

First an observation,

International Criminal Court ["Situations under investigation," International Criminal Court, <https://www.icc-cpi.int/situations-under-investigations>] //ila + varun

Upon referrals by States Parties or by the UNSC, or on its own initiative and with the judges' authorisation, the Office of the Prosecutor (OTP) conducts investigations by gathering and examining evidence, questioning persons under investigation and questioning victims and witnesses, for the purpose of finding evidence of a suspect's innocence or guilt. OTP must investigate incriminating and exonerating circumstances equally. OTP requests cooperation and assistance from States and international organisations, and also sends investigators to areas where the alleged crimes occurred to gather evidence. Investigators must be careful not to create any risk to the victims and witnesses. **Investigations: Ongoing (12) | Concluded (5)**

Stuart Ford, 1-13-2023, "Funding the ICC for Its Third Decade", No Publication, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4323894 //SG!

This paper looks at the International Criminal Court's budget at the beginning of its third decade of operation. It reviews the ICC's 2023 budget as well as a number of issues that have long-term financial implications for the court. **The Assembly of State Parties agreed to a 12% increase in the ICC's budget for 2023. This is the largest percentage increase the court has received since the early years of its operations (2002-2007)** and is driven by an increase in the court's workload. **It is investigating new situations and trying more cases than ever** and needs the resources to carry out its mandate to provide an effective forum for trying the "most serious crimes of concern to the international community."

With that said, our sole argument is killing the court.

The U.S. only supports the ICC when the court serves American interests.

Mitrovica 23 explains

Mitrovica, Andrew. "An ICC warrant against Putin is good – and hypocritical." Al Jazeera, March 20, 20**23**,

<https://www.aljazeera.com/opinions/2023/3/20/an-icc-warrant-against-putin-is-good-its-also>. Accessed January 6, 2025. //Gwynie 🇺🇸

"The United States firmly opposes and is deeply disappointed by this decision," Blinken howled. "The ICC has no jurisdiction over this matter.

Israel is not a party to the ICC and has not consented to the Court's jurisdiction, and we have serious concerns about the ICC's attempts to

exercise its jurisdiction over Israeli personnel." Well, well, well. **The US applauds the ICC when it charges Russia with war crimes and excoriates the same body when it starts looking into whether America committed war**

crimes in Afghanistan and Israel against besieged Palestinians. The Pentagon has compounded the president's hypocrisy by reportedly refusing to share with the ICC evidence gathered by US intelligence services of Russian atrocities in Ukraine for fear that providing the court with such incriminating information may set "a precedent that might help pave the way for it to prosecute Americans".

Furger 24 corroborates

Andrea **Furger**, The University of Melbourne, May 24, 2024, "US hostility towards ICC is nothing new – it supports court only when it suits American interests," Maktoob media, <https://maktoobmedia.com/world/us-hostility-towards-icc-is-nothing-new-it-supports-court-only-when-it-suits-american-interests/>, accessed 1-26-2025, //ZD

This has largely been tied to a broader assessment of US foreign policy goals and the anticipated costs and benefits that supporting the court could bring. The US was initially a keen supporter of the creation of a permanent international criminal court and was an active participant in the ICC treaty negotiations in the 1990s. But it ultimately voted against the Rome Statute that created the court in 1998 due to concerns with the court's jurisdictional framework. The US feared it could allow for the prosecution of Americans without US consent. Although the US still signed the Rome Statute, President George W. Bush later effectively unsigned it, saying the US would not ratify the document and had no legal obligations to it. The US remains a non-member state to the ICC today. Once the ICC was created, the US adopted laws to restrict its interactions with the new court. Most importantly, it passed the American Servicemembers' Protection Act of 2002 (ASPA) that prohibited providing any support to the ICC. This law also allowed the US president to use "all means necessary" – a phrase understood to include armed force – to free American officials or servicemembers should they ever be detained for prosecution in The Hague, the seat of the ICC. This earned it the nickname of "The Hague Invasion Act". That same year, however, an amendment was passed to the law allowing exceptions for when the US could assist

international courts to bring to justice: Saddam Hussein, Slobodan Milosovic, Osama bin Laden, other members of al-Qaeda, leaders of Islamic Jihad and other foreign nationals. The amendment created significant flexibility,

demonstrating that the US was ready to assist international justice efforts as long as they targeted designated US "enemies" or other foreign nationals. US support in African cases The US soon adopted a pragmatic approach towards the court, supporting its activities depending on the circumstances and its interests. In 2005,

Washington allowed a UN Security Council referral to the ICC in relation to possible genocide and war crimes committed in Darfur, Sudan. The conflict was among the US' top foreign policy priorities in Africa at the time. Later, the Obama

administration formally adopted a "case-by-case" strategy to cooperate with the ICC when it aligned with US interests. Under this policy, the US played an important role in the 2011 referral of alleged crimes against humanity and war crimes committed in Libya to the ICC. This was, again, in line with US foreign policy interests. US diplomats also provided vital support in the arrest of Congolese warlord Bosco Ntaganda, who was later sentenced to 30 years in prison

by the ICC for war crimes and crimes against humanity. And the US assisted with the arrest of Dominic Ongwen of the Lord's Resistance Army in Uganda, who was later sentenced to 25 years. Dominic Ongwen at the ICC. In this 2016 photo, Dominic Ongwen, a

senior commander in the Lord's Resistance Army enters the courtroom of the ICC. Peter Dejong/AP Pool Another falling out over Afghanistan The relationship between the US and the court soon soured again, though, during the Trump administration. This was in part because of developments in the ICC's investigation into alleged crimes committed in Afghanistan, which marked the first time the court probed possible crimes committed by US forces. In 2020, ICC judges authorised an

investigation into US, Afghan and Taliban forces. Soon after, the US imposed sanctions on the ICC prosecutor, Fatou Bensouda, and another senior ICC official. After some delays, the investigation is continuing again, with a focus solely on crimes allegedly committed by the Taliban and Islamic State Khorasan Province. Other aspects of the investigation have been "deprioritised", an implicit reference to the US and its allies. Fatou Bensouda, former ICC prosecutor. Fatou Bensouda, the chief prosecutor of the ICC until 2021. Peter Dejong/AP Pool Soon

after taking office, the Biden administration lifted the sanctions against the ICC officials, returning to a seemingly more collaborative period in US-ICC relations. These relations became closer following the Russian invasion of Ukraine, with the adoption of new laws that broadened the possibilities of US cooperation with the court. The goals of the US and ICC had seemingly aligned again, at least for the time being. But this week's

request for arrest warrants for Israeli leaders demonstrates yet another shift in the US approach to the court. It continues the pattern of the US supporting the court when it suits it, prioritising its own foreign policy goals over wider international criminal justice efforts.

The US has over 100 bilateral agreements that make its citizens immune to ICC prosecution according to Article 98 of the Rome Statute itself. Georgetown Law 09 warrants

Georgetown Law, December 2009, Guides: International Criminal Court, No Publication,

https://guides.ll.georgetown.edu/article_98, 1-30-2025 //ahurjoon 🐼

Article 98(2) Cooperation with respect to waiver of immunity and consent to surrender : The Court may not proceed with a request for surrender which would require the requested State to act inconsistently with its obligations under international agreements pursuant to which the consent of a sending State is required to surrender a person of that State to the Court, unless the Court can first obtain the cooperation of the sending State for the giving of consent for the surrender.

The international agreements mentioned in Article 98(2) of the Rome Statute are referred to by several terms, including Article 98 agreements, bilateral immunity agreements (BIAs), impunity agreements, and bilateral non-surrender agreements. Starting in 2002, the United States began negotiating these agreements with individual countries, and has concluded at least one hundred such agreements. Countries that sign these agreements with the United States agree not to surrender Americans to the jurisdiction of the International Criminal Court.

Researchers are often interested in whether an immunity agreement exists between the U.S. and another country. This guide lists those Article 98 agreements mentioned in Treaties in Force, on Thomas.gov, and any additional agreements posted to the most recent edition of Treaty Actions. The full-text of the agreements was gathered from the U.S. Department of State's "Reporting International Agreements to Congress under Case Act" website. They are listed below by country and all documents are in pdf format.

The court would be forced to comply with American demands. Kress 21 writes

Claus **Kreß**, 5-7-2021, "A Plea for True U.S. Leadership in International Criminal Justice," Lieber Institute West Point,

https://lieber.westpoint.edu/plea-true-u-s-leadership-international-criminal-justice/?fbclid=IwZXh0bgNhZW0CMTEAAR0KcByop2QxH4E-VaBZGHZ58CJIQgNq3t1n2xrGvP0FbDMQT2q-ZJWFwDA_aem_L-NQTJPjvT1SPRxL0A2nRA, accessed: 7-1-2024 //ZD

An honest plea for true U.S. leadership in international criminal law and international criminal justice should not deny that risk, but explain why it is worth taking it. Two considerations in that direction are presented as follows. The Case for Leadership by Power of Example First, the risk described above will remain low as long as there is a genuine intent to conduct U.S. policy within the confines of international law. **By joining the ICC Statute, the United**

States could do a number of things to work effectively toward further reducing that residual risk. For example, it could present an experienced U.S. judge, not prone to the temptation of judicial activism, for election as a judge at the ICC. In addition, the U.S. government could make its voice heard within the Court's Assembly of States Parties in support of a prosecution policy that respects the ICC's mission to deal exclusively with situations of crimes under international law of indisputable gravity. In short, the United States could do from within, what Secretary of State Blinken proposes to do from the outside. Whenever the United States has genuinely engaged in the negotiations regarding the ICC, U.S. pleas for moderation and realism have not gone unheard. The addition of two "understandings" of the definition of the crime of aggression—emphasizing its high threshold—constitutes the most recent evidence for the effectiveness of U.S. initiative. There is thus ample reason to believe that the other States Parties and the Prosecutor—while not necessarily accommodating U.S. concerns completely—would listen with great attention if the United States, as a State Party, called for moderation and realism in the exercise of the jurisdiction of the Court. Second, the risk of having to accept a divergent judgment by the ICC in an exceptional situation is significantly outweighed by the benefits of a U.S. accession to the ICC Statute. Those benefits are neither short term nor immediately tangible. The core benefit would consist of an enhanced respect for the relevant fundamental international legal rules of conduct that would result from the assumption of true, principled, U.S. leadership in international criminal justice. At the same time, by joining the ICC Statute at a moment in time where neither China nor Russia have done so, the United States would make an important step to establish itself as a global leader not "merely by the example of its power, but by the power of its example" (to use President Biden's phrase).

*** At the opening of the Nuremberg trial, Jackson famously declared: That four great nations, flushed with victory and stung with injury stay the hand of vengeance and voluntarily submit their captive enemies to the judgment of the law is one of the most significant tributes that power has ever paid to reason. These words still resonate today. As we have seen, Jackson, on the same occasion, recognized the need to allow international criminal law to be applied against U.S. nationals as well in order for it to serve its useful purpose. May it therefore be submitted that, if the United States decided to accede to the ICC Statute and thereby subject its enforcement of relevant rules to international judicial scrutiny, this would once again constitute a tribute paid by power to reason. The historic significance of such a tribute would exceed the decision to conduct the Nuremberg trial—and this simply by fully embracing its underlying vision.

With no checks and balances, politicizing the court by making it US-centric will cause two-tier justice, deeming it ineffective.

Caleb **Wheeler** (Lecturer in Law at Cardiff University.), 12-08-2022, "Should the ICC Allow the United States to Become a State Party?" *Opinio Juris*, https://opiniojuris.org/2022/08/12/should-the-icc-allow-the-united-states-to-become-a-state-party/?fbclid=IwZXh0bgNhZW0CMTEAAR3qnKZYVQcIxCBA7VsAL6Rr_p36SDq-S4_4lpBpLG79SZnMREBoP6fABP0_aem_KNBuqeWfzljEDO3lQx3VA_, accessed 7-1-23, //ZD

While it did not refer directly to the International Criminal Court, one of the bills' co-sponsors, Representative Ilhan Omar stated in a Press Release that the Bill would help support proceedings at the ICC. Conclusion The actions and statements of the last five presidential administrations suggest that they do not fully understand what the ICC actually does and that they are not particularly interested in finding out. They have only been interested in engaging with the Court as a tool to be used against others rather than as a real instrument designed to combat

impunity. This was made clear in a recent statement by Linda Thomas-Greenfield, the US Ambassador to the United Nations. When asked about trying Putin at the ICC, she responded that it remained available as an option and that the United States has always been supportive of the Court taking action 'when action is required.' **Implicit in this statement is the idea that holding Americans accountable is never required.** The problem with this approach is that the United States' understanding of when action is required differs from that of the Court. The ICC was founded on the principle of ending the impunity of individuals committing genocide, war crimes, crimes against humanity and the crime of aggression regardless of their official position or national affiliation. From the Court's perspective, action is required when it can help achieve that purpose. The United States takes a different approach to deciding when action is required. It only believes in action against its enemies or citizens of those countries that it does not really care about. **When the United States or its friends are threatened with prosecution, even in the face of overwhelming evidence of criminality, it rejects that action as an impermissible infringement on sovereignty. In the end, these two approaches are incompatible.** That leaves **the Court** with a choice. It **can either change its mission to secure American membership or stay the course and continue to pursue its goal [of] ending impunity**. The first path would likely result in the ICC receiving greater political, intelligence and financial support from the United States, making it easier for the Court to conduct investigations and prosecutions. In exchange, it would almost certainly need to institute a policy exempting American citizens from prosecution in at least some situations. **This could lead other states, particularly those that also regularly participate in peacekeeping efforts, to seek similar protections for their own citizens. That would result in the development of a two-tiered jurisdictional structure at the ICC under which individual criminal responsibility would depend as much on the citizenship of the accused as the circumstances surrounding their alleged criminality. Such a change would fundamentally alter the Court's mission by making full accountability for atrocious crimes an unattainable goal.** Until the United States is willing to drop its objections to how the ICC exercises its jurisdiction, **the Court is better off without the United States** as state party **and should resist any attempts it might make to join.**

An ICC focused on true justice rather than projecting American interests is key to preventing and mitigating conflict. Jo '14 writes

Hyeran Jo (Department of Political Science, Texas A&M University), Beth A. Simmons (Department of Government Harvard University) 18 December 2014, "Can the International Criminal Court Deter Atrocity?" International Peace Institute, https://www.ipinst.org/wp-content/uploads/2015/03/Simmons_Paper.pdf, accessed 2-7-2025, //ZD
Second, we have theorized two broad and mutually reinforcing channels of potential deterrence – prosecutorial and social deterrence – and specified the conditions under which we might expect them to hold. We have argued that **the ICC contributes directly to prosecutorial deterrence by investigating and prosecuting war crimes** on its own authority. **It also encourages member states to** improve their capacity to **reduce** detect and prosecute **war crimes** domestically, and indeed the evidence shows that ratifying states are much more likely than non-ratifiers to do so. **There is strong evidence of a reduction in intentional civilian killing by government actors when states implement ICC-consistent statutes in domestic criminal law which we can reasonably attribute, at least indirectly, to the ICC's influence.** Such domestic statutes magnify the ICC's prosecutorial deterrent effect by bolstering it with the added possibility of punishment at home. Finally, it is critical to understand that **legal rules interact with social pressures, both tangible and intangible. The ICC also**

deters because it mobilizes the international community as well as domestic civil society **to demand justice**. In this sense, our view of the ICC is fully consistent with broader trends in human rights prosecutions at the local, regional and global level. 143 We want to stress that our claims are modulated. Persons who intentionally terrorize civilians for their personal or political purposes are difficult to deter under any circumstances. But **the ICC has raised the risks of consequences for violations, through the channels discussed above**. We illustrate the plausibility of these channels but also demonstrate their limits. Governments that depend on aid relationships are easier to deter than the more self-reliant, largely because their economic dependence makes them more vulnerable to external actors who use their resources to enforce broader community values. We also show that rebels are harder to deter than governments. Nonetheless, **even rebels appear to have significantly reduced intentional civilian when the ICC has signaled its determination to prosecute**. Debates over the effects of the ICC have been sterile, largely because they have failed to specify the conditions under which they might expect the Court to “work.” It is also important to put our claims into perspective. We are not pushing the point that one prosecutor, acting alone and without significant backing by the international community or local support, could have brought about these consequences merely by issuing a decision to investigate or signing a warrant. **The ICC interventions are powerful because they are part of a package of efforts to rally support for ending impunity. Moreover, part of the package has taken time to unfold – a redoubling of domestic efforts to develop the legal capacity to prosecute war crimes, which is precisely how the ICC’s complementarity is intended to operate.** The evidence suggests these efforts contributed to what we have analyzed as an indirect prosecutorial effect of the ICC itself, though only for government officials. But the evidence suggests that **the ICC’s demonstrated determination to investigate and issue warrants has contributed to the reduction of violence by convincing** rebel leaders **that impunity is a waning** option. At the same time we are under no illusions that the Court has positive impacts in all cases. The Bemba trial in relation to the situation in the Central African Republic did not stop violence by the Seleka faction, which reminds us that the Court cannot solve deep rooted social problems in a short period of time. 144 The Prosecutor prioritizes cases where violations are “grave” 145 and these are precisely cases where violence is prone to recur. **We therefore are analyzing some of the most protracted cases of conflict in the world – a fact that makes the modest positive consequences we document all the more remarkable.** The Court had its ten-year anniversary in 2012.

[RECORD OF ICC CASES](#)