1. Introduction

With the rising "judicialisation of politics" worldwide, courts are increasingly involved in resolving matters previously reserved for overt political channels (Yepes 2007, 49–50).[1] For international courts (ICs), veering into the realm of overtly politicised, socially contentious or politically divisive issues has prompted counterattacks – in various forms (Alter and Madsen 2021) – due to the nature of ICs. ICs are usually newly created international legal regimes operating "in a context of regime complexity" with multiple authoritative and competing decision-makers (Alter, Helfer, and Madsen 2016, 35) In this landscape, ICs frequently find themselves in a very delicate position. The legal, constitutional, or political constraints to judicial decision-making in ICs have been referred to as a "strategic space" (Steinberg 2004)[2] or "bounded discretion" (Ginsburg 2004).[3] Given these constraints, international judges must take state interests into account to be effective. Unlike domestic courts, which are embedded within the sovereign legal structure of a single nation, ICs face the unique vulnerability of states opting out of their jurisdiction. This is not merely a theoretical concern; the threat of state withdrawal from the jurisdiction of ICs is well documented (Brett and Gissel 2020). Member states may also ignore the IC rulings or seek to overrule the court's interpretation by amending the treaty regimes. Therefore, addressing politically salient issues heightens the plight of ICs by exposing them to harsh criticism, hostile reactions and potentially harmful backlash.

1 Ran Hirschl has referred to this phenomenon as the transition towards a "juristocracy" (Hirschl 2004), leading to courts' proliferation in adjudicating "mega-politics" (Hirschl 2008). Mega-political disputes are "core moral predicaments, public policy questions, and political controversies" that have the potential to divide countries or societies (Hirschl 2008, 94).

2 Drawing on the experience of the World Trade Organisation (WTO)'s Appellate Body, political constraints include using appointment politics to shape the bench, overt or subtle threats to the IC, delegitimising or signalling through diplomatic statements, defying its rulings or, at worst, exiting the authority of the IC (Steinberg 2004).

3 Ginsburg speaks about international courts wielding "*interdependent* lawmaking power, meaning that their interpretations of international law are constrained by the preferences between states and other actors" (Ginsburg 2004, 3).

Building on this, extant scholarship links the backlash against ICs to their mounting involvement in adjudicating controversial and overtly politicised matters (Caserta and Cebulak 2021b; Gathii and Akinkugbe 2021; Helfer and Ryan 2021; Martinsen and Blauberger 2021). In the African context, for instance, the early demise of the Southern African Development Community (SADC) Tribunal is an extreme example of the fatality of counterattacks on ICs.[4] Equally, the East African Court of Justice (EACJ) did not go unscathed following its first major case, *Anyang' Nyong'o vs Attorney General of Kenya,*[5] which saw the creation of an Appellate Division and explicit threats of disbanding the court (Onoria 2010; Gathii 2013; Alter, Gathii, and Helfer 2016; Possi 2018).[6] On the contrary, despite facing its harshest backlash from the Gambia, which sought to challenge its human rights jurisdiction, the Economic Community of West African States (ECOWAS) Court of Justice successfully braved the criticism (Alter, Gathii, and Helfer 2016).

The varied outcomes of the threats to judicial independence in African ICs have been explained by differences in the availability of robust networks of key allies[7] from whom courts derived support. Crucially, these networks not only empower courts directly but also influence the political cost calculations of governments. By altering these calculations, allies enhance the ability of ICs to withstand political pressures. The EAC and ECOWAS courts drew on the backing of their supporters to defend themselves against blatant threats of disbandment and substantially curbing their powers (Gathii 2013; Alter, Gathii, and Helfer 2016). Conversely, the

4 Formally dissolved in 2011, there is consensus that the suspension of the SADCT was a direct result of the Tribunal's ruling in favour of white farmers in disputes over land seizures in Zimbabwe (Ndlovu 2011; Nathan 2013; Hansungule 2013; Lenz 2012; Alter, Gathii, and Helfer 2016; Achiume 2017; Brett 2018b; Brett and Gissel 2020). See *Mike Campbell (Pvt) Ltd and Others v. Republic of Zimbabwe*, Case No. SADCT 2/2007, November 28, 2008 (Filed October 11, 2007). https://www.saflii.org/sa/cases/SADCT/2008/2.html.

5 *Prof. Peter Anyang' Nyong'o & 10 others v. Attorney General of Kenya and 5 others*, Reference No. 1 of 2006. East African Court of Justice, November 27, 2006. Hereafter *Anyang' Nyong'o*. https://www.eacj.org//wp-content/uploads/2006/11/EACJ_rulling_on_injunction_ref_No1_2006.pdf.
A subsequent judgment was delivered on March 30, 2007. https://www.saflii.org/ea/cases/EACJ/2007/6.pdf. Hereafter *Anyang' Nyong'o* 2007.

6 Chapter 4 provides details of this case and contextualises the institutional constraints and pressures the EACJ faces.

7 This study constructs judicial allies to be any groups of actors that support the court, in a range of ways.

absence of a robust network of supporters illuminates the collapse and dissolution of the SADC Tribunal – succumbing to executive interference (Alter, Gathii, and Helfer 2016).

Although there is ample evidence for the relevance of judicial networks in IC contexts in Africa, focusing solely on the necessity of robust networks of "compliance partners"[8] for IC empowerment downplays the agency of individual judges. This perspective suggests that judges are 'weak' and need the support of allies to assert themselves. The conventional wisdom emphasises the role of domestic compliance partners through litigation and subsequently exerting pressure on governments to comply with IC rulings (Alter 2014; Alter, Gathii, and Helfer 2016; Alter and Helfer 2017; Gathii 2020b). Accordingly, the empowerment of ICs depends on the presence, breadth, organisational power and influence of carefully mobilised domestic compliance partners.

However, instances of judicial entrepreneurship, such as in the EACJ, highlight how judges can leverage their agency even in challenging circumstances. Judges and the court registrar were not mere bystanders who waited for threats to materialise following backlash to its first controversial ruling in *Anyang' Nyong'o*.[9] Instead, they were proactive in forging judicial autonomy and court legitimacy, which has not gone unnoticed by scholars. In his subsequent works, Gathii has explicitly drawn scholarly attention to judicial agency in the EACJ, citing the "entrepreneurship, resourcefulness, and creativity of the judges and registrar" who "have engaged in earnest efforts to develop, cultivate, build, and justify the EACJ's relevance and its place within the EAC's integration agenda: in essence, building its political legitimacy" (Gathii 2013, 259–61; 2016b; 2020b).

Nevertheless, despite such apparent acknowledgement, judges' proactive involvement in strategically forging political relevance has not translated into scholarly enterprises that account for judicial agency and strategies of resilience amidst the strategic space. While Alter, Gathii and Helfer (2016) provide the most systematically engaging analyses of the divergent approaches taken by African ICs in resisting political backlash, their paper does not privilege the actors – judges, registrars and lawyers – nor

8 Compliance partners or "constituencies" are those political actors that ICs mobilise to achieve compliance their rulings (Alter 2014; Alter, Helfer, and Madsen 2016). They vary across professional categories – usually national groups of lawyers, judges, and law professors, who "provide an internal solution to international law's democratic politics conundrum" (Alter 2014, 357).

9 *Anyang' Nyong'o, supra* note 5.

does it centre the actors' hands-on efforts in mitigating these pressures. Likewise, recent political science work exploring backlash against African sub-regional courts has mostly taken a state-centric perspective (Alter, Gathii, and Helfer 2016; Brett and Gissel 2020). So, while we know how governments have mobilised politically – sometimes collectively – against the sub-regional courts they created, contesting these institutions' authority and legitimacy, there is an imminent gap in how judges themselves respond to these ever-looming threats within which they operate. As litigants push these Regional Economic Community (REC) courts[10] to exercise their judicial muscle, and as pushback and backlash[11] accrue, judges ought to devise means to navigate the strategic space. They strive to strike a balance between meeting the needs of the regional integration agenda and avoiding confrontation with the executive sovereigns whilst protecting the bench's legitimacy.

Against this backdrop, this project aims to prioritise the actors behind the legal decisions by centring their agency as they embark on the institutionalisation of the sub-regional court. Through an in-depth study of the EACJ, this dissertation seeks to examine how African ICs[12] forge political influence within limits to their autonomy. In doing so, it aligns with broader debates on judicial behavior by engaging with comparative theories that explore how courts globally navigate their political environments. By integrating these theoretical frameworks, the study not only enhances understanding of the EACJ's unique strategies but also situates its findings

10 The thesis uses the terms sub-regional courts, REC courts or simply regional courts synonymously.

11 According to Madsen et al. (2018), resistance to ICs does not carry equal weight and should be distinguished as either backlash or pushback. Pushback is understood as "ordinary resistance occurring within the confines of the system but with the goal of reversing developments in law" (Madsen, Cebulak, and Wiebusch 2018, 203). In contrast, backlash is understood as "extraordinary resistance challenging the authority of an IC with the goal of not only reverting to an earlier situation of the law but also transforming or closing the IC" (ibid.).

12 Even though there are eight active ICs in Africa (Gathii and Otieno Mbori 2020), only four have compulsory jurisdiction and offer access for non-state actors to initiate litigation, falling under the "new-style" ICs category (Alter 2014)Thus, this study limits itself to referencing and making comparisons within the four African new-style ICs, namely the Common Market for Eastern and Southern Africa (COMESA) Court of Justice, the East Africa Court of Justice (EACJ), the Economic Community of West African States (ECOWAS) Court of Justice, and the Southern African Development Community (SADC) Tribunal. All four courts are established within the rubric of the eight Regional Economic Communities (RECs) that are recognized by the African Union (Karangizi 2012).

within a larger context, thereby appealing to an audience interested in judicial agency beyond the African setting.

The author draws inspiration from Samuel P. Huntington's (1968) definition of institutionalisation as: "the process by which organisations acquire value and stability. Any political system's institutionalisation level can be defined by the adaptability, complexity, autonomy, and coherence of its organisations and procedures" (Huntington 1968, 12). *Adaptability* refers to an institution's ability to respond flexibly to new conditions and challenges. An adaptable institution can evolve, while a rigid one becomes obsolete. Adaptability can be measured in terms of age, generational age and functional terms (Huntington 1968, 12). The *complexity* dimension focuses on the extent to which an institution has a differentiated and complex structure. Highly institutionalised systems tend to have diversified units – differentiated hierarchically and functionally (Huntington 1968, 12). *Autonomy* measures the "extent to which political organisations and procedures exist independently of other social groupings and methods of behaviour" (Huntington 1968, 12). Autonomous institutions are independent of external actors or social forces, such as personal interests or political influence. Lastly, institutions with *coherence* have unified goals and internal discipline without struggles with factionalism or conflicting objectives. A coherent and effective organisation "requires, at a minimum, substantial consensus on the functional boundaries of the group and on the procedures for resolving disputes which come up within those boundaries" (Huntington 1968, 12).

For Huntington, institutionalisation involves developing adaptable, complex, autonomous, coherent political organisations and procedures. If these criteria can be identified and measured, political systems can be compared in terms of their levels of institutionalisation. Thus, it is possible to measure increases and decreases in the institutionalisation of organisations over time. For Huntington, the more an organisation exhibited these traits, the more institutionalised it was. As an organisation becomes institutionalised, it becomes more adaptable, flexible and has a higher chance of surviving in a changing environment (Huntington 1968, 12). In essence, institutionalisation is perceived as essential for political stability and order, particularly in the context of developing nations facing modernisation.

For the remainder of the dissertation, I refer to institutionalisation as the growing complexity of the EACJ characterised by the development of hierarchically and functionally differentiated units, changes in functions, jurisprudence, and general adaptability of the institution. The concept also

encompasses the notions of judicial autonomy, court legitimacy and power as it addresses the various aspects of how newly created judicial institutions grapple with undue interference and contested authority in various dimensions, in an effort to establish institutional relevance.

1.1 Research Questions

Thus, the thesis is underpinned by a broader, central research question that it seeks to address: *how do African sub-regional courts navigate the strategic space and forge institutionalisation?* In seeking to respond to this question, the study engages the conceptualisation of the notion of strategic space to develop an understanding of the less understood dynamics of judicial decision-making at the level of African regional courts. Also drawing on a novel usage of the notion of judicial diplomacy, the study elucidates how REC judges respond to multiple audiences and decision-makers amidst the increased pressures of the job. It explores the various manifestations of judicial diplomacy in the EACJ, revealing concrete judicial tactics for negotiating limitations to their independence. The study further breaks down the main question into complementary sub-themes, each representing a vital and understudied element of the role of REC court judges in empowering newly created ICs, with the following sub-questions:

1. What strategies do judges employ to deal with political resistance and to prevent backlash and pushback against the court?
2. How do extra-judicial relations enable judges to navigate the strategic space?
3. What can we glean about the role of REC courts in advancing regional integration in Africa through the investigation of the strategic space and judicial diplomacy?

The first two sub-questions complement each other in the sense that they seek to examine how regional judges navigate the strategic space from various angles. Sub-question 1 illustrates the diverse ways (when and where do these strategies emerge) in which REC judges alter the contexts in which they operate. They devise strategies to deal with undue interference and prevent backlash against the court whilst forging institutionalisation. Thus, judges are perceived as politically savvy actors who employ different sets of

resistance strategies – both on and off-bench[13] – to avert, quash, or concede interference from political actors. This could enlighten our understanding of the complex, multi-faceted relational dynamics of the adjudication process in regional settings. In addition to off-bench "judicial diplomacy" (Squatrito 2021), the dissertation explores practical and strategic on-bench practices to address how EAC judges negotiate the limitations of fragile national sovereignty and regional integration politics. Such complex, entangled, and multi-directional power relations must also include a reflective analysis of the impacts of the strategic behaviour of sub-regional judges.

Sub-question 2 investigates the nature of support networks and relations that foster the building of such judicial alliances. In turn, it examines the types of impact these alliances have on fostering judicial empowerment. Indeed, African ICs do not act in isolation but in concert with well-organised judicial constituencies who are often willing to mobilise legal resources for change. For instance, organised constituencies have supported opposition parties in filing cases against the dominant parties in EAC member states where organisational rights are much more suppressed (Gathii 2020a). Similarly, judicial allies have used the ECOWAS court to advance their moral obligations to underprivileged people by adjudicating human rights cases (Okafor and Okechukwu 2020). To systematically account for judicial alliances, I draw on debates on informal judicial networks and individual and collective judicial agency in the Global South (Widner 2001; Helmke and Ríos-Figueroa 2011; Trochev and Ellett 2014; Dressel, Sanchez-Urribarri, and Stroh 2017; Ellett 2019) to explore how judges build alliances that provide support against undue interference.

Sub-question 3, which will be inherently answered in all chapters, is explicitly explored in the concluding sections of the dissertation. Despite having existed twenty years, Africa's REC courts remain in an ambiguous position within the national judicial hierarchy. They are in a delicate balance between supranationality on issues of the Treaties and their interpretation, with their role and relevance constantly questioned. The dissertation seeks to explore how judicial diplomacy can illuminate the broader implications of REC courts in the integration agenda.

13 The use of "off-bench resistance" refers to instances when individual judges conduct "more than law-centred activities and a much broader range of non-legal actors" (Trochev and Ellett 2014, 71), whereas on-bench refers to judicial decision-making practices (adjudication).

1.2 Project Rationale

African sub-regional courts have not received enough critical engagement in political science. Dominant works, mostly legal leaning, conceptualise these courts as formal institutions, prioritising access to justice (Banjo 2010) and exploring their legal obligations (Oppong 2011; de Wet 2013; Oppong 2018), legitimacy (Helfer and Alter 2013; Oppong 2014) or human rights jurisprudence (Nwogu 2007; Ebobrah 2007; 2009; 2010; Murungi and Gallinetti 2010; Alter, Helfer, and McAllister 2013; Gathii 2016b). Another strand of the literature compares REC courts to the Court of Justice of the European Union (CJEU) as a benchmark for evaluating their effectiveness and performance (Van der Mei 2009; Osiemo 2014) or contribution to regional integration (Kefa 2008; Ruppel 2009; Van der Mei 2009; Lenz 2012; Osiemo 2014; Fanenbruck and Meißner 2015; Kleis 2016). Nevertheless, none of these studies paid attention to the actors behind these interventions. Only recently have scholars started to take judicial agency seriously – either as agents of socialisation (De Silva 2018b) or engaging in off-bench judicial diplomacy (Squatrito 2021). This study makes a case for conceptualising the judges as actors with agency who operate within existing power configurations and whose diverse relational attributes potentially shape and influence regional integration processes. It combines judicial politics scholarship on judicial agency to investigate how these newly created international legal regimes resist undue political interference and forge authority amidst uncertainty.

Studies have started interrogating judicial agency in resisting undue political interference at the national level (Šipulová 2021; Tew 2021; Dent 2021) and in hybrid courts (Wiebelhaus-Brahm 2020). Individual judicial resistance, especially in situations where democracy and the rule of law are under threat, has also been explored (Widner 2001a; Graver 2023). Likewise, as more attacks against judiciaries in authoritarian regimes (Ginsburg and Moustafa 2008) occur, courts have transformed into sites of active and collective judicial resistance (Moustafa 2007; 2014). Nevertheless, understanding this phenomenon, especially in the context of ICs, is still only taking shape (Madsen, Cebulak, and Wiebusch 2018; De Silva 2018b; Voeten 2020; Caserta and Cebulak 2021a; Squatrito 2021). Of the emerging works on judicial empowerment in ICs, the judicial agency of IC judges in Africa has been recognised, albeit from a performance-based analysis. Such studies have revealed that IC judges may develop strategies beyond formal adjudication processes to act as agents of socialisation to their con-

stituencies to influence their performance (De Silva 2018b). They may even undertake a broad range of non-judicial activities in a strategic attempt to enhance their legitimacy and performance (Squatrito 2021). Expanding on these findings, the literature recognises judicial efforts in conducting non-judicial activities that actively mobilise "compliance constituencies" (Alter 2008, 46–47) on whom ICs draw for support to exert pressure on states to comply with their rulings and garner political leverage over appointing states. This has consequently sparked interest in the off-bench dynamics of judges, urging scholars to prioritise judicial agency in this regard. Building upon this literature, this study aims to understand how asymmetrical power relations and political processes shape, steer and influence the functioning, practice and performance of African ICs.

It is imperative to acknowledge that the view positing judges as active agents who shape their own autonomy is not new. Some authors have argued for the conceptualisation of judges as creative proponents in judicial development (VonDoepp 2009). Likewise, in their work on judicial autonomy through off-bench resistance, Trochev and Ellett emphasise that "judges have individual and collective agency beyond the strategic rendering of judgments from the bench and simply pleasing judicial audiences" (Trochev and Ellett 2014, 85). In the same vein, with the increasing judicialisation of politics, an appreciation of judges as protectors of their autonomy is necessary, and the first step toward this is acknowledging judges as "social and political actors" (Trochev and Ellett 2014, 68). The idea that judges are social and political actors is supported by instances where African judges have played a central role in initiating bids for greater judicial independence. Using the judicial career of Francis Nyalali, the former Chief Justice of Tanzania, as her point of reference, Widner's biographical study highlights the role of judicial actors in shaping political realities in periods of political and economic uncertainty in Africa (Widner 2001a). By treating court activism as a lens through which to understand the role of individual actors in advancing constitutionalism, Widner sets the stage for studies that seek to probe judicial relations.

At the international court level, judges face numerous challenges while conducting their work because they must navigate a context of "multiple authoritative decision-makers", even if, on paper, they are imbued with the formal mandate to decide on these matters (Alter, Gathii, and Helfer 2016, 4). Puzzlingly, African REC courts have been used to clarify and settle megapolitical disputes previously left to the confines of the legislative and executive branches (Akinkugbe 2020; Akinkugbe and Gathii 2020).

They even provide activists and litigants with an additional avenue to name and shame political foes, publicise their grievances and mobilise their supporters, providing access that may otherwise not be possible in their national jurisdictions (Gathii 2020b, 12–18). African sub-regional courts have become "social control mechanisms" (Hirsch 2020, 195) that must consider how different global, regional, geopolitical and domestic contexts help or hinder their creation, operation and longevity to build and maintain their authority. Their growing intervention in regional politics presents an interesting puzzle because REC courts occupy a weak position between complex, often opposing, and delicate national sovereignty and regional integration politics. Indeed, as these courts delve further into overtly politicised jurisprudence, the need to understand their decision-making processes, institutional constraints, and the agency of individual judges becomes increasingly relevant.

Thus, the EACJ represents a significant instance of building and forging judicial autonomy, given that it has faced severe backlash and emerged even more potent than other African "New-style" international courts (Alter 2014). It continues to interpret the Treaty proactively and to issue landmark rulings in a wide array of areas, including but not limited to human rights (Gathii 2013; Taye 2019; 2020; Ebobrah 2009; 2012; Gathii 2016b; Possi 2015; Oppong 2014) and environmental protection (Gathii 2016a). Moreover, most EAC judges usually act as "double agents" of their national governments and the REC bench – either sitting simultaneously on both benches or actively involved in public service at the national level (Gathii 2013, 273). The former makes for an interesting arrangement, given that no robust recusal rules exist.[14] This setup places REC judges in a 'special tension' between serving as IC judges and being agents of their appointing governments – adding another layer of complexity to the IC judicial setup. Thus, the project foregrounds judicial agency as a window into understanding the complex, multi-faceted relational dynamics of the adjudication process in African sub-regional settings.

14 EACJ judges are considered impartial to their appointing states, and they only seek their own recusal when necessary, or on "application by a party if there are circumstances that are likely to undermine, or that appear to be likely to undermine (their) impartiality in determining the cause" (East African Court of Justice 2020, 159).

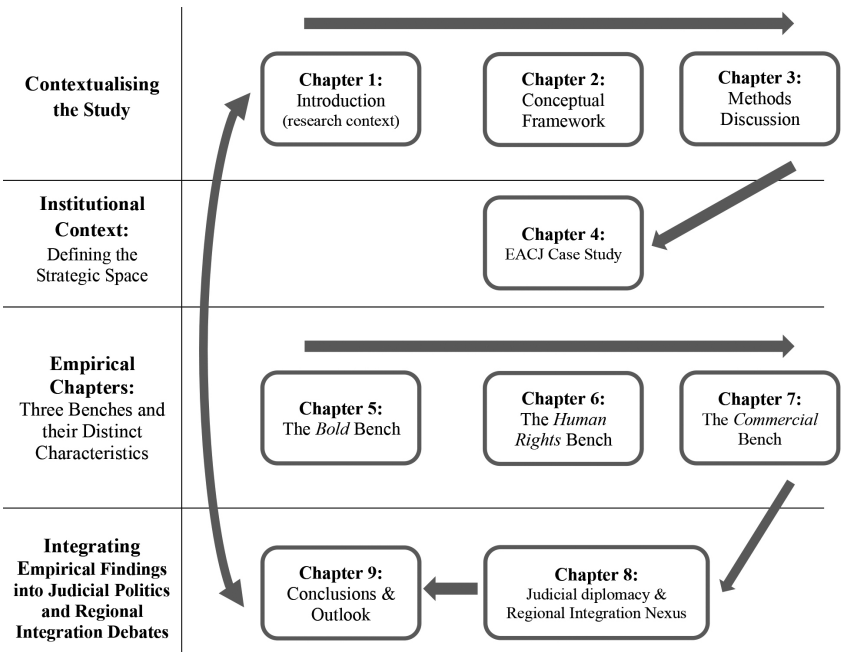
1.3 Project Aims

Even though Africa has proven to be fertile ground for testing international legal regimes (Alter 2014; Brett 2018a), we hardly know much about the judges on these courts and how they strategically navigate opposing and fragile national and regional integration politics. The study seeks to get closer to understanding judicial empowerment in African ICs by taking an actor-centric approach to investigate judicial politics. *Conceptually*, it develops the notion of judicial diplomacy to explain how REC court judges behave as judicial diplomats in a strategic space. It also explores judicial on-bench and off-bench strategies of resistance and mobilisation of support networks to shed light on how ICs alter domestic, regional and international politics. It argues for centring judicial agency, instead of institutional constraints, to better understand the peculiarities of judicial empowerment in Africa's ICs, thereby merging political science debates on judicial institutions in hybrid regimes with socio-legal discussions on ICs. *Methodologically*, the author draws on semi-structured interviews with judicial and legal elites, participant observation, and court document analysis to systematically assess the intrinsic motivations of relevant actors and explain how Africa's RECs navigate impending threats to their authority, subsequently constructing judicial power. Most importantly, the study takes informal encounters and observations in the field seriously to fill gaps where formal interviews may not tell us the entire story.

1.4 Dissertation Outline

The dissertation is structured as follows. *Chapter 1* introduces the study, highlights the research problem, articulates the research questions and underscores the rationale of the study. *Chapter 2* reviews existing literature on international court adjudication and considers the diverse theoretical explanations. The chapter argues in favour of taking an actor-centred perspective in the analysis of ICs because it provides much-needed explanations and empirical observations that can be further used to refine theoretical arguments in judicial politics. *Chapter 3* presents a reflexive "research openness" (Kapiszewski and Wood 2022) that discusses the collection of evidence supporting the study's arguments while accounting for the epistemological approach and its implications for the study. It expounds on the methods used, justifies the case selection, delves into the research design, and con-

cludes by reflecting on researching courts as political avenues, pondering research ethics, positionality, and the peculiar circumstances of studying legal elites in close-knit circles. *Chapter 4* provides the contextual, historical and political background of the EACJ. It also situates the court's structural and institutional constraints and provides the rationale for investigating the strategic space. It then delves into the EACJ framework and identifies jurisdictional, enforcement, and compositional challenges, situating its operation in the relevant historical and structural factors that heavily influence judicial agency.



Chapters 5 through 8 explore the diverse facets of judicial diplomacy in a strategic space. They do so across time and space, as exhibited by successive benches. The study differentiates the benches in the first two decades of the court's existence. Describing three distinct benches, each separated by a seven-year interval, to assess context and developments over time. *Chapter 5* presents the pioneer bench, which sat from 2001 until 2007. This bench has been lauded as bold, audacious, brave and trailblazing. Given the backlash against the pioneer bench's earliest decision-making, it is worth

exploring how judges exercised agency to forge ahead amidst crumbling judicial authority.

Chapter 6 delves into the transition from the initial bench to the "human rights" second bench, which was appointed after the contentious Anyang' Nyong'o case was decided. A watershed in the history of the EACJ, this case highlighted the potential political muscle of the new judicial organ. As a result, the first appellate bench was created to oversee the activist judgements of the trial court. The chapter examines how the creation of an appellate chamber affected the workings of the court. It traces the trajectory of human rights jurisprudence and the contributions of the second bench, clarifying how the evolution of the EACJ as a human rights court was shaped by successive appointments, the precedent set by the pioneer bench and off-bench activities that garnered support for human rights jurisprudence. Court leaders were proactive in constructing a fertile ground for human rights jurisprudence, employing off-bench strategies and drawing on the support of judicial allies.

Chapter 7 zooms in on the third bench,[15] specifically distinguishing it from its predecessors, to explain why it intends to shed the human rights image and forge a commercial bench. It explores the various manifestations of judicial diplomacy in the EACJ. The chapter reveals concrete judicial tactics for negotiating limitations to their independence. By taking both on-bench and off-bench judicial diplomacy seriously, the chapter illustrates that judges perceive their role as more than neutral arbiters who merely stick to the confines of the law. Thier role also entails carefully balancing their judicial duties with the existing realities of their political surroundings. Throughout chapters 5 to 7, the study considers the crucial role of judicial support networks. It explores how those alliances – such as national courts, governments, NGOs, professional lawyers and law associations – support judicial empowerment. By situating the interventions within their context and relevant historical currents, the chapters tease out the intricacies of divergent ally interventions to reveal the complex dimensions that judicial empowerment may take.

The final part of the dissertation is presented in two chapters. These investigate the broader implications (see Research Question 3) of the investigation of the strategic space and judicial diplomacy. *Chapter 8* traces the link between judicial agency, court empowerment and regional integration processes in Africa. In conclusion, *Chapter 9* highlights the study's contri-

15 As explained in the methodology section, the study delimits itself to the judges who served during the period in which I conducted fieldwork (until July 2022).

butions to *law and courts* research and studies on regionalism in Africa. It also identifies gaps in the study and suggests recommendations for future research endeavours.