**(209) New England NSDA Quals Round 3 vs 235**

**1AC—Funding**

**Coalition for ICC 22** reports

"Victims could lose out with states’ double-standard on International Criminal Court resources", No Publication, https://coalitionfortheicc.org/news/20220330/OpenLetter\_ICCresources

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. V**oluntary 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.

**Ford 23** explains

Ford, S., 2023. Funding the ICC for its Third Decade. In *The International Criminal Court in its Third Decade* (pp. 368-383). Brill Nijhoff. URL

In its proposed 2023 budget, the ICC asked the ASP for 186 million Euros, which represented an increase of 22 million Euros over its 2022 budget of 154 million Euros.15 This was a proposed increase of 20%.16 This is a striking figure. Some members of the ASP have been pushing for the past decade to freeze the ICC’s budget, a so-called “zero growth” budget.17 Perhaps in response to these pressures, in recent years, the court has been proposing quite small annual increases. For example, in 2018, the court asked for an increase of 4.4%.18 In 2019, the court proposed an increase of 2.6%.19 In 2020, it proposed an increase of just 1.6%,20 and then in 2021, the court actually proposed a reduction in its budget of 0.5%.21 This pattern changed in 2022, when the court asked for an increase of nearly 10%.22 And then, this year, it asked for an increase of 20%.23 Why the sudden request for such a large increase?

Part of**the requested increase is being driven by** what the Court delicately **calls “worldwide inflationary pressures.”24 This is a reference to the effect of Russia’s invasion of Ukraine, which has caused a sharp rise in global inflation**.25 This has resulted in an increase in the cost of goods and services that the court needs to operate.26 But, more importantly, it has also caused an increase in salaries, 27 which represent the largest driver of costs at the ICC.28**As a result, nearly 40% of the court’s increase in its requested budget is caused by inflation.29 The rest of the requested increase is driven by what the court describes as a significant increase in the volume of its work**.30 **The court** says that its “overriding objective” is to achieve “an effective, efficient, and universal system of international justice” and that it will do so by “independently conduct[ing] fair and expeditious investigations and trials.”31 In effect, while the overall goal of the ICC is ending impunity and promoting an effective system of international criminal justice,32 the principal work of the court involves investigations, trials, and appeals.33 Conducting those investigations, trials, and appeals requires sufficient

resources. In 2023, the Office of the Prosecutor (OTP) will be participating in a number of pre-trial proceedings, trials, and appeals,34 but its investigations remain the most resource-intensive part of its work.35 The OTP will be operating in sixteen geographically distinct “situations,”36 while also conducting three additional preliminary examinations.37 This is a significant workload and the OTP does not believe that it has the necessary resources to carry out its mandate.38 It needs additional resources, particularly additional personnel.39 **The OTP needs additional investigators and analysts to assist with evidence collection and analysis,40 and additional forensic capacity, particularly in relation to the situation in Ukraine.41 The court also plans to open a number of new field offices in 2023,42 and the OTP needs additional staff so that it can deploy personnel “close to or in situation countries wherever possible.”**43 As a result, the OTP asked for an increase in its budget of 26.6%.44 The ICC also predicted a significant increase in the workload of the various Chambers. The court anticipates that three trials will take place during 2023 and two additional cases will be at the deliberation stage, requiring the “simultaneous use of the three courtrooms with the corresponding support capacity” throughout the year. 45 The court also stressed the complexity of its cases compared to “most domestic proceedings.”46 **The large number of ongoing trials will also result in an increase in the number of people in detention, with an attendant increase in costs**.47 The court also expects at least one confirmation of charges proceeding as well as five reparations proceedings.48 Finally, the Appeals Chamber is expected to hear final appeals from two cases as well as “a number of interlocutory appeals in pending situations and cases.”49 As a result of this increasing workload, the court requested a 22% increase in the budget for Chambers.

**The ICC 2023** budget request specified

Proposed Programme Budget for 2023 of the International Criminal Court Executive Summary1 A. Overview of the Proposed Programme Budget for 2023 Twenty-first session The Hague, 5-10 December 2022 Proposed Programme Budget for 2023 of the International Criminal Court Executive Summary https://asp.icc-cpi.int/sites/asp/files/2022-09/ICC-ASP-21-INF2-Rev1-ENG.pdf

41. On the basis of current activities in 2022, the OTP will continue to ensure sufficient resources are dedicated to situations with cases in pre-trial and trial proceedings, namely Darfur (Sudan), Mali, CAR II(a) and CAR II(b) and Kenya (article 70). Additionally, the OTP will continue its investigative work across the range of situations it is presently required to address. The Prosecutor will continue to assess on an ongoing basis how best to organize the Office’s work taking into account, inter alia, considerations relating to prioritization, completion and resource constraints. 42. **The unprecedented referral of the Ukraine situation** by 43 States Parties to the Prosecutor of the ICC **has given rise to particular resource needs given the potential geographic breadth and scope of crimes committed**. This is also a situation in which the Office is investigating during an active conflict, bringing immediate opportunities for investigative progress, **while also giving rise to additional needs with respect to staffing, security, language services, witness protection and mission support**. 43. The proposed budget also reflects a decision to ensure the Office benefits **from a field presence in relation to the situations in Bangladesh, Sudan, Venezuela and Ukraine.** This is in line with the Prosecutor’s vision of deepening cooperation with national authorities, civil society organisations and other relevant actors by bringing our work closer to the communities impacted by Rome Statute crimes. These moves to the field are being conducted in close cooperation with the Registry and Presidency and, in the coming months, prior to the commencement of 2023, further steps will be taken for the designation of field offices and the finalization of relevant arrangements with national authorities. 44. The OTP continues to cooperate closely with the Registry and the other Major Programmes to ensure States have a thorough understanding of the financial impact and specific challenges related to operational issues of the Office, and demonstrating responsiveness to stakeholders’ expectations by providing a transparent, consistent, and fiscally responsible proposal. 45. The table below summaries.

**This year, the victim of funding cuts is Sudan, as the limited funds are sent to Ukraine instead. The crucial offices can’t be established The ICC budget for 2025:**

International Criminal Court, 07-24-2024, "", Assembly of State Parties 23rd Session, https://asp.icc-cpi.int/sites/default/files/asp\_docs/ICC-ASP-23-10-AV-ENG.pdf

The Court’s external offices have requested an amount of €353.2 thousand, representing a decrease of €26.8 thousand (7.1 per cent) as compared with the resources approved for 2024. The resources requested by the country offices/field presences are required to purchase consumable items to support day-to-day operations, including fuel for vehicles and generators, office supplies, light IT equipment, air conditioners, drinking water, emergency rations and personal protection equipment (PPE) to be used by field staff. The amount requested by the Country Office (Ukraine) (€75.0 thousand) has increased by €5.5 thousand (7.9 per cent) as compared with the resources approved for 2024 due to increased operational costs for managing a larger fleet of vehicles, fuel consumption and increased in country missions planned by OTP. The Ukrainian electricity infrastructure, power plants and networks have been subject to repeated attack and it is therefore anticipated that the Country Office (Ukraine) will require more fuel for its electricity generator in 2025. The Country Office (Ukraine) also needs to purchase more emergency rations, water and office supplies in 2025 to cover the greater need for operational, logistical and security support. The increase requested by the Country Office (Central African Republic) results from the reintegration of the costs of support (flights, vehicles, internet) by MINUSCA to the missions scheduled by VPRS, CMS, OPCV, SSS, TFV and PIOS outside Bangui. These costs were included in the budgets of Headquarters sections for 2024. The increase requested by the

country offices in Ukraine and the CAR has been completely offset by the reductions identified in Côte d’Ivoire, Uganda, the DRC and Sudan resulting from reduced consumption because of a reduction in activity as well as the scaling down of the Court’s presence.

Thankfully the aff solves.

First, the US would by law provide a substantial increase to the mandatory fund.

**Funding is proportional to economic size, US would be the biggest funder and spur more effective investigations, Brahm 23**

Eric Wiebelhaus-Brahm, 1-31-2023, "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

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.

**Second, Trump pressures other countries to increase their budget, like he did with NATO. CNBC last week reports,**

**CNBC** on 1/23 reports

Holly Ellyatt, 1-23-2025, “Can Trump force the hand of NATO allies to spend up to 5% of GDP on defense?”, CNBC,

https://www.cnbc.com/2025/01/23/can-trump-get-nato-allies-to-spend-more-on-defense.html As U.S. President Donald **Trump looks to immediately fix** his greatest political and economic bugbears, the thorny issue of **NATO defense spending** is likely to quickly return to the global fore. Trump’s relationship with the Western military alliance was acrimonious during his first presidency, with the Republican leader frequently lambasting NATO member states for not abiding by a 2014 target to spend at least 2% of GDP on defense every year. Ahead of his second term in office, Trump signaled that the debate over military spending — and Trump’s perception that NATO members are over-reliant on the U.S. for their own security — will be back on the agenda, stating that NATO’s 32 member countries should contribute even more toward defense. “I think NATO should have 5% [of their GDP as a NATO contribution target],” he said in January. “They can all afford it, but they should be at 5%, not 2%”, he said at a press conference in which he also refused to rule out using military force to seize the Panama Canal or Greenland — a territory that belongs to NATO member Denmark. **There has been a** broad **increase in defense expenditure among NATO members since Trump was last in power.** In 2018, at the height of the White House leader’s irritation with the military bloc, only six member states met even the 2% of GDP target. By contrast, NATO data estimates that 23 members met the 2% target in 2024. While some surpassed that threshold — such as Poland, Estonia, the U.S., Latvia and Greece — major economic powers including Canada, Spain and Italy are among the laggards below the contribution threshold. No NATO member has reached a 5% target suggested by Trump, including Washington under the administration of his predecessor Joe Biden. Europe must return to 'Cold War-era defense expenditure policies,' says Polish Presidentwatch now VIDEO08:30 Europe must return to ‘Cold War-era’ defense policies, says Polish President Polish President Andrzej Duda fully supported Trump’s call for higher spending across NATO, telling CNBC on Wednesday that it was “paramount” that Europe returns to Cold War-era defense spending to defend against the likes of Russia and its expansionist foreign policy. “If we want to defend against this – and us Poles decisively do – we’re

spending close to 5% of GDP on defense this year. We’re aware that we have to modernize our armed forces, we have to be strong and provide a real deterrent to keep Russia aggression at bay,” he told CNBC’s Steve Sedgwick on Wednesday on the sidelines of the World Economic Forum in Davos, Switzerland. Perhaps understandably, given that it borders war-torn Ukraine, Poland spends the highest proportion of its GDP on defense compared to other NATO members. The NATO 2024 estimates suggest Warsaw spent 4.12% of its GDP on defense last year. New leader, old problems? The Netherlands’ former Prime Minister Mark Rutte, now the secretary-general of NATO, is only a few months into his new job, but he has already repeatedly called on member states to increase defense spending. His priority, however, is to get laggard countries to reach the 2% target, he said. “Luckily, thanks to Trump in his first term, we have stepped up defense spending. ... but we all have to get to the 2%,” he told CNBC’s Steve Sedgwick at the World Economic Forum in Davos on Thursday. Countries that have still not reached the requisite target “have to get to 2% in the coming months. It has to be done this year,” noted Rutte, who has himself faced flak over why Dutch defense spending was below the NATO target for much of his time in office..

**Sustain ICC presence is critical for Sudan.**

**The ICC’s actions in Sudan were empirically effective --- numbers don’t lie. 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. 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. 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.

*(Warrant on page 15:*

**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,

*Kenya is a good example of an ICC situation where the accused committed atrocities to affirm their grip to power following the elections. Second, ICC deterrence effects change during an investigation as the perception of the ICC’s ‘punishment certainty’, ‘severity’ and ‘celerity (swiftness)’ (Buitelaar, 2016, p. 7) changes, as well. More concrete ICC actions such as arrest 16 warrants would increase the perceived certainty of punishment for perpetrators and the subsequent deterrent effect vis-à-vis more passive actions such as the opening of an investigation. While the severity of punishment (the sentence) is decided at the trial stage, a swifter investigation would also signal to perpetrators that they are more likely to face justice. The ICC situation in Libya is illustrative of fluctuations in the strength of deterrence as deterrence effects were stronger at the start of the investigations (Hillebrecht, 2016), where the ICC prosecution moved more swiftly. Building on previous scholarshi)*

**The Sudanese military is using chlorine in warfare and caused an unprecedented humanitarian crisis.**

**Walsh 1/16** [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, including **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. Aid groups fear that Sudan’s military could **retaliate** against the sanctions by further restricting aid operations in areas that are either in famine or sliding toward it. The decision could also reshape broader relations between Sudan and the United States, whose Sudan envoy, Tom Perriello, has been a leading figure in the faltering efforts to reach a peace deal. Although chemical weapons were not mentioned in the official sanctions notice on Thursday, several U.S. officials said they were a key factor in the decision to move against General al-Burhan. Two officials briefed on the matter said the chemical weapons appeared to use chlorine gas. When used as a weapon, chlorine can cause lasting damage to human tissue. In confined spaces it can displace breathable air, leading to suffocation and death. Knowledge of the chemical weapons program in Sudan was **limited to a small group** inside the country’s military, two of the U.S. officials said, speaking on the condition of anonymity to discuss sensitive security matters. But it was clear that General al-Burhan had authorized their use, they said. Sudan’s ambassador to the United Nations, Al-Harith Idriss al-Harith Mohamed, said in a text message that Sudan’s military had “never used chemical or incendiary weapons.” “On the contrary, it’s the militia that used them,” he added, referring to the Rapid Support Forces. Last week, the United States determined that the Rapid Support Forces had committed genocide in the war and imposed sanctions on its leader, Lt. Gen. Mohamed Hamdan, for his role in atrocities against his own people. The United States also sanctioned seven companies based in the United Arab Emirates that traded in weapons or gold for the R.S.F. Sudan’s military has been accused of using chemical weapons before. In 2016, Amnesty International said it had credible evidence of at least 30 likely attacks that killed and maimed hundreds of people, including children, in the western Darfur region. The organization published photos of children covered in lesions and blisters, some vomiting blood or unable to breathe. As the United States debated punitive measures against General al-Burhan last week, the Sudanese authorities announced that they would maintain a major aid corridor through neighboring Chad, a move American officials saw as an effort to avoid the sanctions. But the evidence of chemical weapons was **too compelling to ignore,** several U.S. officials said. The United States detected numerous chemical weapons tests by Sudanese forces this year, as well as two instances in the past four months in which the weapons were used against R.S.F. troops, two of the officials said. The United States also obtained intelligence that chemical weapons could soon be used in Bahri, in northern Khartoum, where fierce battles have raged in recent months as the two sides compete for control of the capital. Chlorine was first weaponized during World War I, and its use in combat is **prohibited by international law**. In the mid-2000s, insurgents in Iraq weaponized chlorine in attacks on U.S. troops. It has also been used in improvised bombs by ISIS fighters and by the Assad regime in Syria.

**1AC - Better Standards**

**We are in the era of military interventionism**

**Kavanagh and Frederick 23** (JENNIFER KAVANAGH is Senior Fellow in the American Statecraft Program at the Carnegie Endowment for International Peace. BRYAN FREDERICK is a Senior Political Scientist at the RAND Corporation. March 30, 2023, “Why Force Fails,” Foreign Affairs, AD: 1/7/25, https://www.foreignaffairs.com/united-states/us-military-why-force-fails) ghs-PS

American soldiers have been deployed abroad almost continuously since the end of World War II. The best-known foreign interventions—in **Vietnam, Afghanistan, and Iraq—were large, long, and costly**. But there have been dozens of other such deployments, many smaller or shorter, for purposes ranging from deterrence to training. Taken as a whole, these operations have had a decidedly mixed record. Some, such as Operation Desert Storm in 1991, which swept the Iraqi dictator Saddam Hussein’s forces out of Kuwait, largely succeeded. But others—such as those in **Somalia, Haiti, Afghanistan, Iraq, Libya**, and elsewhere—**were disappointments or outright failures**. It is these unsuccessful post–Cold War interventions that have engendered serious doubts among policymakers and the public about the role of force in U.S. foreign policy. Even so, U.S. decision-making still has a strong bias in favor of military intervention. When crises emerge, the pressure for a U.S. military response is often immediate, on the grounds that it is better to try to control the situation than to do nothing. But in many cases, **the United States could likely have achieved its goals without intervening militarily.** To explore how often U.S. military interventions have advanced U.S. objectives, we built a database of conflicts and crises that involved U.S. interests between 1946 and 2018. Conflict cases were drawn from the Uppsala Conflict Data Project and crisis cases came from the International Crisis Behavior data set. To identify cases involving U.S. interests, we looked for conflicts and crises that posed a direct threat to the U.S. homeland or to a U.S. treaty ally, occurred in a region of high strategic importance for the United States, or involved a large-scale humanitarian crisis. We then identified those conflicts and crises that prompted the deployment of U.S. military forces. To be counted as an intervention, the U.S. forces had to meet certain thresholds (at least 100 personnel for a full year, or a larger presence for a shorter time in the case of ground interventions). For each conflict or crisis, we also collected information on several outcome measures including conflict or crisis duration, intensity, changes in economic development and democratic institutions in the country affected by the conflict or crisis. Of the 222 conflicts and crises from 1946 to 2018 that involved U.S. interests, the United States chose to intervene on 50 occasions and not to intervene on 172. Our findings flip the conventional wisdom on its head: **irrespective of whether the United States intervened, the outcomes were largely the same.** Across each of the dimensions we considered, there was no statistically significant difference between the cases that prompted an intervention and those that did not. In other words, the evidence that U.S. military interventions are consistently achieving their goals is sparse. But this does not mean that all interventions fail. A closer look suggests that there is a subset of operations that is more likely to advance U.S. interests and achieve U.S. objectives: those that had clear, achievable goals and were informed by accurate assessments of local conditions. **Washington desperately needs to rethink its relationship to military force**. Above all, it needs to stop regarding military adventures as the go-to solution for all potential threats. At the same time, however, it cannot view every potential intervention as an inevitable disaster that will divert resources from domestic priorities. The real danger is not military interventions per se but large ones with expansive objectives that are out of touch with the reality on the ground. Those are the ones that **gamble with U.S. blood and treasure.**

**The US routinely abuses executive power to break international law in military operations – the ICC is the only way to hold the US accountable and incentivize restraint.**

**Saul 22** (Neil A. Saul is a recent graduate of the School of International Service at American University. He holds an MA in international relations. January 14, 2022, “The ICC’s Potential to Check US

Warmongering,” Inkstick, AD: 1/8/25,

https://inkstickmedia.com/the-iccs-potential-to-check-us-warmongering/) ghs-PS

- to be clear – the aff only fiats becoming party to the ICC – holding its officials accountable is an effect of the mandate of the plan bc it incentivizes that

Advocates of a restrained foreign policy often lament executive overreach, the unchecked authority to commit US forces to military actions abroad, and the curtailment of civil liberties as consequences of war. **The US executive has gained entirely too much power in its ability to wage war**, originally delegated to Congress. This can be seen in the authorization of limited warfare in the 1973 War Powers Resolution or, since 9/11, Congress has delegated executive authority for waging war through the Authorization for Use of Military Force. While the tug-of-war between the White House and Congress is generally a domestic issue, there are other institutions that could rein in the abuse of US executive power to wage war, such as the International Criminal Court (ICC). In his “Second Treatise of Government,” an inspiration to the American Declaration of Independence, John **Locke affirmed that, “Where there is no law, there is no freedom**.” Law, therefore, is the alternative to arbitrary power. **The rule of law in foreign policy is just as essential to human freedom as the rule of law in domestic governance**. Foreign policy realists, however, recognize that powerful state actors — chief among them the United States — don’toften abide by the rules of international law, the laws of war, and state sovereignty. 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, creates a safeguard against executive overreach, which is essential 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.

**Deterring War Crimes is critical, the US system is failing -- the interest of protecting national sovereignty comes before prosecuting crimes. Yesko 24**

Parker Yesko, "The War Crimes That the Military Buried," September 10, 2024 // Arham S https://www.newyorker.com/podcast/in-the-dark/the-war-crimes-that-the-military-buried

×–A Parker Yesko, 9-10-2024, "The War Crimes That the Military Buried", New Yorker,

https://www.newyorker.com/podcast/in-the-dark/the-war-crimes-that-the-military-buried Skip to main content Newsletter Subscribe » The War Crimes That the Military Buried The largest known database of possible American war crimes committed in Iraq and Afghanistan shows that the military-justice system rarely punishes perpetrators. By Parker Yesko September 10, 2024 This article is a companion piece to Season 3 of In the

Dark, an investigative podcast series that asks what happened in Haditha and why no one was held accountable. LISTEN TO THE PODCAST War entails unspeakable violence, much of it entirely legal. And y**etsome violence is so abhorrent that it falls outside** the **bounds of law. When** the **perpetrators are U.S. service members, the** American military is supposed to hold them to account. It is also supposed to keep records of wrongdoing in a **system**atic manner. But the military **has failed to** do so, leaving the public unable to determine whether the military **brings its members to justice** for the atrocities they have committed. To remedy this failing, the reporting team of the In the Dark podcast has assembled the largest known collection of investigations of possible war crimes committed in Iraq and Afghanistan **since 9/11—nearly eight hundred incidents** in all. Much of the time, the reporting concluded, the military delivers neither transparency nor justice. The database makes it possible, for the first time, to see hundreds of allegations of war crimes—the kinds that stain a nation—in one place, along with the findings of investigations and the results of prosecutions. The picture that emerges is disheartening. **The majority of allegations** listed in the database **were** simply **dismissed by investigators**. Those which weren’t were usually dealt with later, by commanders, in a justice system that can be deferential to defendants and disbelieving of victims. This project is supported by the Pulitzer Center. The database began with In the Dark’s reporting on the killings of civilians in Haditha, Iraq, on November 19, 2005. That morning, a squad of Marines, led by Sergeant Frank Wuterich, was hit by an improvised explosive device, which killed a beloved lance corporal. In the hours that followed, **Marines killed men, women, and children on the street and in nearby houses. Four of those Marines, including Wuterich, were charged with murder. Three of their cases were later thrown out, and, when Wuterich went to trial, he was allowed to plead guilty to a single count of negligent dereliction of duty. A judge demoted Wuterich in rank. “Essentially a parking ticket,”** Wuterich’s lawyer, Haytham Faraj, said of the sentence. “It’s meaningless.” We wanted to understand how such a large and well-publicized war-crimes prosecution had reached a conclusion of such little consequence. Was this an anomaly or was it typical of the military-justice system? We began by filing requests with the military under the Freedom of Information Act (foia). In 1974, following the **massacre of hundreds** of civilians **in** My Lai, **Vietnam, and** the failed prosecutions of some two dozen Army service members for the killings, the Department of Defense began requiring each branch of the military to maintain a “central collection of reports and investigations” of allegations of war crimes by its members. However, when we filed public-records requests for the contents of each branch’s collection, we got little in return. The Department of the Navy, which includes the Marine Corps, sent us a letter saying that it had located its “depository” but that “the depository did not contain any records.” With no other option, we started combing through archived news articles, human-rights reports, legal and medical journals, and a staggering repository of records about torture and detainee abuse that the A.C.L.U. had obtained during fourteen years of litigation. We looked for incidents such as the indiscriminate shooting of civilians, the killing or torturing of wounded enemies, and the abuse or willful neglect of detainees, all textbook examples of war crimes. We limited our search to events that were broadly comparable to Haditha: allegations of violence perpetrated by U.S. service members or deaths in U.S. custody that happened in Iraq and Afghanistan after September 11, 2001. We excluded nonviolent incidents, such as thefts of artifacts, and **killings by drone strikes**, which aren’t typically treated as crimes. As we unearthed information about new incidents, we filed foia requests for related records. In response, we were often told that, unless we could provide names, especially those of the perpetrators, agencies couldn’t carry out searches for documents. When we provided names, some departments refused to release records, citing the privacy rights of the people we had identified. We learned that many cases were handled

nonjudicially—essentially as personnel matters—and that those records **were exempt**from foia. Cases that ended in acquittal or dismissal were also exempt from foia, and the files often destroyed. Many of the most basic records that would be easily obtained in any civilian courthouse in America are beyond reach in the military-justice system. With the assistance of an experienced foia litigation team, we repeatedly sued the military. Over four years, the agencies released enough documentation to us that, assisted by other source materials, we were able to put together a collection of seven hundred and eighty-one possible war crimes, perpetrated against more than eighteen hundred alleged victims, that the U.S. military took seriously enough to investigate. To analyze the database, we consulted John Roman, a researcher at norc at the University of Chicago, who specializes in quantitative analysis of the civilian criminal-justice system. He was dismayed by the results. “It’s to the point where you have to question a little bit whether justice is a priority here or if something else is a bigger priority than justice,” Roman said.**Of the seven hundred and eighty-one cases** we found, at least **sixty-five per cent had been dismissed** by investigators who didn’t believe that a crime had even taken place. Soldiers would return to the United States and confess—to women, health-care workers, job interviewers—that they’d murdered civilians or prisoners, but military investigators would find that the allegations couldn’t be substantiated. Detainees at Abu Ghraib prison reported abuse by their guards, but investigators did not find sufficient evidence to confirm that it had happened. Civilians driving distractedly or too fast were shot dead approaching traffic checkpoints, and investigators deemed these killings acceptable escalations of force. Young men were found unresponsive at Camp Bucca prison, and their deaths were attributed to natural causes. In a hundred and fifty-one cases, however, investigators did find probable cause to believe that a crime had occurred, that the rules of engagement had been violated, or that a use of force hadn’t been justified. These include the case of soldiers raping a fourteen-year-old girl and subsequently murdering her and her family; the alleged killing of a man by a Green Beret who cut off his victim’s ear and kept it; and cruelty toward detainees at Abu Ghraib prison and at the Bagram Air Base detention facility. They were offenses that even a military-justice system vexed by the difficulty of collecting evidence in war zones and forgiving of deadly errors in judgment had identified as warranting prosecution or punishment. Yet, even in these cases, meaningful accountability was rare. We identified five hundred and seventy-two alleged perpetrators associated with these hundred and fifty-one criminal cases. Only a hundred and twenty-seven of them were convicted. The records show that they rarely received lengthy prison terms. Much more often, their cases were dealt with by commanders, who have broad discretion to punish their troops with extra duty, demotions, or reprimands, circumventing formal prosecution altogether. (The commanders themselves almost never seemed to face consequences for the misdeeds of their subordinates.**) Fewer than one in five** alleged **perpetrators** appear to **have been sentenced to** any type of **confinement**, and the median sentence was just eight months. “The conviction rates and the rate of sentencing for these kinds of very serious person crimes is just far below what you would see in the civilian system,” Roman said. We sent summaries of our findings to the Army, the Navy, the Marine Corps, and the Air Force, and requested an opportunity to present their leaders with the details of our analysis. None took us up on the offer. The Army replied that it “holds Soldiers and Army Civilians to the highest standards of personal conduct.” The Marine Corps didn’t respond. What we’re publishing is not a complete record of the atrocities committed by the military since 9/11; it would be impossible to know them all. This is a repository of the seven hundred and eighty-one possible war crimes investigated by the U.S. military that we were able to identify. You can explore an index of information about the incidents, investigative findings, adjudicative outcomes, and our source materials. Below, we’ve displayed detailed accounts of the hundred and fifty-one cases that investigators determined to be criminal. Each has its own story, but many start and end the same way: with a horrific act perpetrated by members of the military which was then punished lightly or not at all.

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