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Melville Ludwig Jacobs

The Consequences of Non-cooperation with the International Criminal Court

An Analysis Through the Lens of General
International Law



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Foreword

At its core, the motivation for this book by Melville Jacobs, *The Consequences of Non-cooperation with the ICC: An Analysis of Frameworks under General International Law*, is, to borrow from the famous words of the UN Charter, “to save succeeding generations from the [inhumanity and] scourge” of conflict.

I know this, not only because I have read the book, but also because I was there at its conception. The initial version of this book was written as a Ph.D. thesis under my supervision and I can confirm that every step of the way, Melville was motivated by a desire to ensure that those that commit serious international crimes such as war crimes, crimes against humanity, genocide and aggression face the consequences of their actions, and a desire to remove obstacles in the path of accountability.

The importance of this noble goal can hardly be overstated given the horrendous mass sufferings on display on a daily basis reminding us that our generation has not been saved from the scourge of inhumanity arising from conflict. In most of these conflicts, accountability remains, at best an exception, and at worst, a hollow promise. The cooperation committed by States to promote accountability is often sacrificed at the altar of political considerations—and I would add, political considerations include double standards.

Against this background of impunity, Melville Jacobs’ book focuses its attention on the promotion of accountability in those situations covered by the International Criminal Court. In particular, it seeks to clarify the consequences for States Parties that fail to cooperate with the International Criminal Court in breach of their obligation under the Statute (or possibly under the UN Charter). But it does so in particular through the lens of the Responsibility to Protect, as part of the fabric of general international law, as well as the traditional framework for State responsibility. The book is, of course, not oblivious to the, let’s say, ambiguous legal character and status of the Responsibility to Protect and addresses this head on.

The doctrine of the Responsibility to Protect places a responsibility upon States and the larger international community to protect populations from genocide, war crimes, crimes against humanity and ethnic cleansing. The doctrine sits comfortably within the discussion of the Rome Statute in part because of the large overlap between

Rome Statute crimes and atrocities against which the Responsibility to Protect is intended to protect.

Placing the statutory duty to cooperate under the Rome Statute within the context of the Responsibility to Protect, the book attempts to construct consequences for non-cooperation with the International Criminal Court.

Despite his deep desire for a world without conflict—a world in which the commission of atrocities is met by immediate accountability—I am well aware that Dr. Jacobs is not blind to the political realities on the ground. He is fully aware that, as we have recently seen, States that have called on cooperation with the Court can suddenly change their tune when it is they that are called upon to cooperate with the Court. I hope this will not dampen his deep desire but lead him, as he moves into the second part of his academic life, to find even more novel ways of securing cooperation in a divided world.

The Hague, The Netherlands
May 2025

Dire Tladi
Judge of the International Court
of Justice (ICJ)

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I would also like to thank T.M.C. Asser Press for agreeing to take on my monograph. I hope that this book will contribute to the further development of international law.

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Abbreviations

ASP	Assembly of States Parties
AU	African Union
DRC	Democratic Republic of the Congo
EU	European Union
ICC	International Criminal Court
ICISS	International Commission for Intervention and State Sovereignty
ICJ	International Court of Justice
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the Former Yugoslavia
ILC	International Law Commission
R2P	Responsibility to Protect
UN	United Nations
UNGA	United Nations General Assembly
UNSC	United Nations Security Council
WHO	World Health Organization
WSOD	World Summit Outcome Document