are two aspects of the obligation of a State to cooperate with both ICT. On the one hand, a State has a general

¹⁵ See **MISKOWIAK, Kristina**, "*The International Criminal Court: Consent, Complementarity and Cooperation*", Publishing Copenhagen, p 40.

¹⁶ See **CASSESE, Antonio**, *supra*, no. 5, p 164

¹⁷ **SWART, Bert and SLUITER, Göran**, *supra*, no. 4, p. 98

¹⁸ Article 28 of the Statute of the ICTR is virtually identical to Article 29 of the Statute of the ICTY.

¹⁹ See **CASSESE, Antonio**, *supra*, no. 5, p. 165

obligation to supply any cooperation that may be solicited by the tribunals to assist the investigation or the prosecution of an alleged perpetrator. As well, it constitutes a legal basis for the assistance given by States that are disposed to do so. On the other hand, an obligation rests on States to comply, without undue delay, with formal requests or orders for cooperation or judicial assistance issued by both ICT. Hence, from the wording of these articles it can be deduced that the authority of the ICTY and ICTR to issue orders has binding effects on States and even on individuals.

In addition, as far as implementation of legislation enabling States to cooperate with the ICT is concerned, President Antonio Cassese stated in his *Decision on the Defense Motion Filed Pursuant to Rule 64*, rendered in *Blaskic* on 3 April 1996: "all States have the obligation to enact any implementing legislation necessary to permit them to execute warrants and requests of the Tribunal (...) this is not a generic obligation, but a very specific one. More precisely, this is an "obligation of conduct" (*obligation de conduite*) or "obligation of means" (*obligation de moyens*) namely, an obligation requiring States to perform a specifically determined action, like "obligations of results" (*obligation de résultat*) which require States to bring about a certain situation or result, leaving them free to do so by whatever means they choose...".²⁰

In this order of ideas, the two main areas of cooperation with the ICTY and ICTR include firstly the passing of legislation to enable States to effectively cooperate with the Tribunals and secondly the cooperation to assist the investigation or the prosecution of an alleged perpetrator; the duty to comply with formal requests or orders for cooperation or judicial assistance; and the enforcement of sentences imposed by both ICT.

²⁰ JONES, John R.W.D., *The Practice of the International Criminal Tribunals for the Former Yugoslavia and Rwanda*, Second Edition, Transnational Publishers, INC., New York, 2000, p. 199., See also TAVERNIER, Paul, *The experience of the International Criminal Tribunals for the former Yugoslavia and for Rwanda*, International Review of the Red Cross, 31-12-1997, p. 605-621

What happens if cooperation is not given? What are the consequences deriving from this lack of cooperation? An ideal development of cooperation in international criminal matters should comprise full assistance, support and collaboration by Member States within the judicial processes implemented by international tribunals. However, in practice this is not usually the case. The judges of the ICTY and ICTR have developed and adopted certain rules of procedure and evidence to govern the principal aspects of the proceedings. The basic provision regarding cooperation in both set of rules is contained in Rule 7 *bis* which points that at the request of the Prosecutor, a Trial Chamber or a Judge, the President of the Tribunal may notify the SC of the failure of a State to provide the necessary cooperation or assistance in response to a specific request or order. Moreover, the President of the Tribunal may also inform the SC of the failure of a State to comply with a request for deferral (Rule 11), to comply with an order to discontinue permanently its criminal proceedings in accordance with the *non bis in idem* principle (Rule 13), or to execute an arrest warrant or transfer order (Rule 59 or Rule 61).²¹

Finally, it must be said that neither the ICTY nor the ICTR are authorized to impose any penalties on States for non-cooperation. Their jurisdiction is limited to individuals and consequently does not include States. Therefore, the SC must determine whether to impose sanctions on a State for non-compliance with its obligation to cooperate.²² Thus, the SC is free to take any action it may deem appropriate with regard to a given State for that State's failure to carry out the orders of the Tribunal.

The International Criminal Court

The ICC was created as a treaty-based international institution outside the scope of the UN. The Rome Statute comprises its constitution document and with the Rules of Procedure and Evidence regulates the operation of the

²¹ Rules 7*bis*, 11, 13, 59 and 61 of the Rules of Procedure and Evidence for the ICTY and that for the ICTR contain basically the same provisions. Unless there are some grammatical differences, the essence and contents are similar.

²² MORRIS, Virginia & SCHARF Michael, *supra* no. 7, p. 660.

Court. The ICC is not a subsidiary organ of the UN Security Council as the ICTY and the ICTR; as a result, not all States are obligated to render cooperation, only the States that ratify the Rome Statute and, therefore, accept the jurisdiction of the ICC. Its multilateral treaty nature results in that it will only have jurisdiction over individuals of States that becomes party to the Statute. Moreover, the Court would be competent to exercise jurisdiction on either the territorial state or the state of the nationality of the suspect being party to the statute or expressing consent to the case in question.

Unlike the ICTY and the ICTR, the ICC contains essential elements of the interstate and supranational models of cooperation.²³ For example, supranational aspects are *inter alia*: States must guarantee that national procedures are available for all forms of cooperation (Article 88); in some circumstances the Prosecutor has the power to conduct on-site investigations on the territory of a State Party without the prior authorization of that Party being required (Article 99(4)). On the other hand, interstate elements such as *inter alia*: States can decide the appropriate means for transmitting requests for cooperation (Article 87 (1)); Requests for cooperation shall be fulfilled in accordance with the applicable procedure under national law (Articles 89 (1) and 93 (1)); Transfer of witnesses to the Court may take place with State's consent only (Article 93 (1)(e) and (f)); as well as States determine the way in which requests for assistance will be performed (Article 99 (1)).

Furthermore, an essential characteristic comprise the ICC is founded under the principle of complementarity. The doctrine of 'complementarity' recognizes the primary responsibility for enforcing international criminal justice must still rest with the nation-state, and that an international tribunal with markedly limited capacity should intrude only where national courts are

²³ See, **SWART, Bert and SLUITER, Göran**, *supra* no. 4, pp. 99-100

virtually disabled from action.²⁴ This means the ICC does not have primacy over national courts but should only intervene in situations in which national systems of justice have shown themselves to be unable or unwilling to bring to justice persons suspected of having committed international crimes.²⁵ Nonetheless, 'the same reasons that underlie a State's failure to live up to its obligations to investigate and adjudicate international crimes itself may also determine its ability and willingness to provide assistance to the Court.'²⁶

Notwithstanding, the complementarity principle aims to achieve balance between international and national jurisdictions. The ICC is not projected to surrogate national prosecutions, or even be superior to them. Hence, States' judicial authorities have the obligation of bringing to court and punishing international crimes. Then the court is intended to work as a supplement to national courts. This rule illustrates how important for the Court is the support of States and international organizations. Therefore, the international community relies on the "proper" exercise of international criminal justice with the help of the States Parties to fulfill the purpose and the aims of the Statute.²⁷

International cooperation and judicial assistance are regulated in Part 9 of the Rome Statute and comprise articles 86 to 102. These articles deal not only with cooperation between the Court and States but also with international organizations. Then, the primary international obligation explicitly imposed by the Statute is to render cooperation and judicial assistance to the Court when requested.²⁸ This principle is expressed in Article 86 of the Statute, which requires States Parties to "cooperate fully with the Court in its

²⁴ See, **WEDGWOOD, Ruth**, "*The International Criminal Court: An American View*", *European Journal of International Law*, EJIL 1999 10, p. 94.

²⁵ See, **SWART, Bert and SLUITER, Göran**, *supra* no. 4, p. 92.

²⁶ **Ibid.**

²⁷ **TRIFFTERER, Otto**, "*Legal and Political Implications of Domestic Ratification and Implementation Processes*", in **KRE?, Claus & LATTANZI, Flavia, (ed)**, "*The Rome Statute and Domestic Legal Orders*", Volume I, Nomos Verlagsgesellschaft, Baden Baden, 2000, p. 15.

²⁸ **DUFFY, Helen, and HUSTON Jonathan, (ed)** "*Implementation of the ICC Statute: International Obligations and Constitutional Considerations*", in **KRE?, Claus & LATTANZI, Flavia, (ed)** *supra* no. 27, p. 33.

investigation and prosecution of crimes within the jurisdiction of the Court.”²⁹ Next, Article 87 comprises rules on the making of requests for cooperation as well as on the consequences of a denial to comply with them. Subsequently, Articles 89 to 92 and 101 to 102 deal with the surrender of suspects and accused to the Court whereas Articles 93 to 96 and 99 are concerned with other forms of cooperation.

It follows from the foregoing that the first step to achieve cooperation with the ICC consists on the implementation by States in their domestic legal systems of the standards given by the Statute and the Rules of Procedure and Evidence; the harmonization of the international and national criminal law and the creation or adaptation of the necessary legal regulations. This implementing legislation will vary in scope and detail depending on the current state of domestic law.³⁰ In addition, another relevant obligation comprised in Article 88 of the Rome Statute consists in that States must ensure that there are procedures available under their national law for all of the forms of cooperation. Besides Part 9 of the Rome Statute, other provisions such as the ones contained in Part 5 (Investigation and Prosecution), Part 6 (The Trial) and Part 10 (Enforcement) are of enormous importance in regard of international cooperation and judicial assistance. In this context, the collaboration required includes *inter alia* surrender of persons to the ICC,³¹ giving judicial assistance and enforcement of the ICC’s judgments.

When it comes to Non-cooperation with the ICC, the non-compliance of a State Party or a third State that concluded an agreement with the Court is subject to sanction by the Assembly of States Parties, or by the SC where the

²⁹ It has to be taken into consideration that the most serious crimes of concern to the international community as a whole, falling within the jurisdiction of the Court, are *jus cogens* crimes and as such establish an *obligation erga omnes* to investigate and prosecute. See, **TRIFFTERER, Otto**, *supra* no. 27, p. 24.

³⁰ **DUFFY, Helen, and HUSTON Jonathan**, *supra* no. , p. 34

³¹ The Statute is careful to distinguish “surrender” from “extradition”. According to Article 102, “surrender” means “the delivering up of a person by a State to the Court, pursuant to this Statute”, while “extradition” means “the delivering up of a person by one State to another as provided by treaty, convention or national legislation. See, Article 102 of the Rome Statute.

latter has referred the situation in question to the Prosecutor.³² The experience of the ICTY and the ICTR shows that acquiescence with Tribunal orders for the surrender of defendants and the production of evidence is scarcely achieved. It usually 'requires political and economic sanctions, and even the intimation of authorized military action by supporting states, to assure that the Tribunal's judgments will be given due deference.'³³

Notwithstanding, several dispositions in the Statute permit a State to refuse requests for cooperation or either postpone their execution. For example, in accordance to Article 93 (3) a State may refuse to accomplish a particular measure of assistance if execution of that measure is banned by the law of that State on the basis of an existing fundamental legal principle of general application. Moreover, pursuant to Articles 72 and 93(4) a State Party may deny a request for assistance, in whole or in part, if the request concerns the production of any documents or disclosure of evidence which relates to its national security.³⁴ Finally, Article 98 contains provisions that forbid the Court from proceeding with a request for surrender or assistance which would require the requested State to act inconsistently with its obligations under international law with respect to the State or diplomatic immunity of a person or property.

Similarly, the Court may not proceed with a request for surrender which would oblige the requested State to act contradictorily with its obligations under international agreements pursuant to which the consent of a sending State is compulsory to surrender a person of that State to the Court, unless the Court can first acquire the cooperation of the sending State for the giving of consent for the surrender.

³² See, Articles 87 (5) and (7) of the Rome Statute; Also See, **NESI, Giuseppe**, "*The Obligation to Cooperate with the International Criminal Court and States not Party to the Statute*", in **POLITI, Mauro and NESI, Giuseppe, (ed.)** "*The Rome Statute of the International Criminal Court, A Challenge to Impunity*", Ashgate, 2001, p. 221.

³³ **WEDGWOOD, Ruth**, *supra* no. 24, p. 106.

³⁴ This mechanism is largely based on the *Blaskic* decision of the ICTY Appeals Chamber, which relates to the obligation of states to disclose information. Hence, only in exceptional circumstances were states allowed to resort to special steps for the purpose of shielding that information from undue disclosure to entities other than the Court. See, **CASSESE, Antonio**, *supra*, no. 5, pp. 166-167.

Conclusion

It is clear that the effectiveness and success of any international tribunal, and foremost the international criminal courts will depend on valuable state cooperation for its proper functioning. The ICTY and the ICTR practice demonstrates that usually it is required political and economic sanctions, and sometimes even the warning of authorized military action, to guarantee that the Tribunal's orders, decisions and judgments will be implemented and enforced by States. However, the fact that the ICTY and the ICTR are subsidiary organs of the UN Security Council and consequently all States are obligated to render cooperation is an advantage that the ICC lacks. Practically the ICC will be able to inform the SC of a non-compliance by a State when the case in question has been referred to it by the SC. In all other cases, the Court must inform the Assembly of State Parties the refusal and the latter must decide the action to be taken. International cooperation is crucial for the future of international criminal justice; so the future practice of the ICC and the developing work by the ICTY and the ICTR must lead to resolve cooperation dilemmas. Probably the answer within the actual structure of international law "draws the circle back to the SC"³⁵. The last resort to achieve international cooperation must be the use of force within Chapter VII of the UN Charter. This is unquestionably the less popular remedy, but almost certainly the most effective; recently enforcement actions in Somalia and the former Yugoslavia are unfortunate illustrations of this. The role of States must be framed by a genuine compromise with justice, peace, security and well-being of the world. The occasion to put an end to impunity rests on the will of governments. Therefore, is the duty of every State to cooperate, assist and support international criminal tribunals by implementing and harmonizing national law in accordance to international standards and executing and enforcing Court's decisions, orders and judgments.

³⁵ WEDGWOOD, Ruth, *supra* no. 24, p. 106

The view that the International Criminal Tribunals and the ICC are very much like giants without arms and legs and consequently they need artificial limbs to walk and work is upsetting but accurate: such an important system shall rely on State's authorities. The lack of an international enforcement structure and the prevalent politic and economic differences between states so far, imprisons international criminal justice behind the iron bars of idleness and indifference.