Case

Our sole argument is Improving the ICC

Affirming revives the institution in 3 ways.

Leila Nadya **Sadat**, 01-01-20**20**, "REFORMING THE INTERNATIONAL CRIMINAL COURT: 'LEAN IN' OR 'LEAVE'", Washington University Journal of Law & Policy, https://journals.library.wustl.edu/lawpolicy/article/1021/galley/17856/view/ // TT

The hostility of the United States has also **posed a major challenge for the Court**, as noted above.100 Although instrumental in the establishment of the ICTY and the International Criminal Tribunal for Rwanda (ICTR) in the 1990s, and relatively supportive in terms of funding, intelligence sharing, and the secondment of personnel, the U.S. government has historically been on the fence about the establishment of a permanent international criminal court.101 While **a lack of U.S. support** may not be fatal to the Court, it **has weakened it. It has jeopardized the ability of countries to cooperate with the Court** (due in part to the Article 98 Agreement campaign, which targeted both State **and** non-States Parties). **It also deprived the Court of financial and logistical support**. Some argue that the Court is not evenhanded because it cannot compel U.S. persons to appear before it even though the United States has participated in Security Council referrals to the Court in three cases involving non-States Parties (while exempting or attempting to exempt its own nationals from the Court's jurisdiction): Sudan,102 Libya103 and Syria.104 **This** gives rise to the appearance—and perhaps the reality—of **double standards**, **which [thus] erodes the Court's perceived legitimacy**. The Prosecutor's request to open an investigation into the situation in Afghanistan, which implicated U.S. persons and policies, obviated some of the critique directed towards the ICC itself, but led to other difficulties as the Court found itself on the receiving end (again) of blistering attacks from the U.S. government.

Subpoint A is **Increasing Funding**

Right now, the ICC is struggling with its inadequate budget.

Francesc **Torres**, 03-07-20**24**, "The budgetary instrumentalisation of international criminal justice", Elcano Royal Institute, https://www.realinstitutoelcano.org/en/commentaries/the-budgetary-instrumentalisation-of-international-criminal-justice/ // TT

ICC mass atrocity investigations, although intrinsically more challenging and difficult to prosecute than domestic ones, **have long been subject to underfunding. The illusory expectations for the ICC to deliver** on such a broad utopian mandate **have** been **crystallised in a**n omnipresent **sentiment of crisis** in the international criminal justice project. **The Court's financial deficit** and budgetary burden **have been observed since its establishment**. **The ever-expanding workload** and jurisdiction over a vast geographical area **has not been paralleled by a proportionate increase in** State Parties' **financial support**.

But US would solve

Eric Wiebelhaus-**Brahm**, 01-31-20**23**, "The evolution of funding for the International Criminal Court: Budgets, donors and gender justice", Taylor & Francis, https://www.tandfonline.com/doi/full/10.1080/14754835.2022.2156276 // Lunde

Once the overall budget is set, state parties' individual contributions are calculated. During treaty negotiations, there was a proposal to fund the Court through the United Nations. The primary opponents were the United Nations's biggest contributors—namely the United States, Germany, and Japan—and the idea was abandoned (Schabas, Citation2020). However, assessed contributions for the Court are calculated in the same way as for the United Nations. **Per Article 117 of the Rome Statute, "contributions of States Parties shall be assessed in accordance with an agreed scale of assessment, based on the scale adopted by the United Nations for its regular budget and adjusted in accordance with the principles on which that scale is based."** In other words, **states are assigned a proportion of the overall budget that is essentially based on the size of their economies**. As such, our data available on the Harvard Dataverse site show that **the ICC's largest funders are large European economies, Japan, South Korea, Australia, and Brazil.**

Ryan **Goodman**, 05-27-20**22**, "How Best to Fund the International Criminal Court", Just Security, https://www.justsecurity.org/81676/how-best-to-fund-the-international-criminal-court/

With the ICC prosecutor's strict adherence to a policy against earmarked funds, **Congress has a choice to make**. **To be effective**, new legislation would need to remove current barriers posed by the three statutes and steer clear of earmarking for Ukraine. **The U**nited **S**tates **could** then **join** its allies who have answered **the ICC**'s call **for financial assistance** in a manner **that helps the Court carry out its most important work** and maintain greater impartiality.

Gillian **Gavino**, 11-15-20**21**, "Catching up to the world: why the U.S. should join the ICC", Rappler, https://www.rappler.com/voices/imho/opinion-catching-up-world-why-us-should-join-icc/

Joining the ICC would reaffirm a US commitment to international norms. It would show that the US is willing to work with the international community on issues of law and justice. The US would finally be able to fulfill the obligations it had originally signed up for under the Rome Statute. Joining the ICC would strengthen the court and the effectiveness of international justice. **The US is still the world's only superpower, and the court can benefit from its immense resources**. International criminals will think twice knowing that the US and ICC stand together. **Joining the ICC would enable the US to push for needed reforms within the court itself. As a member of the court, the United States would also become a member of** the court's Assembly of States Parties which is **the legislative body that administers the court. This will give the US leverage and legitimacy in lobbying** for reforms. The US would have a true seat at the table within the ICC.

! International Justice

Juan E. **Méndez**, Jeremy **Kelley**, Christian **De Vos**, Sara **Kendall**, Carsten **Stahn**, 12-14-20**15**, "Peace making, justice and the ICC", Contested Justice: The Politics and Practice of International Criminal Court Interventions, Cambridge Core, https://www.cambridge.org/core/books/contested-justice/peace-making-justice-and-the-icc/A392CFABB9833D1AEBDF02FA1A6DEA5C // TT

The 'justice track' forms an essential aspect of the peace-building process. It refers to the investigation, prosecution and punishment of those most responsible for violence and victimisation of civilian populations. **Without confronting the crimes of the past, individual victims and communities struggle to obtain closure and move on to a lasting peaceful solution**. Some well-meaning advocates of 'peace' argue that seeking criminal accountability hampers the peace process. The ICC's intervention in Uganda has produced a large body of literature arguing for the priority of one value over the other, presuming that peace and justice are dichotomous choices. While it may be true that the demands of **justice** may complicate peace negotiations, it also **creates a more sustainable solution at the end of the process by laying the foundation for a culture of accountability**. Negotiations that sacrifice accountability for an immediate peace create obstacles to *redress* for victims and communities, which is *needed to create* a fair and lasting resolution to violent tensions. Justice, understood here as criminal accountability, forms one of the available measures or policies that can lead to conflict resolution, but in almost every case it cannot be the only one. Mediators, conflict resolution specialists, the parties to the conflict and victims and civil society working together will have to come up with a combination of measures most appropriate to the unique circumstances of each conflict. As a conflict evolves through different phases, initiatives in each of the four tracks need to be adapted and combined in a dynamic and anticipatory response to events. Breaking the *cycle of impunity* is central to the 'justice track' of peace making, as it is necessary to prevent the repetition of violations and to dismantle the structures that enable violence in the first place. Of course, nothing can provide a guarantee against the re-articulation of these structures in the future or the formation of new ones that lead to abuses. This does not mean that prevention is not a proper motive for justice measures. We may not have empirical proof that prosecution of international crimes prevents their recurrence in the future, but **we do know that a climate of impunity is an invitation to perpetrators to commit new abuses and perhaps even to escalate existing conflicts.** Criminal prosecution is an essential ingredient of any effort, but it should never be contemplated as the only response. In the early 1990s, some observers interpreted the creation of the International Criminal Tribunal for the Former Yugoslavia (ICTY) as a token gesture by an international community that could not manage a more robust response to the genocidal campaigns in the Balkans. To the credit of the ICTY, its impartiality and independence – as well as the continuation of atrocities in the region – soon prompted other actions, albeit never enough and never on time. In fact, criminal accountability can serve to prevent future atrocities only if it is seen as one dimension of a larger peace-making objective that needs to be coordinated with effective armed protection of civilian populations, with distribution of humanitarian assistance, and with genuine, comprehensive efforts at resolving conflict. At the same time, actors must ensure that they do not permit the parties to the conflict to condition their consent to any one of these four components upon progress on any other. If each aspect is contingent upon another, the risk of failure increases considerably. All four must be pursued individually, yet in a coordinated fashion and in good faith. The risks of an uncoordinated approach are substantial. In the Darfur conflict, for example, the Sudanese government played the different processes against each other, often holding hostage the access of humanitarian organisations to conflict zones in retaliation for peacekeeping and justice interventions. The international community acceded to Khartoum's demands on a number of occasions, possibly prolonging the move towards a peaceful resolution. In Uganda, delivering humanitarian assistance directly into the hands of the Lord's Resistance Army (LRA) leadership as a means to encourage engagement in the Juba peace talks had the effect of emboldening the LRA leadership to defy the ICC arrest warrants and demand more concessions during negotiations. International actors should be encouraged to support peace efforts, including the provision of incentives to the parties of a conflict. At the very least, those measures should not work at cross-purposes with judicial efforts and should be carefully coordinated to integrate peace with justice. Case study: Ahmed Harun The case against Ahmed Harun in the Darfur situation illustrates the need for an integrated approach. For three years, mediators and political leaders ignored the arrest warrant against Harun as they pursued a three-track approach that included political negotiation, peacekeeping and humanitarian aid, but excluded accountability. While the first substantial steps towards resolving the Darfur situation were the establishment of the UN Mission in Sudan and the ICC referral in March 2005, in practice the use of peacekeeping, political negotiation, and humanitarian aid dominated the process. The Bashir regime refused to cooperate with ICC investigations and threatened to withdraw its consent to the other three tracks if the warrants were not dropped. Harun played a role in hindering the provision of humanitarian assistance, and as a member of the African Union/United Nations hybrid operation in Darfur (UNAMID) oversight committee he also hindered the deployment of peacekeepers. In June 2007, one month after the arrest warrant against Harun was issued, the UN Security Council visited Khartoum and failed to raise the matter of enforcing the warrant with the Sudanese government. In 2008, Harun intervened in Abyei on the border between North and South Sudan, leaving 60,000 people displaced. For three years, the Security Council failed to remind Sudan that the referral, a decision under Chapter VII, was binding on all member states. This was not an oversight, but rather a deliberate decision to sequence peace first followed by justice. As a result, neither peace nor justice was attained. Despite Harun's indictment by the ICC, he continued to serve as the Minister of State for Humanitarian Affairs and later as the governor of South Kordofan. In early 2011, with escalating tensions in the Abyei region on the border between North and South Sudan, the United Nations decided to fly Harun to the region to serve as a mediator in the crisis. While this act may have been practical under the circumstances, and although the United Nations is not required to assist the ICC in apprehension of wanted persons, it undermined the UN commitment to cooperate with the ICC and harmed efforts to disarticulate the cycle of impunity stemming from the crimes committed in the Darfur region. The Harun case illustrates that justice cannot be subject to bargaining, nor should it be subjected to the vagaries of peace processes. To maintain legitimacy, it must be allowed to work in its own separate channel, albeit one that interacts with, supports and requires support from the other channels to peace. As the UN Secretary General has noted, Ignoring the administration of justice … leads to a *culture of impunity* that will undermine sustainable peace. Now that the ICC has been established, mediators should make the international legal position clear to the parties. They should understand that if the jurisdiction of the ICC is established in a particular situation, then, as an independent judicial body, the Court will proceed to deal with it in accordance with the relevant provisions of the Rome Statute and the process of justice will take its course. The ICC and other international justice mechanisms are foremost instruments of justice, and only secondarily instruments of peace or of prevention. However, these mechanisms do not operate in apolitical or decontextualised settings, as they are sometimes depicted. Political, security and humanitarian concerns often form part of the contextual backdrop in which justice mechanisms operate, and a more effective peace-building strategy should seek to understand the complex network of relationships between these different tracks. Acceptance of the 'justice track' States made a conscious decision in Rome to connect peace and justice, as is reflected in the Rome Statute preamble. By providing for interaction between the Court and the UN Security Council, the

'justice track' has been envisioned as a complement to political, security and humanitarian 'tracks' in international peace processes. This vision was put into practice as early as March 2005 with Security Council Resolution 1593 on Darfur, which invoked peace and security concerns as a basis for referring the situation to the ICC. The Rome Statute has created new rules to which actors involved in conflict management must adjust. The new framework and specific provisions – such as Article 27(2), which negates claims for immunity based on a suspect's official capacity – are already factored into contemporary peace efforts. Justice through the Rome Statute framework has affected the dynamics of peace making at the United Nations. There are many indications that the ICC has received increasing attention from the United Nations. For example, the UN General Assembly debates and adopts an annual resolution expressing support for the ICC and encouraging participation by member states. Furthermore, states parties to the ICC that are members of the Security Council keep ICC issues on the agenda. Meanwhile, UN Secretary General Ban Ki Moon has stated that '[i]nternational criminal justice, a concept based on the premise that the achievement of justice provides a firmer foundation for lasting peace, has become a *defining aspect* of the work of the organization'. In addition to receiving significant expressions of support from the United Nations, the Rome Statute system has enjoyed widespread ratification by states and increasing support from non-state parties. Since 2002, when the Rome Statute entered into force with the ratification of sixty states, more than sixty other states have joined the ICC. Its jurisdiction covers all of Western Europe, all of South America and the majority of African states. Evolution of the role of states that are not parties to the Statute has also been significant. In an address to the Council on Foreign Relations, Luis Moreno-Ocampo, former prosecutor of the ICC, discussed the shadow the ICC throws over all states, even non-state parties. He commented that: In my 6-year tenure, I saw a great evolution. I just mentioned the case of Turkey, a State not party. The Chinese authorities describe themselves as a 'Non State Party partner of the Court'; Russia sent more than 3000 communications to my Office on alleged crimes committed in Georgia; my Office regularly interacts and cooperates with Qatar, Egypt, Rwanda, and regional organizations such as the League of Arab States. Since 2005, the United States has followed a similar policy of constructive engagement with the ICC … Today, the new administration is also very supportive, including on our efforts to open an investigation in Kenya. *US cooperation is important to arrest individuals protected by militias* as Joseph Kony or to isolate others such as President Al Bashir. Collaboration between the ICC and individual states as well as regional actors is also an indication of the Court's growing presence within the broader field of peace making. The ICC's Office of the Prosecutor (OTP) has worked with African Union (AU) mediators in Kenya, Darfur and Guinea; with the Organization of American States regarding Colombia and Honduras; and with the League of Arab States. All European Union states are states parties, and to date they have consistently insisted on implementation of the Court's decisions. The ICC and the justice track it elicits have shaped how states and intergovernmental organisations have come to conceptualise peace making. The following section illustrates some concrete examples of the Court's effects upon the geopolitics of peace making. Implementing the 'justice track' Referrals and other decisions Where it has been impracticable to implement justice in domestic circumstances, many states have voluntarily involved the ICC in an attempt to resolve ongoing conflicts. In mid-2003, the prosecutor reported that crimes in the Ituri region of the Democratic Republic of Congo (DRC) appeared to fall within the jurisdiction of the Court. Almost 5,000 persons were killed after 1 July 2002 (the date in which the Rome Statute went into effect), and the Congolese government recognised its inability to control the area. There appeared to be no pending domestic judicial proceedings concerning these crimes, nor was it thought they could truly be undertaken. The prosecutor selected the DRC situation as the first to investigate, expressing his intention to use his proprio motu powers if necessary, but at the same time inviting the DRC to proceed with a referral, which it eventually did on 3 March 2004. Following a similar invitation from the prosecutor, President Museveni of Uganda also decided in December 2003 to refer the situation concerning the LRA. In the search for peaceful solutions to conflicts, the UN Security Council has issued resolutions referring situations to the ICC. On 31 March 2005, it referred the Darfur situation to the Court, 'determining that the situation in Sudan continues to constitute a threat to international peace and security'. The Security Council subsequently used its referral power to open an investigation into the crackdown on protesters in Libya in an attempt to prevent further escalation of the violence. This resolution was quickly followed by other measures, including the use of military force to restore peace, but justice was central to the UN plan to end the conflict in Libya. As Gaddafi lost power in Libya, calls from inside and outside the country for the capture and transfer to the ICC of the deposed leader, his son Saif Al-Islam Gaddafi and Abdullah Al-Senussi underscore how accountability was considered central to creating greater stability in Libya. The Libyan referral was also the first time that the 'responsibility to protect' was invoked in relation to the ICC, suggesting that judicial institutions could be used as a means of strengthening prevention. As the UN Secretary General noted in a 2012 report, '**the threat of referrals to the ICC can undoubtedly serve a preventative purpose and the engagement of ICC in response to the alleged perpetration of crimes can contribute to the overall response**'. Exclusion of amnesties from peace processes Not only is the granting of amnesty for crimes antithetical to the ideal of accountability, it can also be counterproductive to the reconciliation of a society to its past wrongs. This has been increasingly recognised in peace-making practices, where criminal accountability has been favoured over the granting of amnesties. In the DRC, for example, there were discussions in 2007 of possible amnesties for senior commanders to encourage the demobilisation of armed groups. Following contacts between the OTP and the mediators, an 'ICC clause' excluding amnesties for Rome Statute crimes was incorporated in the Goma Agreement of January 2008. The former militia group leader, Mathieu Ngudjolo, was arrested and transferred to the Court by the Congolese authorities in the following month. Ngudjolo had agreed to be integrated into the Congolese Armed Forces and was in Kinshasa for training at the time of his arrest. Some observers claimed that his surrender could jeopardise the on-going demobilisation. It did not, however, and in February 2008, when the amnesty issue was raised again at a political dialogue in the Central African Republic, the ICC prosecutor was invited to brief participants in the dialogue. The resulting Global Peace Agreement of June 2008 excluded amnesty for war crimes, crimes against humanity and genocide. In Colombia, prosecutors, courts, legislators and members of the executive branch explicitly mentioned the prospect of the ICC attaining jurisdiction as an important reason to implement Colombia's Justice and Peace Law, ensuring that the main perpetrators of crimes would be prosecuted. In Kenya, former Secretary General Kofi Annan, on behalf of the AU, maintained at all times that post-election violence had to be prosecuted in order to avoid recurring violence during the next election cycle, either through mechanisms established by the Kenyans or by the ICC. Integrating accountability into mediation efforts The requirements of accountability form part of *any lasting peaceful solution*. Other aspects of transitional justice are also fundamental for establishing peace, but the inclusion of measures ensuring accountability for those most responsible for international crimes has become a necessary part of any successful mediation effort. As shown above, seeking criminal accountability is one aspect where justice arises in negotiations. Yet, successful peace mediation will include both judicial and non-judicial elements. The situation in Darfur illustrates the significant incentive that judicial interventions can provide for mediation efforts. Before the ICC prosecutor's application for an arrest warrant in 2008, the peace process had stalled; UN and AU envoys Jan Eliasson and Salim Salem, respectively, had resigned. The ICC indictment revived the negotiations. The AU and Arab League increased efforts to achieve peace, creating a committee headed by Qatar. A new UN-AU mediator was appointed. The United States, a non-state party to the Rome Statute, took a leading role. President al-Bashir was effectively cornered through these developments. His government then engaged with the UN's Department of Peacekeeping Operations more actively than at any time before, and 65 per cent of UNAMID was deployed in the following six months. Al-Bashir's efforts to appear constructive led to renewed negotiations with the rebels, and the UN-AU mediator, Djibril Bassole, brought the parties to the negotiating table without ever challenging the ICC's independent work. In short, efforts to bring President al-Bashir before the ICC did not hamper the peace process; to the contrary, they may have had a decisive role in fostering it. Evaluating the impact of justice on peace and stability Implementing justice measures does not guarantee that the desired outcome will be achieved. This is true of all peace measures. The importance of justice does not stem from thinking of it as an instrument for the pursuit of social goods (such as stability, peace and legitimacy), but rather from the idea that *benefits to conflict-affected communities and building the rule of law are ends in themselves*. Such claims about the worth of international justice efforts are difficult to demonstrate empirically. This may especially be the case with demonstrating deterrence – namely, that further violence has been prevented through judicial interventions – and with demonstrating that alleged perpetrators have been marginalised. The following sections address these two aims of international criminal accountability. Drawing upon specific examples from the experience of the ICC, they show how justice can be used to promote peace and stability through preventing further conflict and marginalising alleged perpetrators. Preventing violence It will always be difficult to establish a causal connection between a certain act of justice and its deterrent effect upon criminal conduct that did not take place by virtue of that act. However, this does not disprove the claim that punishment has preventative effects. In essence, attempting to measure international justice is a process of measuring the counterfactual. Specific penalties may not have a deterrent effect, but there is deterrence in the likelihood of punishment. The deterrent effects of international and domestic criminal justice efforts can be more reliably assessed once the system is more developed and its results more reliably predicted. **Meanwhile, the certainty of criminal investigation and prosecution is central to achieving deterrent effects. Now that a permanent institution exists to prosecute international crimes, there are increasing signs of the justice track's deterrent effects**. Although the deterrent effects of judicial interventions may be generally difficult to measure, these claims can be substantiated in specific cases. Drawing upon one of the authors' experience as Special Advisor to the UN Secretary General on the Prevention of Genocide, the following examples illustrate the importance of integrating accountability measures into conflict prevention. In the first instance, during two official UN visits to Darfur in 2004 and 2005, it was evident that the circumstances of protracted impunity were complicating peace-building efforts. **The fact that crimes committed against the civilian population of Darfur remained unpunished had a paralysing effect upon other measures** taken by the international community to *prevent the conflict from escalating*. The perpetrators were still armed and active in the region, and their supporters in the Sudanese government were still ready to unleash the janjaweed and to provide them with logistical and combat support. Within that context, international observers strained to conduct serious monitoring on the ground, and armed peacekeeping contingents could not distinguish between people armed in self-defence and militias that used their weapons to commit atrocities. **Likewise, the presence and activity of the perpetrators seriously impaired the delivery of relief assistance, making it more difficult to prevent violence through a cease-fire, let alone a comprehensive peace accord**. Equally important, the widespread impunity made it impossible for internally displaced populations to make their own decisions about whether to return to their villages. The fact that millions of individuals were dependent on others for even their most basic needs and were still threatened made peacekeeping, humanitarian assistance and peace negotiations more difficult. All four tracks of conflict prevention – political, security, humanitarian and justice – require the active participation of victims and their community representatives. Meanwhile, the threat of prosecution can contribute to preventing further conflict. In November 2004, the conflict in Ivory Coast escalated to the scale of mass atrocities based upon ethnicity or national origin of groups considered 'non-Ivoirien' by the Gbagbo government. Armed militias in the countryside and mobs of 'Jeunes Patriotes' in Abidjan threatened to attack those considered non-citizens even if they had been born in the country. The Ivorian airwaves were filled with hate speech. As Special Advisor, I urged action by Kofi Annan and the Security Council. Because Ivory Coast had accepted the jurisdiction of the ICC in 2002 and the Statute included instigation to commit genocide as a crime under its jurisdiction, it could be announced publicly that those responsible for incitement to violence could face prosecution in The Hague. The press release was widely publicised in Abidjan, and after 48 hours, the racial hatred being expressed on radio and TV ceased; calm returned to the capital. It was later established that individuals in authority and their legal advisors had carefully analysed the prospect of ICC prosecution. Based upon such experiences of the potential preventative force of the threat of prosecutions, the OTP's strategy commits to providing early information on its activities and to alert states and organisations of the commission of Rome Statute crimes. In Georgia, for example, the OTP made public statements affirming that it had jurisdiction over alleged crimes as soon as violence started in August 2008. Both parties pledged cooperation with the Court. The OTP visited Georgia in November 2008 and Moscow in February 2010, following the governments' invitations. The fact that these two countries chose to resolve the remaining issues of the 2008 conflict lawfully is an important step. In Guinea, the OTP announced in mid-October that it was monitoring the allegations of crimes committed against civilians on 28 September 2009. Six days later, Guinea's minister of foreign affairs met with the OTP to offer cooperation, and the OTP visited Conakry in February 2010. In

Kenya, the OTP stated as early as January 2008 that it had jurisdiction over alleged crimes. All actors then committed to addressing and preventing political violence. In all three examples, it is plausible to assert that the decision to cooperate with the investigation and punishment of crimes had an important effect on the reduction of violence and on the reduced scope and extent of new violations. The OTP continues to assert its commitment to prevention, as reflected in its 2012–2015 Prosecutorial Strategy. Finally, the events of the 'Arab Spring' may provide further support for claims regarding the deterrent effects of the justice track. Even though it is not possible to say with certainty that the threat of ICC prosecution has played a role in avoiding greater loss of life, some relationships are clear. The new Tunisian government has signed and ratified the Rome Statute. It is also investigating human rights crimes of the 'revolutionary period' from December 2010 to January 2011. Opening a regional seminar on the ICC in Tunis, Mohammed Charef, attorney general and director of Judicial Services of the Ministry of Justice, encouraged more states to join the ICC. As the Court's jurisdiction is extended through further ratifications of the Statute, the possibility of preventing violence through the threat of international criminal accountability continues to increase. Marginalising alleged perpetrators **Justice can also contribute to peace building through isolating and marginalising alleged perpetrators and violent regimes. International and domestic allies will often distance themselves from those who stand accused of violating international law, thus weakening the support that repressive regimes depend upon to maintain their power**. Marginalisation builds upon itself: as more allies turn away from a regime, more are inclined to do the same. As a regime is weakened, incentives – in the form of both showing international goodwill and deferring to international pressures – arise for other states to aid in the detention and transfer of alleged criminals. Although some commentators have argued that this has effectively politicised the ICC's work and tends to reinforce the power of strong states, such critiques do not account for the constructive effects that marginalising alleged perpetrators may have on ongoing peace processes. Several examples illustrate how this marginalisation can contribute to peace building.

Maximillian **Hortnagl**, MSC in Global Politics @ the London School of Economics and Political Science, August 20**20**, Evaluating the International Criminal Court's performance: an empirical study of the court's deterrence effects in Darfur, Sudan, https://www.lse.ac.uk/government/Assets/Documents/pdf/masters/2020/Maximillian-Hortnagl.pdf, Willie T.

The results **from** the negative binomial regression analysis in table 3 indicate that **the ICC['s] had a deterrent effect** at the beginning of the conflict, but which greatly decreases with regard to the first **arrest warrants** in the situation in Darfur, Sudan. The UN Security Council referral is associated with a decrease in civilian fatalities across all three models, controlling for the other variables, and statistically significant. As such, the **models predict** almost **three times lower civilian fatalities** for the period following the referral. The deterrent effect is expected to be weaker, although not statistically significant, for the second ICC action, the opening of the investigation. Interestingly, the first arrest warrants for Harun and Kushayb are associated with large increases in civilian fatalities and are statistically significant across the three models. The predicted civilian fatalities, holding other variables constant, are at least four times higher for the period following the arrest warrants in the Harun and Kushayb case than for other periods. The first arrest warrant for president AlBashir follows a similar pattern, although the effect is weaker and not statistically significant across all models. The second arrest warrant for Al-Bashir is, in fact, associated with a slight decrease in civilian fatalities, holding the other variables constant. **The arrest warrant for Mr. Hussein is associated with the largest decrease in civilian fatalities, controlling for the other variables**, and statistically significant across all models. As such, the expected civilian fatalities for the period following the Hussein arrest warrant are estimated at just 8.4% the level for other periods.

Subpoint B is **Uniting the Nations**

Given our geopolitical influence and number of allies on the Court, the U.S.' involvement would unite ICC countries over shared ideals.

Claus **Kreß**, 05-07-20**21**, "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/

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**.

! **U.S. credibility**

Al Jazeera, 09-11-2024, "UN chief expresses 'concern' over Trump's freeze on US foreign aid | United Nations News | Al Jazeera", Al Jazeera, https://www.aljazeera.com/news/2025/1/27/un-chief-expresses-concern-over-trumps-freeze-on-us-foreign-aid // RKE

The head of the United Nations has expressed concern about President Donald Trump's decision to pause foreign assistance from the United States as his administration promotes its "America First" agenda. During a news conference on Monday, a spokesman for Antonio Guterres said the UN secretary-general had noted the policy change "with concern".

Leila Nadya **Sadat**, 01-01-2020, "REFORMING THE INTERNATIONAL CRIMINAL COURT: 'LEAN IN' OR 'LEAVE'", Washington University Journal of Law & Policy, https://journals.library.wustl.edu/lawpolicy/article/id/1021/ // TT

There is also speculation that the Pretrial Chamber's decision finding that the investigation could not be opened "in the interests of justice" was a direct result of U.S. pressure, undermining the Court's legitimacy and independence. **The U.S. attacks on the Court harm not only the ICC, but the United Nations more generally**, given the Rome Statute's importance within the United Nations system. **It also divides the United States from some of its closest allies, nearly all of whom are [members] States Parties, including Britain, Canada, France, Japan, and South Korea**.

Jakub **Grygiel**, 02-15-2022, "How to Deter Russia and China", Hoover Institution, https://www.hoover.org/research/how-deter-russia-and-china // TT

Because of the nature and number of threats as well as the fraying reputation of the United States, **the best hope to deter China and Russia is by empowering American frontline allies and partners. They**—Taiwan and Ukraine in this particular case—**[who] are the first responders to any regional crisis** and have the strongest incentives to counter their aggressive neighbors. They have to deter their enemies by denying them the ability to achieve quick victories at small costs.1 The main role of the United States is to support these countries' efforts to enhance their own military capabilities. Local defense by the locals is the best deterrent.

Subpoint C is **American Leadership**

Yevgeny **Vindman**, 04-21-2023, "It's Time for the United States to Join the ICC", Foreign Policy, https://foreignpolicy.com/2023/04/11/russia-putin-ukraine-war-icc-united-states-crimes-arrest-warrant/

But many short-sighted critiques of the ICC miss the larger point that **support for this body [the ICC] is not just the morally correct choice; it's also** the **strategically correct** one **for U.S. foreign policy. A demonstrated commitment to accountability will strengthen the United States' own institutions and make U.S. leadership of international institutions more credible and** viable. Further, ICC membership would potentially chill U.S. political leaders' appetite for unjust wars that could land them in dicey moral and legal terrain. **An added layer of** restraint and **accountability may prevent future foreign-policy follies**, whether by the White House or even **by an expansionist China eyeing Taiwan**. American choices made in the coming months and years will either further erode the international system **or** accelerate **Russia**'s status as a global pariah. **By** making the right choice and **joining the ICC**'s efforts for justice, **the United States** adds to its own security by fortifying the rules-based international order and **dissuading aggressive** adventures by its **competitors**.

! **Deterring China**

With the U.S. leading a united court, the ICC becomes effective enough to counter China's aggression

Dan **Zhu**, 01-10-2020, "China, The International Criminal Court, and Global Governance", International Affairs, https://www.internationalaffairs.org.au/australianoutlook/china-the-international-criminal-court-and-global-governance/ // TT

On the ICC's relationship with national jurisdiction, China was reluctant to create an international body that could replace or override national criminal jurisdiction. Although China did not veto the primary jurisdiction of the UN ad hoc tribunals over national courts, it resisted yielding its jurisdiction to an international criminal court permanently. The principle of complementarity, which means that the ICC can only act when national court systems fail to do so, then became the major legal device to overcome the above Chinese concerns. China nevertheless has reservations over the way in which the principle of complementarity was eventually implemented in the Rome Statute. Being a permanent member of the Security Council, **China [is] has been especially concerned about the ICC's jurisdiction over the crime of aggression**, which is intrinsically linked to role of the Security Council in finding whether an act of aggression has been committed by a state. After the adoption of the Kampala amendment on the crime of aggression in 2010, China cautioned that the ICC's jurisdiction could compromise the central role of the United Nations and, in particular, the Security Council, in safeguarding world peace and security. **The other kind of Chinese concerns regarding the ICC centred on how to define** these core **crimes under the Court's jurisdiction**. Apart from genocide, China has reservations over the definitions of all the other core crimes, namely, crimes against humanity, war crimes and crime of aggression. Throughout the negotiation process, one of the major guiding principles in defining the crimes under consideration was that these definitions should be reflective of customary international law. **China opposed the ICC's jurisdiction over crimes against humanity committed during peacetime**, because, it argued that customary international law required a nexus to armed conflict, and without such nexus, the major attributes of the crimes would be changed. China's objection towards the ICC's jurisdiction over war crimes committed in non-international armed conflict was similarly raised in the context of customary international law. Moreover, China resisted the inclusion of the crime of aggression under the ICC's jurisdiction due to the lack of a precise definition on state act of aggression underlying the crime. Chinese dichotomy on human rights Despite the Chinese tradition of regarding treatment of citizens as internal state affairs, it would not be accurate to infer that China's emphasis on sovereignty and objection to outside intervention represents a total rejection of the validity of international human rights norms. In fact, China has signed and ratified most of the core international human rights treaties, including conventions on racial discrimination, discrimination against women, apartheid, refugees, genocide, and torture, with the major exception being the International Covenant on Civil and Political Rights (ICCPR). These moves, though indicated an implicit acceptance of international human rights standards, were regarded by its critics as no more than empty gestures. Indeed, efforts to encourage China to enforce its obligations tended to be frustrated. However, despite China's continuous adherence to sovereignty as part of its foreign policy on global governance on human rights, it does not rule out, or even actively support certain international interventions to prevent and punish the most serious violations of human rights that amount to international crimes, although it still jealously guards its prerogatives as to the extent to which it is willing to relinquish sovereignty. In fact, there has been a growing willingness by China to endorse multilateral humanitarian interventions subject to certain conditions being met. While the ICC was not created as a human rights court to secure the suspect's fair trial at domestic level, the ICC judges have nevertheless expanded the Court's mandate to cover a state's compliance with international human rights instruments. This kind of practice has raised the issue of overly creative judicial interpretation or judicial activism, which represents a deviation in implementation of the announced public policy decisions of the legislators. In light of the emerging practice of the ICC on complementarity, **the risk to sovereignty the ICC poses may be higher than originally anticipated by the Chinese authorities**. **If the Court** continues to **examine** a **state's compliance with international human rights standards** during its determination of admissibility, **it would inevitably trigger China's sensitivities and anxieties about exposing itself to international adjudication** on ordinary human rights violations.

Hal **Brands**, Jake Sullivan, 05-22-20**20**, "China Has Two Paths to Global Domination", Foreign Policy, https://foreignpolicy.com/2020/05/22/china-superpower-two-paths-global-domination-cold-war/ //vy

As China builds economic power through these efforts, **it will sharpen its capacity to convert that power into geopolitical influence. Carnegie's Evan Feigenbaum has identified multiple types of leverage China can use to "lock in its political and economic preferences," ranging from latent-and-passive to active-and-coercive.** He assesses that **Beijing will** keep refining a "mix and match" strategy that deploys the full range of these tools in dust-ups with a diverse array of countries, from South Korea to Mongolia to Norway. Eventually, China may well adapt a more systematic ladder of escalation to produce preferred outcomes. **And just as the United States built the key postwar institutions in its political image, this second road would lead China toward reshaping the central political norms of the international order**. A number of studies have documented Beijing's full-court press across the U.N. system to both protect narrow Chinese equities (denying Taiwan status in the United Nations, blocking criticism of China) and to reinforce a hierarchy of

values in which national sovereignty trumps human rights. And the phrase “sharp power” has now become commonplace to describe **China’s intrusive efforts to influence the political discourse in democratic countries including Australia, Hungary, and Zambia.** Beijing is also rapidly enhancing its diplomatic throw-weight, passing the United States in the number of diplomatic posts around the world and persistently expanding its influence in multilateral finance, global climate and trade institutions, and other key rule-setting bodies. The Brookings Institution’s Tarun Chhabra aptly observes that Beijing’s approach to ideology may be flexible, but its cumulative effect is **to expand the space for authoritarianism and constrain the space for transparency and democratic accountability.**

Larry **Diamond**, 04-14-20**20**, “Ill Winds: Saving Democracy from Russian Rage, Chinese Ambition, and American Complacency”, https://books.google.com/books?id=GFrXDwAAQBAJ&dq=diamond+In+such+a+near+future,+my+fellow+experts+would+no+longer+talk+of+“democratic+erosion.”+We+would+be+spiraling+downward+into+a+time+of+democratic+despair,+recalling+Daniel+Patrick+Moynihan’s+grim+observation+from+the+1970s+that+liberal+democracy+“is+where+the+world+was,+not+where+it+is+going.”+5+The+world+pulled+out+of+that+downward+spiral—but+it+took+new,+more+purposeful+American+leadership.+The+planet+was+not+so+lucky+in+the+1930s&source=gbs_navlinks_s //vy

Famine and genocide are the curse of authoritarian states, not democratic ones. Outright state collapse is the ultimate, bitter fruit of tyranny. When countries like Syria, Libya, **and** Afghanistan descend into **civil war**; when poor states in Africa cannot generate jobs and improve their citizens’ lives due to rule by corrupt and callous strongmen; when Central American societies are held hostage by brutal gangs and kleptocratic rulers, people flee—and wash up on the shores of the democracies. Europe and the United States cannot withstand the rising pressures of immigration unless they work to support better, more stable and accountable government in troubled countries. The world has simply grown too small, too flat, and too fast to wall off rotten states and pretend they are on some other planet. Hard security interests are at stake. As even the Trump administration’s 2017 National Security Strategy makes clear, **the main threats to** U.S. national **security all stem from authoritarianism, whether in the form of tyrannies from Russia and China to Iran and North Korea or in the guise of antidemocratic terrorist movements such as ISIS.1 By supporting** the development of **democracy around the world, we can deny these** authoritarian **adversaries** the **geopolitical running room** they seek. Just as Russia, China, and Iran are trying to undermine democracies to bend other countries to their will, so too can we contain these autocrats’ ambitions by helping other countries build effective, resilient democracies that can withstand the dictators’ malevolence. Of course, democratically elected governments with open societies will not support the American line on every issue. But no free society wants to mortgage its future to another country. The American national interest would best be secured by a pluralistic world of free countries—one in which **autocrats** can no longer **use corruption and coercion to gobble up resources, alliances, and territory.** If you look back over our history to see who has posed a threat to the United States and our allies, it has always been authoritarian regimes and empires. **As political scientists have long noted, no two democracies have ever gone to war with each other—ever. It is not the democracies of the world that are supporting international terrorism, proliferating weapons of mass destruction, or threatening the territory of their neighbors.**

It’s the greatest threat to humanity, which is why we’re proud to affirm.

Rebuttal Evidence

Stuart **Ford**, 20**20**,"Can the International Criminal Court Succeed? An Analysis of the Empirical E Empirical Evidence of Violence Providence of Violence Prevention, 43 Loy. L.A. Int'l & . L.A. Int'l & Comp. L. Rev. 101", **UIC School of Law**, https://repository.law.uic.edu/cgi/viewcontent.cgi?article=1790&context=facpubs // RB

According to their model, the existence of **an international trial was associated with a 9-10% increase in the probability that the conflict would end,**146 although the result was not statistically significant.147 Ultimately, they concluded that, while their study did not provide statistically significant evidence that international trials were associated with ending conflicts, it did largely **dispel concerns that ICC involvement prolongs conflicts.** Ultimately, there will always be caveats associated with statistical studies – there is always the possibility that the model is effected by variables you have not accounted for.168 Nonetheless, **the authors took pains to control for the variables (other than the ICC) that were most likely to explain the results.** By controlling for such variables, they sought to disentangle the impact of the ICC from the impact of other variables that might affect the results. These efforts help ensure the results are robust. With the exception of Professor Dancy's work,169 **these studies**, each **using a different data set and a different methodology, independently came to essentially the same conclusion – the ICC does prevent violence. Professor Hillebrecht found that the ICC's intervention in Libya reduced civilian casualties.**170 Professor Meernik found that states with a strong commitment to the ICC had fewer human rights violations than other states, independent of their overall commitment to the rule of law.171 **Professors Jo and Simmons found that the ICC reduced civilian deaths caused by both the government and rebel groups,** though the effect was more dramatic for government forces.172 Professor Appel found that joining the ICC was associated with a reduction in serious human rights abuses.173 We can now say with reasonable confidence that the ICC does prevent violence. Ratification of the Rome Statute is associated with a reduction in violence. Criminalizing violations of international criminal law in domestic law is associated with a reduction in violence. **And when the ICC acts, whether to open an investigation, issue an arrest warrant, or try an accused person, there is a reduction in violence.** Moreover, these effects appear to be additive.174 **There are no empirical studies showing that it increases violence.**175

Kathryn **Sikkink**, 02-03-20**15**, "The ICC's deterrent impact – what the evidence shows", openDemocracy, https://www.opendemocracy.net/en/openglobalrights-openpage/iccs-deterrent-impac/ // RB

In a new working paper, Beth Simmons and Hyeran Jo find that, **when comparing a number of conflict states, the threat of ICC jurisdiction has led to reduced violence against civilians.** They argue that **this** effect **is the result of both the increased likelihood that the Court will prosecute, but also what they call "social deterrence", or the ability of the ICC to mobilize social pressures to deter crimes**. According to the study, the ICC has a stronger positive effect on governments than on rebels. Yet, even the Lord's Resistance Army in Uganda reduced its levels of violence against civilians after the beginning of the ICC's investigation. In either case—ceasing hostilities or decreasing civilian targeting—the effect of the Court relies on civil society actors, which work in the shadow of ICC interventions to support accountability and monitoring.

David **Scheffer**, 07-17-20**23**, "The United States Should Ratify the Rome Statute", Lieber Institute West Point, https://lieber.westpoint.edu/united-states-should-ratify-rome-statute/ // RB

Even though at present the United States is not a State Party to the Rome Statute, the consequence of these legislative acts would be that **any Russian** soldier or government **official involved in atrocity crimes in Ukraine and who steps foot in the United States**, including Disney World with his family, **would risk arrest** and prosecution in federal criminal court for the crime of genocide, **war crimes,** or crimes against humanity. **Even though President Vladimir Putin, Foreign Minister Sergey Lavrov, and Defense Minister Sergei Shoigu, if they dared to visit the United States, could claim head of state immunity as the most senior officials of the Russian Government and thus avoid sustained arrest, the fact that a federal criminal indictment and an arrest warrant could be issued would present legal jeopardy and public shaming none of them may wish to risk.** Of course, if the United States were a State Party to the Rome Statute, any ICC arrest warrant against such individuals should be honored if they were to visit this country.

The rest were analytics