**Pingry affirms the resolution**

**Contention 1 is Sudan**

**The ICC is currently underfunded.**

**Coalition for the ICC 22** [Coalition for the ICC (The Coalition for the ICC is a global civil society network of member organizations in 150 countries), “Victims Could Lose out with States’ Double-Standard on International Criminal Court Resources | Coalition for the International Criminal Court.” *Coalitionfortheicc.org*, 2022, coalitionfortheicc.org/news/20220330/OpenLetter\_ICCresources. Accessed 1 Feb. 2025.]

The Coalition for the International Criminal Court (Coalition) welcomes the renewal of support for the critical role of the International Criminal Court (ICC) to deliver justice for serious international crimes, and the expressions of interest by its States Parties in bolstering the financial and human resources of the Court. While the positive response of States Parties signals a commitment to justice, States Parties’ chronic **underfunding of the Court** has **led** to an exceptional request by the Office of the Prosecutor for voluntary contributions to be provided outside the Court’s regular budget, including through a newly established trust fund and gratis personnel. The Coalition has repeatedly called attention **to the significant** and long-standing **gap between the Court’s workload and** the **resources available** to it **in its** regular **budget. The** Court’s **budget** has consistently been limited by States Parties, including through the insistence of some on “zero nominal growth” and in setting arbitrary financial envelopes, including for legal aid, and by failures on several occasions of the Court to request the resources it needs. This has **impacted the Court’s effectiveness and delayed victims’** access to **justice**. This recent call by the Office of the Prosecutor to States Parties for voluntary contributions and gratis personnel to support its investigative activities – and the enthusiastic response by some States Parties – amounts to an admission by the Court and its States Parties that the Court does not have adequate resources. The call for voluntary contributions and gratis personnel when attention is high on one specific situation also risks exacerbating perceptions of politicization of and selectivity in the Court’s work. Recent pledges by States Parties of funding and seconded personnel in the context of a specific situation sends the unfortunate signal that justice for some victims should be prioritized over others, depending on political will, including a willingness to make resources available. States Parties should be alert to the fact that perceptions of **selectivity** in the prioritization **of situations** or inappropriate bias in the Court’s work **are detrimental to the Court’s legitimacy and** can undermine the **credibility** of the justice it renders where it does act. The Court’s States Parties collectively share responsibility for ensuring appropriate resources for the entire Court through setting its annual budget. This provides the best protection for prosecutorial and judicial independence by ensuring sufficient budgetary resources are available for the Court to take and implement decisions by reference only to the applicable law and to the fairness of proceedings. Voluntary contributions to the Office of the Prosecutor will not address the resource needs of other organs, parties and participants, which increase in correlation with the Office’s activities. Voluntary contributions also raise significant risks when it comes to the sustainability of funding. In addition, there are policy considerations in the use of gratis personnel, including perceptions that seconded personnel may have divided loyalties.

## **This year, the victim of funding cuts is Sudan, as limited funds are redirected to Ukraine instead.**

**Nouwen 23** [Sarah Nouwen, "Why is the International Criminal Court so silent on Sudan?", 07/13/2023, Al Jazeera, https://www.aljazeera.com/opinions/2023/7/13/why-is-the-international-criminal-court-so-silent-on-sudan#:~:text=Another%20potential%20explanation%20for%20the,ICC%20by%20those%20in%20power.] //HS

Another potential explanation fo**r the ICC**’s current silence on Sudan is that the court has **redirected its resources away from Sudan to other places, particularly Ukraine**. If true, this simply accentuates the double standards that the Sudanese are experiencing in European refugee policies – special arrangements for Ukrainians affected by war; none for Sudanese affected by war – and makes a fiction of the impartiality of “global justice”. Sudanese have long concluded that, contrary to some of Prosecutor Ocampo’s slogans in the court’s early days, the ICC on its own cannot bring peace to Sudan. Sudan’s conflicts require complex multidimensional solutions in which justice is just one component. And Sudanese also know that this court would not even be able to try individuals responsible for their suffering unless they are physically delivered to the ICC by those in power.

**Thankfully, the aff solves. The US would by law provide a substantial increase to the mandatory fund. Funding is proportional to economic size, so the US would be the biggest funder and spur more effective investigations.**

**Brahm 23** [Eric Wiebelhaus-Brahm, Eric Wiebelhaus-Brahm is a consultant on issues ranging from the politics of post-conflict justice and reconstruction to labour and employment law and welfare state politics1-31-2023, "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 recut AL

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 f**or 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.**

**That’s why Wheeler 24 continues** Caleb Wheeler, Senior Lecturer in Law at Cardiff University, 2024, “Strange bedfellows: The relationship between the International Criminal Court and the United States,” Wake Forest Journal of Law and Policy, https://orca.cardiff.ac.uk/id/eprint/159100/

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 ending impunity. The first path **would** likely **result in the ICC receiving greater** political, intelligence and **financial support from the U**nited **S**tates, **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 atrocity crimes an unattainable goal.

**This is key - the ICC acts as a deterrent, preventing leaders from committing further human rights abuses**

**Appel 18** [Benjamin J. Appel, educator at the Department of Political Science at Michigan State University, 2018, “In the Shadow of the International Criminal Court: Does the ICC Deter Human Rights Violations?” Journal of Conflict Resolution, https://unlv-primo.hosted.exlibrisgroup.com/permalink/f/6tvje6/TN\_cdi\_proquest\_journals\_1976095460]/Kankee

The International Criminal Court (ICC) aims to prevent and deter individuals from committing grave violations of international law. According to its proponents, the establishment of the Court has ushered in a new era of international justice. In contrast to other international legal instruments, such as human rights treaties, the Court has the authority to investigate and prosecute individuals suspected of committing genocide, war crimes, and crimes against humanity. As a result, the Court’s supporters claim that the ‘‘culture of impunity’’ that has allowed human rights abusers to freely commit atrocities without fear of sanction has come to an end. Despite its potential to do this, the question remains: has the ICC contributed to the prevention of gross human rights abuses? Scholars and policy makers are divided on this question. Many champion the establishment of the Court and its ability to deter potential perpetrators from committing human rights violations by prosecuting offenders (Akhavan 2009; Schabas 2011; Scharf 1997). Others call into question whether the Court can prevent such crimes, given that it lacks the legal mandate and enforcement capabilities to capture and arrest wanted individuals (Ku and Nzelibe 2006; Drumbl 2007). Despite the arguments made by both sides, the current debate suffers from two major problems that make it difficult to determine whether the Court has improved human rights practices. First, researchers have failed to fully theorize the potential deterrent impact of the Court by underestimating the costs that it can inflict on individuals. Second, there is a lack of empirical research examining whether the Court has fulfilled its mandate and prevented gross human rights abuses. As Simmons and Danner (2010, 226) put it, ‘‘few social scientists have given this innovative institution close scrutiny.’’ In this article, I systematically examine the relationship between the ICC and government respect for human rights. I argue that governments from states that have ratified the Rome Statute commit lower levels of human rights abuses than governments from nonratifier states.1 I posit that **the ICC can** **deter** ratifiers from committing **violations because it imposes costs** on them throughout its involvement in a situation **that include imprisonment**, but also a variety of domestic **and international audience costs**. As a result, **the threat of** ICC’s **involvement lowers the** expected **payoffs for** engaging in **repression**, making other policies more attractive to ratifiers. In this way, while I acknowledge the importance of formal sanctions (i.e., incarceration), recognizing that the ICC inflicts various costs on governments once they start an investigation represents an important advance on existing arguments, given that the primary criticism of the ICC is that it is not a credible deterrent due to its limited ability to arrest wanted suspects. I use the Cingranelli–Richards (CIRI) index of physical integrity rights to test the deterrent impact of the ICC (Cingranelli and Richards 2009). CIRI index consists of four key human rights measures: torture, summary executions, physical disappearances, and political imprisonment. The data is appropriate for the present study because it corresponds to the Court’s jurisdiction to investigate and prosecute individuals suspected of committing crimes against humanity and war crimes. All four types of violations featured in CIRI index are explicitly listed in the Rome Statute as both war crimes and crimes against humanity. Further, while the ICC has investigated rebel groups, it also frequently targets governments, which are the focus of this study. I discuss several cases below, including Colombia, Sudan, Guinea, and Kenya. Other notable cases targeting governments include Mali, Israel, Libya, and the Ivory Coast.2 I find support for my theoretical expectations; **leaders from states that have ratified** the Rome Statute **commit lower levels of human rights violations** than leaders from nonratifier states. The results are robust to several alternative explanations of human rights abuses and the determinants of ratification (i.e., regime type, democratization, recent conflict history, independent judiciary, etc.). The results are also consistent when accounting for concerns related to selection effects. Using difference-in-differences (DiD) estimation, the findings indicate that the ICC is associated with a reduction in human rights violations, even after accounting for any unobserved preexisting differences between (eventual) ratifiers and non ratifiers.3 I also directly test the causal mechanisms in my argument and find that ICC’s involvement in a situation is related to a greater probability of both economic sanctions and major domestic government crises. The results suggest that **the ICC is associated with both screening and constraining effects on governments**. Although governments with better human rights records are more likely to ratify the Rome Statute, their human rights practices still improve after ratification. The practices of nonratifiers, however, change very little across time. This suggests that the ICC appears to be associated with an independent effect on ratifiers that cannot entirely be explained by prior human rights practices, trends across time, or domestic conditions. This article makes several important contributions. To my knowledge, this is the first cross-national analysis to find that the ICC is associated with better human rights practices.4 Finding that the ICC can reduce human rights abuses is important for both policy makers and academics. The ICC is a novel institution with unparalleled power to enforce the law and prevent gross human rights violations. In a significant move, ratifier states sacrificed some of their sovereignty by giving the Court the authority to prosecute individuals from their country. As Bosco (2014, 2) puts it, the ICC ‘‘represents a remarkable transfer of authority from sovereign states to an international institution.’’ The findings in this article provide support for the Court’s backers who argue that the establishment of a permanent ICC with such jurisdictional powers can advance human rights. Along these lines, this article also addresses important debates in the literature. In contrast to realist arguments that maintain that international law and institutions are either irrelevant or epiphenomenal, this article suggests that international organizations such as **the Court can alter the behavior of governments**. In so doing, it draws on arguments from the larger literature on human rights to suggest that the ICC can alter government behavior **even with** relatively **weak enforcement** mechanisms. By imposing various costs throughout the process, I suggest that the ICC can deter individuals even with its limited ability to arrest wanted suspects. As noted, this is an important theoretical insight about the ICC that addresses one of the major concerns of those skeptical of the Court’s impact on human rights abuses. The rest of this article is organized as follows. First, I review the existing literature on the Court and identify the shortcomings in it. Next, I put forward my argument on the effectiveness of the ICC. I then introduce my research design and measurement issues and discuss selection effects and present the statistical findings. I then examine whether ICC’s involvement is associated with greater domestic and international costs. I conclude with the implications of this research and directions for future research. Literature Review

**That’s why, in Sudan specifically, ICC actions have worked in the past**

**Hortnagl 20** Maximillian Hortnagl, MSc in Global Politics @ the London School of Economics and Political Science, August 2020, 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 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. Hussei**n 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.** However, the results for the Hussein arrest warrant should be read with caution, given that the conflict had reduced greatly in intensity (see figure 2), most likely for other factors than ICC actions, uncontrolled for in the models. The control variables, non-civilian fatalities and news coverage, are almost perfectly correlated with civilian fatalities across the three models, albeit not statistically significant.

# **This would stop the atrocities being committed by the the Sudanese military, which are currently detrimental for human rights**

### **Walsh January 16** [Declan Walsh, chief Africa correspondent for The Times, 1-16-2025, Sudan’s Military Has Used Chemical Weapons Twice, U.S. Officials Say, NYT, https://www.nytimes.com/2025/01/16/world/africa/sudan-chemical-weapons-sanctions.html, Willie T.]

**Sudan’s military has used chemical weapons** on at least two occasions against the paramilitary group it is battling for control of the country, four senior United States officials said on Thursday. The weapons were deployed recently in remote areas of Sudan, and targeted members of the Rapid Support Forces paramilitaries that the army has been fighting since April 2023. But U.S. officials worry the weapons could soon be used in densely populated parts of the capital, Khartoum. The revelations about chemical weapons came as the United States announced sanctions on Thursday against the Sudanese military chief, Gen. Abdel Fattah al-Burhan, for **documented atrocities** by his troops, **includ(e)**ing **indiscriminate bombing** of civilians **and the use of starvation as a weapon of war.** The use of chemical weapons crosses yet another boundary in the war between the Sudanese military and the R.S.F., its former ally. By many measures, **the conflict in Sudan has created the world’s worst humanitarian crisis, with as many as 150,000 people killed, over 11 million displaced and now the world’s worst famine in decades.** “Under Burhan’s leadership, the S.A.F.’s war tactics have included indiscriminate bombing of civilian infrastructure, attacks on schools, markets, and hospitals, and extrajudicial executions,” the Treasury Department said, using an acronym for Sudan’s armed forces. General al-Burhan responded with defiance: “We are ready to face any sanctions for the sake of serving this nation, and we welcome them,” he told reporters during a visit to El Gezira state. The U.S. decision is considered a significant move against a figure seen by some as Sudan’s de facto wartime leader, who also represents his country at the United Nations.

**This affects thousands**

**Magdy and Khaled 2-1** [Samy Magdy (Cairo-based correspondent) and Fatma Khaled (Middle East News correspondent, MS from Columbia University), 2-1-2025, Paramilitary group attacks an open market in Sudan, killing 54 people and wounding scores, Associated Press, <https://apnews.com/article/sudan-rsf-omdurman-sabrein-market-1ae73e6e00c2a390f44cd955fed2667> DOA 2/2/25] // SH

A video posted on social media by correspondent Nezar Bogdawi from Saudi-owned Al Arabiya TV showed multiple body bags numbered and lined up outside the hospital. The wounded being treated, some on the hospital floor, included a man with a chest wound, another with a leg injury, and a man with a head wound.Sudan’s army said in a statement late Saturday that its forces were able to “expel the remnants” of the RSF from the areas of Rifa’a, Tambul, Al-Hilaliya and Al-Hasahisa in Gezeira. Last week, about 70 people were killed in a RSF attack on the only functional hospital in the besieged city of El Fasher in the western region of Darfur**. The conflict has killed more than 28,000 people**, **[and]** has **forced millions to flee their homes** and has left some families eating grass in a desperate attempt to survive as famine sweeps parts of the country. **It has been marked by gross atrocities including ethnically motivated killing and rape**, according the United Nations and rights groups.

**Contention 2 is The US**

**Subpoint A is US Intervention**

**US interventions are out of control**

**Stephenson ‘23** [Heather Stephenson (Heather Stephenson is the editor of Tufts Magazine, the university’s award-winning alumni magazine, and produces stories for all Tufts channels. She holds degrees from Princeton and Harvard universities), 10-16-2023, “U.S. Foreign Policy Increasingly Relies on Military Interventions”, Tufts Now, <https://now.tufts.edu/2023/10/16/us-foreign-policy-increasingly-relies-military-interventions> DOA 2/13/25] // SH

According to the project’s data, **the U.S. has been involved in 393 military interventions** in other nations since 1776. **More than 200 of those have been since 1945, and 114 in the post-Cold War era** (after 1989). Just since the year 2000, the project documents 72 interventions. And in one region of the world, the Middle East and North Africa, the U.S. has been involved in 77 military interventions, mostly since the 1940s. Intervention means more than boots on the ground. The project uses the term military intervention to refer to both the threat of use of force and the actual deployment of troops and materiel into another country. “**More often than not we display the use of force**,” Toft says. That might involve sending a U.S. carrier group to the Mediterranean or the Caribbean, for example. “Actually using force, interstate wars, are quite rare,” according to the analysis, Toft says, although “some academics might say we are under counting, given the way the United States doesn’t officially declare war often.” Over the entire span of U.S. history, the display of force has been more common than the use of force. However, in more recent years, the use of force has become more common than the display, Toft says. The stakes are changing—and so are the odds. Toft also argues that the U.S. is engaging in **military actions** that **are not as central to** its **national interest, with lower odds of winning**, than it did before. Since the start of the twentieth century, the strongest nations in the world—known as major and great powers—have been fighting harder and winning less often, she says. “**In the nineteenth century, they had a 9 in 10 chance of prevailing. And then by 1950, it's 50/50**.” Pointing to U.S. involvements in Vietnam and Afghanistan, neither of which ended in victory, she says, “It's much more difficult today.” That’s another argument for reconsidering the increased reliance on military intervention. T

**Affirming solves – the ICC deters intervention by incentivizing leaders to think more carefully before making a military decision**

**Kuo ‘24 continues** Felisha Kuo, 5-10-2024, "Analyzing the United States in International Law: A Case for U.S. Membership in the International Court of Justice (ICJ) and International Criminal Court (ICC)", Bruin Political Review, <https://bruinpoliticalreview.org/articles?post-slug=analyzing-the-united-states-in-international-law-a-case-for-u-s-membership-in-the-international-court-of-justice-icj-and-international-criminal-court-icc-> //JL

The ICC operates under the principle of complementarity, giving the state of which the accused is a national priority jurisdiction [6]. It is only when states do not have the infrastructure or the willingness to investigate amid blatant human rights violations the ICC can instigate an investigation. Considering the United States’ well-established military court system, an ICC investigation on U.S. nationals is highly unlikely. **Joining the ICC**, then, **will encourage** senior **U.S. officials to make more careful choices when it comes to** decisions that involve **military force.** With 750 military bases across eighty different countries, the United States’ large military presence must be accompanied by thorough decision-making as **any use of military force could further escalate ongoing conflicts.** Reflecting on the history of American military adventurism, whether in Vietnam, Iraq, or Afghanistan, **most are wars of choice.** Given that the choice rests on high-level officials and military personnel, considering the legal liability encourages careful consideration of the **human and financial costs of war. It will also encourage better attempts at trialing and self-enforcing military guidelines when it comes to war crimes.** Take the Iraq War in 2003, where a U.S.-led coalition overthrew the Saddam Hussein government, justifying the intervention by citing evidence for weapons of mass destruction. Seven years and more than $3 trillion U.S. dollars later, the defeat of the Iraqi army signaled the end of the war [7]. However, the U.S.’ supposed evidence of weapons of mass destruction and biological weapons were unfounded. “The Americans lost a lot of credibility from this war,” says Dr. Karin von Hippel, the director-general of the Royal United Services Institute think tank in an interview with BBC. The Americans did not just lose credibility in terms of intelligence. Allegations of gross human rights violations in secret detention centers and the indiscriminate cluster bombings against the U.S. followed. Legal experts of international law concluded that the attacks were disproportionate and indiscriminate, violating international humanitarian law which prohibits “attacks which employ a method or means of combat which cannot be directed at a specific military objective,” [8].

**US interventions kill millions.**

**Foundation ‘24,** Foundation 24 Ibon Foundation, 7-6-2024, "Global victims of US military aggression," IBON Foundation, <https://www.ibon.org/global-victims-of-us-military-aggression/> //rchen

In the 21st century, the US used its so-called war on terror to justify large-scale invasions, attacks and many other military interventions: Afghanistan (2001-2021) – The US invaded Afghanistan on the pretext of responding to the 9/11 terrorist attack and going after Al-Qaeda. Yemen (2002-2023) – The US sent special operations forces into Yemen and launched the first of hundreds of drone strikes against Al-Qaeda. Iraq (2003-2011; 2014-2021) – The US invaded Iraq on the pretext of going after weapons of mass destruction to overthrow the government of former ally Saddam Hussein; this was followed by air strikes and military support against the Islamic State of Iraq and Syria (ISIS). Pakistan (2001; 2004- 2018) – The US deployed troops for its invasion of Afghanistan and attacks on Al-Qaeda; it later also launched hundreds of drone strikes to support the government against rebel groups. Somalia (2007-2024) – The US conducts drone strikes, air strikes and ground operations against supposed terrorists. Libya (2011-2020) – Under the cover of NATO operations, the US conducted air, drone and artillery strikes to overthrow the Muammar al-Qaddafi government. Syria (2014-2021) – The US conducts drone strikes, air strikes and ground operations against ISIS. Ukraine (2022-present) – The US attempt to expand US influence to Russia’s borders by including Ukraine in NATO provoked Russia to invade Ukraine; it is fighting a proxy war with Russia through massive military support to Ukraine. Palestine (2023-present) – The US is the strongest supporter of Israel in its genocidal war on Palestine; Israel is already the largest cumulative recipient of US military aid which even increased three-fold in 2024 since the attacks on Gaza. The US’ hostile military actions abroad violate the United Nations (UN) Charter’s provisions on peaceful settlement of disputes and refraining from the use of armed force except in self-defense after an armed attack by another state. None of the countries the US has invaded or attacked previously initiated hostilities against it. The US acts without Security Council approval when it wants to and also systematically violates many other UN resolutions and international law. The most severe of the US’ acts of aggression have resulted in some 13-23 million deathsin at least 28 nations. Direct US military actions in at least 16 countries have caused around 7-13 million deaths. US-supported or -instigated armed conflicts in 19 countries have led to some 6-10 million deaths. There are countries where the US has engaged both directly in combat and indirectly through active military support. These figures still do not include casualties from all the governments the US has supported militarily in their domestic conflicts against supposed insurgents and other political opposition. Many tens of thousands more have been killed by client states with US support and using US-funded and -supplied war materiel, such as in the Philippines.

**Subpoint B is Drones**

**Increased drone strikes are imminent with Trump’s second term**

**Khan and Mubarak ‘24** [Aysha Khan (Aysha Khan is the deputy managing editor at Analyst News. Aysha holds degrees from the University of Maryland and Harvard Divinity School) & Shumaila Mubarak (Shumaila Mubarak Sharma is an Analyst News staff writer and video writer based in Toronto), 11-15-2024, “There will be no peace in the Middle East under Trump, either”, Analyst News, <https://www.analystnews.org/posts/trump-no-wars-peace-middle-east-palestine-yemen-saudi-drones> DOA 2/10/25] // SH

One of the darkest stains on Barack Obama’s presidency was his warm embrace of **drone strikes** and targeted killing, which quickly **became [a]** his **signature counterterrorism move.** When Trump was voted in, some commentators hoped that Republican isolationism could offer some relief from this unchecked, remote-controlled mass killing. Yet **in just the first two years of Trump’s previous presidency, he launched 2,243 drone strikes**. **That’s compared with 1,878 during Obama’s entire eight years in office. Trump’s first presidency saw far more drone strikes and even less transparency than Obama’s notoriously drone-happy administration.** To hide these secretive drone campaigns, he revoked an Obama-era rule requiring the U.S. to publicly report the number of civilians killed in drone strikes, calling these laws “superfluous” and distracting. In the first two years of Donald Trump’s previous presidency, he launched 2,243 drone strikes, compared with 1,878 during Obama’s entire eight years in office. “In annual reports under Trump, the U.S. military has claimed that zero civilians were killed in Yemen during operations it carried out in 2018 and 2019,” The Intercept reported in 2020. “Such a claim flies in the face of painstaking reporting by monitoring groups like Airwars. Unsurprisingly, the absurd death toll went unquestioned by an administration that has gone out of its way to encourage and defend individuals accused of killing civilians in combat.” In fact, the **Trump** administration appears to have **dropped more bombs in Yemen than all previous U.S. presidents combined**. Even as Congress pushed through a bipartisan resolution to end U.S. military assistance for Saudi Arabia’s ruthless war on Yemen, he issued an emergency declaration to send Saudi another $8.1 billion worth of precision-guided missiles and other high-tech weapons. The emergency: the need to curb Iran’s “malign influence” in the region. Later, Trump vetoed three joint Congressional resolutions blocking licensing for some arms sales to Saudi, the U.A.E and several European nations. Today, Yemen remains one of the world’s worst man-made humanitarian crises, with millions facing starvation and displacement. **An estimated 154,000 people were killed through military action; at least 8,900 were killed in** Saudi-led **airstrikes directly targeting civilian buildings and gatherings** (including, infamously, weddings). Notably, Trump also dismissed Saudi crown prince Muhammad Bin Salman’s role in the 2018 assassination of U.S. citizen and journalist Jamal Khashoggi in order to continue arms sales. Later, Trump bragged about “saving” MBS from congressional heat.

**These strikes indiscriminately target civilians and violate international law**

**Keenan ‘21** [Keenan, Patrick J. (Professor of Law & Heidi Hurd Faculty Scholar, University of Illinois College of Law) , DRONES AND CIVILIANS: EMERGING EVIDENCE OF THE TERRORIZING EFFECTS OF THE U.S. DRONE PROGRAMS, 20 Santa Clara J. Int'l L. 1 (2021).

Available at: <https://digitalcommons.law.scu.edu/scujil/vol20/iss1/1>} // SH

The Biden Administration, in one of its first consequential foreign policy decisions, announced that it would undertake a comprehensive review of the United States drone program. Officials promised that this review would consider all available evidence. This article shows that **the U.S. drone program violates international law because of the ways it terrorizes civilian populations.** U.S. officials from both parties have argued that drones are an effective part of the U.S. counterterrorism strategy. However, effectiveness is not the legal standard. **The law requires that the program not unduly harm civilians**. For as long as the U.S. has been using drones, **communities in targeted countries have contended that the U.S. kills innocent civilians.** The U.S. has typically minimized these claims, even as it has acknowledged some of the deaths. Until recently, this was the state of the argument: the U.S. argued that the drone program was effective, with minimal effects on civilians, while others argued that it caused undue harm to innocent civilians. Neither side found the evidence cited by the other side credible or gave much credence to the other side’s arguments. There is now a growing body of **empirical evidence** that **shows how the U.S. drone program [and] terrorizes civilians in ways that violate the law.** Drawing on research from several disciplines, I show the ways the drone program affects the targeted population, civilian and militants alike. The evidence shows that even if drone strikes kill terrorist leaders—strikes the U.S. would consider successful—militants shift their attacks from military targets to civilians. The evidence also shows that the main reason militant violence goes down is not the strikes themselves, but the monitoring and surveillance apparatus associated with the drone program. Areas in which the U.S. maintains an active drone strike program are typically under persistent surveillance and monitoring. Communications are monitored, movements are tracked by surveillance drones, and intelligence-gathering operations are ongoing. Civilians are terrorized by these practices. Taken together, this evidence shows that **U.S. operations violate international law because they are indiscriminate**: they affect civilians and militants alike, **with little effort made to reduce civilian harms.**

**Indiscriminate drone strikes are illegal under the Rome Statute**

**Alberstadt 14** [(Rachel Alberstadt, Analyst at United States Department of Defense, Civil Servant at U.S. Africa Command.) “Drones under International Law” Open Journal of Political Science, Vol. 4 No. 4, October 2014, https://www.scirp.org/journal/paperinformation?paperid=50570] AE///dd

This next section analyses how the use of **drones** could **constitute war crimes**, which are grave breaches of the Geneva Conventions (Gill & Fleck, 2010) **within** the context of **Article 8 of the Rome Statute**. Article 8 (1) of the Rome Statute reads “The Court shall have jurisdiction in respect of war crimes in particular when committed as part of a plan or policy or as part of a large-scale commission of such crimes” (Rome Statute, 1998). Thus to trigger prima facie requirements under this opening provision, the alleged crimes in question would require a plan or policy or a large scale commission of the acts, although an individual crime can also constitute a war crime (Cryer, Friman, Robinsin, & Wilmshurst, 2007). However, in its analysis of drones fulfilling war crimes criteria, this paper will restrict its evaluation to war crimes falling under Article 8 (2) (a) and 8 (2) (b). These sections specifically pertain to conflicts of an international character.

According to the **Rome Statute**, an additional requirement exists for an act to constitute a war crime. For there to be an act qualifying as a war crime under Article 8 there requires a nexus criteria linking the crime with an armed conflict, either an international armed conflict (IAC) or a non-international armed conflict (NIAC) (Cryer, Friman, Robinsin, & Wilmshurst, 2007). More generally, to trigger jurisdiction of the Court itself, this requires three methods outlined in Article 13 as 1) a State party refers a situation to the Court, 2) the UN Security Council refers a situation to the Court, or 3) for the Prosecutor to act propriomotu. These correspond to Articles 13, 14, and 15bis and 15ter which elaborate on these provisions (Rome Statute, 1998).

Under Article 8 (2) (a) the Statue **incorporates** established **IHL law** taken from the 1949 Geneva Conventions and other relevant established international law (Cryer, Friman, Robinsin, & Wilmshurst, 2007). **Core provisions** of IHL **ban indiscriminate targeting practices**, **including weaponry** which are **incapable of distinction** (Gill & Fleck, 2010). However, this distinction holds an overall caveat in international conflicts, as in these types of conflicts there are two categories of persons: combatants and civilians. Each category are afforded aspects of protections, but under some acts, such as wilful killing, these are crimes only against non-combatants (Cryer, Friman, Robinsin, & Wilmshurst, 2007).

As IHL argues that whoever does not qualify as a combatant automatically qualifies as a civilian (Gill & Fleck, 2010) customary law and State practice exist in a current State of flux regarding non-State armed groups in international conflicts and also terrorist actors. However, this paper will explain how under existing IHL, for which violations under the Rome Statute can arise, terrorists and non-State actors continue to constitute protected civilians. Exceptions to this rule allow for legitimately targeting civilians should the civilians in question actively and directly participate in combat (Kalshoven & Zegveld, 2011). However, lawfulness of targeting these civilians pertains strictly to the duration of their active involvement.

The factual nature of drones—as an instrument capable of but not restricted to purposes of force—provides imperative evaluation for potential allegations of international core crimes, such as war crimes or crimes against humanity. States deploy drones for three interrelated reasons 1) efficiency, 2) accuracy, and 3) prevention or protection of human risk. As indicated in the previous section, these objectives also potentially implicate mens rea elements for judicial hearings. Because of the precision of drones, both from the accuracy of data procured to inform the pilot and the relative accuracy of the targeting itself, any crimes resulting from drone sorties could demonstrate either an intent to disregard the laws of war by means of recklessness or negligence, or a direct culpability for knowingly firing upon unlawful targets.

Regarding liability, actual launching of drones ultimately rests upon a leadership decision. This implicates liability under command responsibility, or liability under Article 28 of the Rome Statute, as it is the commanders who give the final authorization for the order (Air Force Operations, 2009). For example, precautions must be taken when giving orders to exercise drone strikes, thus, if the status of the target is doubted (in terms of being military or combatant), then the assumption is the target is civilian and is protected and must not be attacked (Gill & Fleck, 2010; Kalshoven & Zegveld, 2011; Military Commander, 2012; Cryer, Friman, Robinsin, & Wilmshurst, 2007).

4.1. Drones and Proportionality under the Rome Statute

While this paper has extensively analysed the lawfulness of certain targets, a related issue of lawful drone action is the resulting damage from the strikes. While it is clear that prohibitions on directly targeting civilians exists, **States are** also **prohibited from executing strikes which** would predictably or knowingly **cause** excessive or unnecessary **civilian harm** (Kalshoven & Zegveld, 2011). Thus, **war crimes** may **result** from strikes if the results failed proportionality tests.

Generally the proportionality test weighs potential harm against military benefit (Gill & Fleck, 2010). It is a test decided by the commander prior to the launched sorties and must be decided for each and every attack (Matthews & McNab, 2011). Michael Schmitt clarifies that the weapon used proves irrelevant, but rather the issue is whether “expected civilian casualties or damage were excessive relative to the military gain the attacker reasonably anticipated from the strike” (Schmitt, 2011). The evaluation of proportionality by courts results in inconsistent determinations as proportionality is assessed subjectively by the military apparatus (usually a commander giving a final “go” order) and is difficult to objectively quantify or qualify (Air Force Operations, 2009; Cryer, Friman, Robinsin, & Wilmshurst, 2007).

**Affirming solves – the ICC encourages nations to reform their penal codes and increase prosecutions for atrocities such as drone strikes**

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**To restrain the executive and uphold human rights,** the US has two choices: **Join the ICC** or create laws that will hold its officials and armed services accountable to war crimes, crimes against humanity, genocide, and aggression overseas. The best option, however, is to do both. For law to fill its role, there have to be incentives for all to abide by it, including the powerful and the weak, the large and the small, the just and the unjust. International institutions like **the ICC** certainly have their own set of problems, but ultimately **can** serve as tools to **hold states responsible** for their questionable behavior, **especially** **powerful states like the US.** For the US, **joining the ICC** is actually a sound strategy. By cooperating with the ICC, the US **would put in place an incentive structure to rein in lawless behavior,** including overreach on the part of the US executive. Committing the US to international law **and** human rights in our decisions about foreign policy and war, therefore, **create**s **a safeguard against executive overreach, which is essentia**l if we want **to end endless wars**. As a president who has spoken about refocusing US foreign policy several times, President Joe Biden is well-positioned to pivot US foreign policy away from war and more toward restraint. Seeing the ICC as a way to improve US foreign policy and standing in the world, however, requires thinking outside the box and political will, both of which may be lacking in today’s White House. WHY THE ICC? Many have railed against the ICC as an infringement on sovereignty because it restricts power, but that is the point of a constitution: To subject power to law. Not only is accountability for gross atrocity crimes well precedented in international law, but sovereignty is no excuse to shield policymakers from perpetrating these crimes. Popular criticisms of the ICC cover three elements: Jurisdiction, the potential for political power play, and weak enforcement mechanisms. These criticisms, however, are not only overblown but also unreasonable. ICC jurisdiction is narrowly defined and reserved only for the most heinous offenses, such as genocide, war crimes, crimes against humanity, and aggression. The complementarity principle ensures that **the Hague could only investigate** and prosecute **American officials where**, according to Article 17 of the Rome Statute, **the US is either “unable or unwilling**.” More importantly**, a US investigation into its own conduct** essentially **prohibits** any **ICC jurisdiction** over US officials. Unfortunately, these investigations either get swept under the rug, like we’ve seen with recent US drone strikes, or war criminals like Eddie Gallagher are all together commuted. In theory, updating the US legal code to include these atrocity laws is enough to address this concern, but there are significant gaps. The US has already signed and ratified the 1949 Geneva Conventions as well as the 1948 Genocide Convention. Additionally, in 2007, the Genocide Accountability Act was signed into law, further codifying genocide in the US penal code. While there is no international treaty with regards to crimes against humanity, the ICC refers to the “widespread or systematic attack directed against any civilian population,” including murder, extermination, torture, and sexual violence, among other heinous crimes. Yet, those systematic crimes, individually illegal in US law, are not codified in such a way to curtail executive and military abuse overseas. Some may fear that a rogue prosecutor might indict US officials for political purposes. A remote logical possibility should not be an obstacle to embracing lawfulness. After all, rogue prosecutors can go off the rails domestically too, but that is a weak argument against having a criminal justice system. More significantly, it has never happened. While the ICC prosecutor remains independent and can initiate an investigation on their own with the approval of the` Pre-Trial Chamber, the ICC’s previous prosecutors have never done so. Indeed, prosecutors only investigated situations referred to by member states themselves or by the UN Security Council or within states already signed on to the treaty that were “unable or unwilling” to conduct their own investigations. Some may fear that a rogue prosecutor might indict US officials for political purposes. Yet, that has never happened. The Trump administration raised populist fears about the ICC and even imposed sanctions on ICC officials, but the complementarity principle was clearly applied in Afghanistan: The prosecutor initiated an investigation but in March 2020, deferred by request of the Afghan government to investigate any alleged crimes — by all parties — on its own. In other words, the prosecutor has cooperated. Since the US withdrawal, the ICC’s new prosecutor, Karim A. A. Khan QC, has received incredulous pushback for his decision to focus on crimes committed by the Taliban and the Islamic State-Khorasan (ISK), rather than US forces. While this scrutiny bears merit, his justification is due to the reality that the ICC has limited resources and the crimes committed by the ISK “constitute a global threat to international peace and security.” The Taliban and ISK continue to commit gross atrocity crimes and it is therefore more prudent to shift resources to bring these criminals to justice. The final, and probably most common criticism against the ICC is that it does not have the ability to enforce its decisions. Like all international bodies, the ICC is constrained by resources and relies on member-state cooperation. However, a lengthy list of arrests and convictions isn’t necessarily a measure of success either. Human rights scholars Geoff Dancy and Kathryn Sikkink have found evidence that **state parties who sign on to the Rome Statute are** much **more likely to adopt atrocity laws into their own** domestic **penal codes with** the technical **assistance of the ICC, resulting in more domestic prosecutions.** Therefore, individual **states** that are able and willing to conduct their own trials and **hold their own officials accountable** is a better indicator of an effective institution than trials and convictions by the ICC. What’s more**, the ICC only prosecutes** those **top**-level **officials** most responsible for gross atrocity crimes, not low-level offenders who carry out orders. Therefore, it isn’t US soldiers who would be at risk of prosecution, but US administration officials and policymakers. **And those who make decisions** and wield power, in fact, **are the** very **persons who** most **need to be constrained** by law. Furthermore, it would raise the stakes and change the calculations made by the executive when initiating military conflicts. COMMITTING TO ACCOUNTABILITY Those who advocate cooperation with the ICC share the same goals proclaimed by those seeking to constrain US military actions. For instance, **the** unfettered **use of drone strikes through unilateral executive action,** the repeal of both AUMFs, unilateral military intervention and state building, and the use of torture in Guantánamo. Lee Feinstein and Tod Lindberg, scholars on each side of the political spectrum, point out in their book “Means to an End” that cooperation doesn’t entail or require the use of military action. It encompasses intelligence sharing, logistical and security assistance for investigators, judicial assistance and capacity-building for foreign domestic court systems, and more robust domestic laws against gross atrocity crimes, all of which are tools that serve to reinforce US commitment toward accountability and to deter the perpetration of such crimes in the future. That, at least, should be lauded by advocates for military restraint. It is a central tenet of the rule of law that if state officials engage in atrocious crimes and gross human rights abuses, they **should be prosecuted** and held accountable. Impunity to commit these crimes is incompatible with basic principles of constitutional government and is offensive to every principle of the American founding. To take seriously commitments to restrain the executive and to uphold human rights, the US has two choices: **Join the ICC** or create laws that will hold its officials and armed services accountable to war crimes, crimes against humanity, genocide, and aggression overseas. The best option, however, is to do both.

**Otherwise, the impacts are two fold.**

**Firstly, US drone strikes kill thousands**

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A recent report suggests that the botched strike is indicative of a larger trend. Based on 3,000 documents disclosed by the Pentagon, the study alleges to have identified “an institutional acceptance of an inevitable collateral toll” during U.S. strikes. Indeed, widely available data reflects the prevalence of civilian casualties resulting from U.S. strikes against suspected terrorists. According to the Bureau of Investigative Journalism (BIJ), for instance, **U.S. strikes** in Afghanistan, Pakistan, Somalia, and Yemen **from 2002 to 2020 killed** between 10,000 and **17,000 people.** Of these, between 800 and **1,750 are thought to have been civilians.** What the data doesn’t show is variation in the targeting standard for U.S. strikes over time. That is, the data obscures the number of civilian casualties deemed acceptable during any given strike, which is a politically motivated calculation that shapes the overall rate of killing.

**Secondly, drone strikes increase support for terrorists and their ideology, serving as propaganda for radicalization**

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Nevertheless, the hypothesis that drone strikes curb terrorism has been challenged. A majority of the associated arguments hinges on the **blowback** hypothesis: The violation of state sovereignty along **with civilian casualties could** fan grievances in the general populace, i.e., not just within terrorist groups. The resulting sentiments **could translate to** physical, financial, or **ideological support for terrorists** (Kilcullen and Exum, 2009; Hudson et al., 2011; Cavallaro et al., 2012; Cronin, 2013; Jordan, 2014). In fact, **drone strikes feature** heavily **in** the **propaganda of** several **terrorist groups**. For example, Al-Sahab, the propaganda wing of Al-Qaeda, used video footage of drone strikes **to portray the US as a heartless** **oppressor** that indiscriminately targets Muslims (Cronin, 2013). In their English-language magazine Inspire, Al-Qaeda in the Arabian Peninsula describes drone strikes as resulting in the death of innocent people and oppressing Muslims (Ludvigsen, 2018). In the magazines published by the Tehrike-Taliban Pakistan, drones are projected as weapons against Islam; the Pakistani government and military are repeatedly blamed for letting the US wreak havoc with Muslims in Pakistan. In one of the magazines, Sunnat e Khauwla, the story of a six-year old ‘mujahid’ is published who vows to avenge his family and friends who were killed via drones.4 Numerous public figures and politicians have expressed concerns about **drone strikes**, arguing they weaken democracy, **push people towards extremist groups, and threaten peace** in the region, such as Pakistan’s former High Commissioner to Britain (Woods, 2012), then-Army chief Ashfaq Pervaiz Kayani (BBC, 2011), and Pakistan’s interior minister (Peralta, 2013). All major political parties publicly condemn drone strikes. Imran Khan, the current Prime Minister, participated in a public protest against drone strikes in 2012 (Doble, 2012). The former prime minister, Nawaz Sharif, called for an end to US drone strikes in his first address after coming into power (BBC, 2013). The Pakistan People’s Party (PPP), who lost their chairperson Benazir Bhutto in a terror attack in 2009, terms drone strikes a violation of international laws and national sovereignty (Tribune, 2013a). The Awami National Party (ANP) condemns drone strikes (Dawn, 2012) and the more religiously oriented Jammat-e-Islami (JI) and Jamiat Ulema-e-Islam (JUI) organize protests against drone strikes (Tribune, 2013b; Dawn, 2013). A poll by the New America Foundation and Terror Free Tomorrow reveals that US **drone strikes are highly unpopular in the** FATA **region** (NAF and TFT, 2010). According to a Pew survey in 2012, **97 percent** of the surveyed Pakistanis who heard about drone strikes **hold an unfavorable opinion** about them (Pew Research Center, 2013) and 94 percent think drone strikes kill too many innocent people (Afzal, 2018). In sum, this narrative stands in stark contrast to that proposed by US military leaders and it remains an empirical question to understand which forces dominate.

**19% of ALL terrorist attacks are directly caused by unrestricted US drone strikes**

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Employing day-to-day wind conditions as an identification strategy, we explore the consequences of the 420 US drone strikes in Pakistan between 2006 and 2016. Results suggest that **drone strikes encourage terrorism** over the upcoming days and weeks, **causing** up to **19% of all** terror **attacks** with more than 3,000 terror deaths in Pakistan during that period. Studying a leading Pakistani newspaper, **we identify a** polarised **response** to **drone strikes as** negative emotions and anger, but also positive emotions, in drone-related articles increase. Finally, anti-**US protests and online searches exhibiting radical Islamist concepts increase** as a consequence of drone strikes.

**This creates a multitude of devastating consequences**

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**Terrorism**, as best defined, has four generic wrong-making characteristics. It uses or threatens violence. It typically produces terror. It uses persons as means without respecting them as autonomous moral agents. It attempts to coerce. These make terrorism morally wrong because they involve the **inflicti**on of **serious harm and** the **violat[e]**ion of **human rights.** Political terrorism is also wrong because **it** undermines trust, **generates conflict** within a liberal society, **undermines the** capacity for self-**government and disrupts social order. State terrorism violates the duty of nation states to protect citizens from harm and the violation of their human rights**. International **terrorism threatens peace and security and violates the sovereignty of nations.** **Racial terrorism always violates the moral right to equitable treatment of its victims and often oppresses members of the terrorized race**. Family quasi-**terrorism** violates one’s special moral responsibilities to members of one’s family, **destroys** the **necessary conditions** for intimacy **and often causes p**ost-**t**raumatic **s**tress **d**isorder. None of these wrong-making characteristics is limited to innocent victims; innocence is primarily relevant because it excludes any justification of terrorism as a defense against wrongful aggression.