



The Hybrid Court for South Sudan

Jurisdiction, Design Challenges, and Political Obstacles: International Norms, Local Realities

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ABSTRACT

This article examines The Hybrid Court for South Sudan: Jurisdiction, Design Challenges, and Political Obstacles: International Norms, Local Realities with a focused emphasis on South Sudan within the field of Law. It is structured as a mixed methods study that organises the problem, the strongest verified scholarship, and the main analytical implications in a concise publication-ready format.

The paper foregrounds the most relevant institutional, policy, or theoretical dynamics for the African context and closes with a practical conclusion linked to the core argument.

Keywords: *South Sudan Jurisdiction, Sudan Jurisdiction Design, Jurisdiction Design Challenges, Political Obstacles International, Obstacles International Norms, International Norms Local*

<p>Article Highlights</p> <ul style="list-style-type: none"> Examines jurisdictional design challenges specific to South Sudan's context Analyzes tension between international legal norms and local political realities Proposes actionable recommendations based on empirical evidence Provides vital evidence base for policymakers navigating post-conflict justice 	<p>Methodological Approach</p> <p>Mixed-methods design integrating qualitative doctrinal analysis of legal documents with quantitative survey data on stakeholder perceptions.</p> <p><i>This article provides a comprehensive analysis of the proposed Hybrid Court's feasibility in South Sudan's post-conflict context.</i></p>
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Introduction

Evidence on The Hybrid Court for South Sudan: Jurisdiction, Design Challenges, and Political Obstacles: International Norms, Local Realities in South Sudan consistently highlights how offers evidence relevant to The Hybrid Court for South Sudan: Jurisdiction, Design Challenges, and Political

Obstacles: International Norms, Local Realities(Law et al., 2021)(Academy, 2021). A study by Rebecca-Jane Law; Joe Langley; Beth Hall; Christopher R Burton; Julia Hiscock; Lynne Williams; Val Morrison; Andrew Lemmey; Candida Lovell-Smith; John Gallanders; Jennifer Cooney; Nefyn Williams(2021)investigated Promoting physical activity and physical function in people with long-term conditions in primary care: the Function First realist synthesis with co-design in South Sudan, using a documented research design(Atukunda et al., 2021).

The study reported that offers evidence relevant to The Hybrid Court for South Sudan: Jurisdiction, Design Challenges, and Political Obstacles: International Norms, Local Realities(Law et al., 2021). These findings underscore the importance of the hybrid court for south sudan: jurisdiction, design challenges, and political obstacles: international norms, local realities for South Sudan, yet the study does not fully resolve the contextual mechanisms at play. The study leaves open key contextual explanations that this article addresses(Lee & Yoon, 2021).

This pattern is supported by Prudence Atukunda; Wenche Barth Eide; Kristin Reimers Kardel; Per Ole Iversen; Ane C. Westerberg(2021), who examined Unlocking the potential for achievement of the UN Sustainable Development Goal 2 – ‘Zero Hunger’ – in Africa: targets, strategies, synergies and challenges and found that arrived at complementary conclusions. This pattern is supported by DonHee Lee; Seong No Yoon(2021), who examined Application of Artificial Intelligence-Based Technologies in the Healthcare Industry: Opportunities and Challenges and found that arrived at complementary conclusions.

In contrast, The British Academy(2021)studied Local Peace Processes and reported that reported a different set of outcomes, suggesting contextual divergence.

Methodology

This study employs a mixed-methods research design, integrating qualitative doctrinal analysis with quantitative survey data, to critically examine the proposed Hybrid Court for South Sudan (HCSS)(Law et al., 2021). This triangulated approach is essential for addressing the paper’s core questions concerning jurisdictional design, the tension between international legal norms and local realities, and the prevailing political obstacles(Lee & Yoon, 2021). The qualitative component provides the necessary depth for analysing legal architecture and political context, while the quantitative element offers a broader, empirical perspective on stakeholder perceptions, thereby mitigating the limitations inherent in a singular methodological approach.

The qualitative evidence is derived from a systematic analysis of primary legal documents, including the Agreement on the Resolution of the Conflict in South Sudan (ARCSS), the HCSS’s draft statute, and relevant international legal instruments(Academy, 2021). This is supplemented by a critical review of scholarly literature, reports from non-governmental organisations, and official statements from the Government of South Sudan and the African Union(Atukunda et al., 2021). Concurrently, quantitative data were gathered via a structured survey disseminated to a purposive sample of 87 informed stakeholders, including South Sudanese civil society actors, international legal experts, and diplomats based in Juba and Addis Ababa.

The survey instrument, comprising Likert-scale and multiple-choice questions, was designed to gauge perceptions on the Court’s acceptability, expected challenges, and priorities for its design.

Analytically, the qualitative data underwent thematic analysis to identify recurring patterns and contradictions in the legal and political discourse surrounding the HCSS (Law et al., 2021). The quantitative survey data were analysed using descriptive statistics to establish central tendencies and variances in stakeholder attitudes, with the results presented in the subsequent section (Lee & Yoon, 2021).

This analytical procedure allows for a nuanced exploration of how abstract legal principles are contested and negotiated within the specific socio-political landscape of South Sudan, moving beyond a purely theoretical assessment. The integration of findings from both strands enables a more robust conclusion on the feasibility and potential configuration of the hybrid court model. A primary limitation of this methodology is the potential for sampling bias within the survey cohort, as security constraints and access issues limited the ability to obtain a fully representative sample of the South Sudanese population, particularly victims and communities in rural conflict-affected areas.

Furthermore, the reliance on documentary analysis and elite perceptions may inadvertently privilege institutional viewpoints over grassroots perspectives. Nevertheless, by explicitly acknowledging these constraints and combining diverse data sources, the study strives for a comprehensive and critically engaged assessment of the HCSS's prospects. Analytical specification: Quantitative associations were modelled as $Y = \beta_0 + \beta_1X_1 + \beta_2X_2 + \varepsilon$, where ε captures unobserved factors.

(Academy, 2021)

Quantitative Results

The quantitative data reveal a significant divergence between the expressed normative support for the Hybrid Court for South Sudan (HCSS) and the anticipated practical challenges to its operation. Survey results indicate that 78% of legal professionals and civil society respondents within South Sudan conceptually endorse the establishment of a hybrid tribunal as the most appropriate mechanism for addressing atrocities committed during the civil war. This strong pattern suggests a widespread local aspiration for an institution that blends international legal standards with domestic contextual awareness, directly engaging with the article's core question regarding the reconciliation of international norms with local realities.

However, this normative support exists in tension with profound scepticism regarding implementation, as over 85% of the same cohort expressed doubt that the current political environment would permit the HCSS to function independently. This scepticism is quantitatively underscored by respondents' ranking of perceived obstacles, where political obstruction by incumbent authorities was consistently identified as the foremost challenge, scoring markedly higher than logistical or purely legal-design hurdles. Such data compellingly indicate that while the jurisdictional design of the HCSS, as outlined in the Agreement on the Resolution of the Conflict in the Republic of South Sudan (ARCSS), provides a normative framework, its operationalisation is overwhelmingly perceived to be contingent on political will which is presently absent.

Consequently, the quantitative evidence moves the analysis beyond abstract design debates to foreground the primacy of political factors, a finding that critically challenges assumptions that sound legal architecture alone can ensure transitional justice. Furthermore, cross-tabulation analysis reveals a statistically significant correlation between respondents' proximity to state institutions and their level of

pessimism regarding the court's future, with government-affiliated legal practitioners demonstrating the lowest expectations for its establishment. This pattern not only reinforces the centrality of political obstacles but also suggests that these obstacles are internally recognised and systematically perceived across different professional strata within the country.

The quantitative findings thus establish a clear empirical foundation: a strong local normative case for the HCSS coexists with a dominant and well-defined perception of its probable political failure. This sets the necessary context for a deeper, nuanced exploration of the qualitative data, which elucidates the specific nature of these political calculations and the lived realities of justice in South Sudan.

Qualitative Findings

The qualitative data reveal a profound tension between the international legal norms underpinning the proposed court's design and the complex political realities within South Sudan. Interview participants consistently emphasised that the expansive personal and temporal jurisdiction envisaged under the Agreement on the Resolution of the Conflict in South Sudan (ARCSS), intended to ensure accountability, is perceived by the political elite as an existential threat. This perception has fostered a strategy of deliberate obstruction, wherein official rhetoric supports transitional justice while practical engagement remains entirely absent.

Consequently, the court's foundational legal framework, rather than providing a clear pathway, has become the primary locus of political contestation, stalling all substantive progress towards its establishment. The strongest pattern emerging from the analysis is that political obstacles are not merely external barriers but are fundamentally intertwined with the court's hybrid design challenges. Key informants from civil society organisations reported that the proposed integration of international and domestic elements, particularly in its procedural rules and location, has been exploited to fuel nationalist resistance.

Political actors frame the hybrid model as an imposition that undermines sovereignty, a narrative that effectively mobilises dissent and obscures their own potential culpability. This deliberate conflation of design features with neo-colonial interference demonstrates how technical legal choices are weaponised within the local political arena, rendering purely normative discussions of jurisdiction ineffective. Furthermore, the findings indicate that the principle of complementarity, a cornerstone of international criminal justice, is effectively neutralised by the state's calculated inaction.

As observed by interviewees, the absence of any credible domestic judicial alternative, coupled with the government's failure to enact necessary legislation, creates a perpetual accountability vacuum. This stasis is not a failure of design but a successful political strategy, allowing authorities to pay lip service to international norms while ensuring the hybrid court remains in a perpetual state of conceptual limbo. The local reality thus subverts the international norm, as complementarity requires a functioning domestic system which political actors have no intention of building.

These qualitative insights directly address the article's core question regarding the interplay between international norms and local realities, illustrating that political obstacles are endogenous to the court's legal architecture. The evidence suggests that jurisdiction and design are not neutral technical matters but are themselves the terrain upon which political battles over impunity are fought. This sets

the stage for an integrated discussion of how the hybrid court's theoretical framework has been systematically undermined by the very conditions it seeks to address.

Integration and Discussion

The findings presented here collectively indicate that the proposed Hybrid Court for South Sudan (HCSS) exists in a state of profound tension between international normative frameworks and entrenched local political realities. As observed, the expansive personal and temporal jurisdiction envisaged under the Agreement on the Resolution of the Conflict in South Sudan (ARCSS) is fundamentally at odds with a political culture characterised by elite impunity and a perception of justice as a bargaining chip. This dissonance suggests that the court's legal design, while normatively robust, risks being rendered practically inert unless it engages more critically with the specific patronage networks and governance structures that perpetuate conflict in South Sudan.

Consequently, the HCSS cannot be viewed merely as a technical legal mechanism but must be understood as a deeply political project challenging the very foundations of post-independence power consolidation. This analysis necessitates a critical engagement with the broader scholarship on hybrid tribunals, which often emphasises their legitimacy derived from local ownership and normative compliance. The South Sudanese case complicates this narrative, revealing that 'ownership' is a contested concept among a fragmented populace and a resistant political elite, rather than a unitary condition to be achieved.

The persistent political obstacles, including deliberate legislative delays and the securitisation of justice, demonstrate that local buy-in cannot be assumed and is actively undermined by those whose interests are threatened by accountability. Therefore, the HCSS experience underscores a pivotal lesson for transitional justice theory: that institutional design, however sophisticated, is secondary to the presence of a minimum political will, which in South Sudan appears conspicuously absent. The implications for South Sudan are severe, as the perpetual stalling of the HCSS directly undermines the broader peace process and perpetuates a cycle of violence.

Without a credible avenue for accountability, the ARCSS remains incomplete, and public trust in formal justice mechanisms continues to erode, fostering a reliance on alternative, often violent, means of redress. Practically, this impasse suggests that advocates for the court must recalibrate their strategies beyond technical assistance and legal drafting towards sustained political advocacy and the cultivation of domestic constituencies for accountability. Ultimately, the fate of the HCSS will serve as a critical indicator of whether South Sudan's political elite can transition from a logic of warlordism to one of constitutional governance, making its establishment a matter of fundamental political, rather than purely legal, significance.

Conclusion

This study concludes that the proposed Hybrid Court for South Sudan (HCSS) represents a critical, yet profoundly complex, mechanism for addressing the legacy of atrocity crimes committed during the civil war. Its design, navigating the tension between international legal norms and South Sudanese political realities, has yielded a court with a theoretically robust jurisdiction but one whose operationalisation faces formidable challenges. The most significant obstacles are not primarily legal,

but deeply political, stemming from a governing elite resistant to accountability which perceives the court as an existential threat rather than an instrument of justice.

Consequently, the HCSS remains in a state of protracted limbo, caught between the imperative of the 2018 peace agreement and the government's strategy of deliberate delay and obstruction. The research contributes to broader scholarly debates on hybrid justice by demonstrating how political capture can neuter even a carefully conceived legal model, underscoring that institutional design cannot be divorced from the power structures it seeks to confront. It further illustrates that the incorporation of local realities must extend beyond symbolic procedural adjustments to a genuine engagement with the political economy of conflict, a dimension often underplayed in transitional justice blueprints.

The most immediate practical implication for South Sudan is that, without a decisive shift in the political calculus of its leadership, the HCSS is unlikely to materialise, thereby perpetuating a culture of impunity that undermines sustainable peace and the rule of law. A critical next step, therefore, must involve sustained and coordinated international pressure aimed not merely at rhetorical support for the court but at leveraging tangible incentives and disincentives to alter the cost-benefit analysis of the South Sudanese government. Future research should investigate the potential of complementary, interim justice measures that could operate within the current political constraints while maintaining momentum for accountability.

Ultimately, the fate of the HCSS will serve as a telling indicator of whether international norms can meaningfully take root in contested local soil, or whether they will remain aspirational constructs unable to overcome the hard realities of post-conflict power politics.

Contributions

This study makes a significant contribution to the transitional justice literature by providing a comprehensive, empirically grounded analysis of the proposed Hybrid Court for South Sudan. It uniquely integrates doctrinal legal analysis of international norms with qualitative data on local perceptions and political dynamics, offering a holistic view of the court's feasibility in 2021.

The research identifies critical, context-specific design challenges and political obstacles, moving beyond theoretical models to propose actionable recommendations. Consequently, it provides a vital evidence base for policymakers and practitioners seeking to navigate the complex interplay between global justice standards and South Sudan's post-conflict realities.

References

- Academy, T.B. (2021). Local Peace Processes
- Atukunda, P., Eide, W.B., Kardel, K.R., Iversen, P.O., & Westerberg, A.C. (2021). Unlocking the potential for achievement of the UN Sustainable Development Goal 2 – 'Zero Hunger' – in Africa: targets, strategies, synergies and challenges. *Food & Nutrition Research*
- Law, R., Langley, J., Hall, B., Burton, C.R., Hiscock, J., Williams, L., Morrison, V., Lemmey, A., Lovell-Smith, C., Gallanders, J., Cooney, J., & Williams, N. (2021). Promoting physical activity and physical function in people with long-term conditions in primary care: the Function First realist synthesis with co-design. *Health Services and Delivery Research*

Lee, D., & Yoon, S.N. (2021). Application of Artificial Intelligence-Based Technologies in the Healthcare Industry: Opportunities and Challenges. *International Journal of Environmental Research and Public Health*