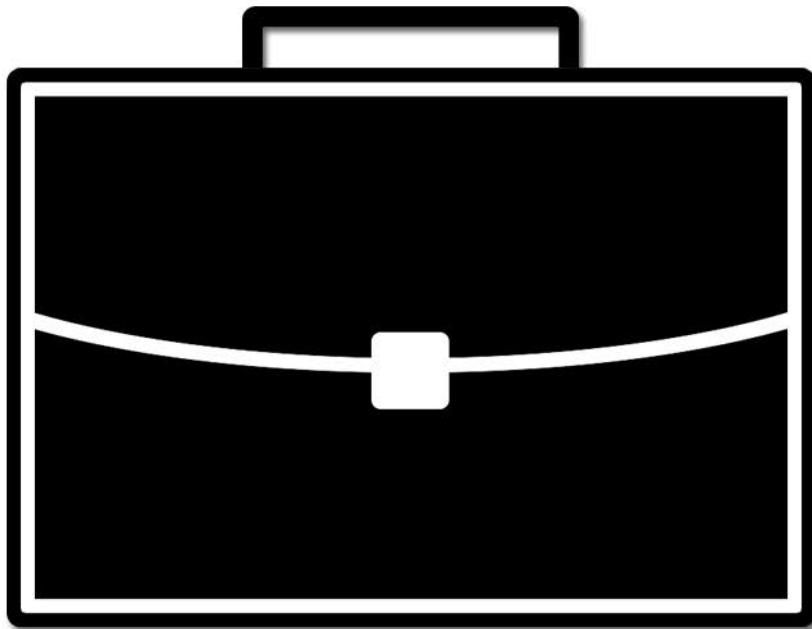


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February 2025

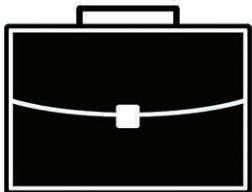
Public Forum Brief



**Resolved: The United States
should accede to the Rome
Statute of the International
Criminal Court.**

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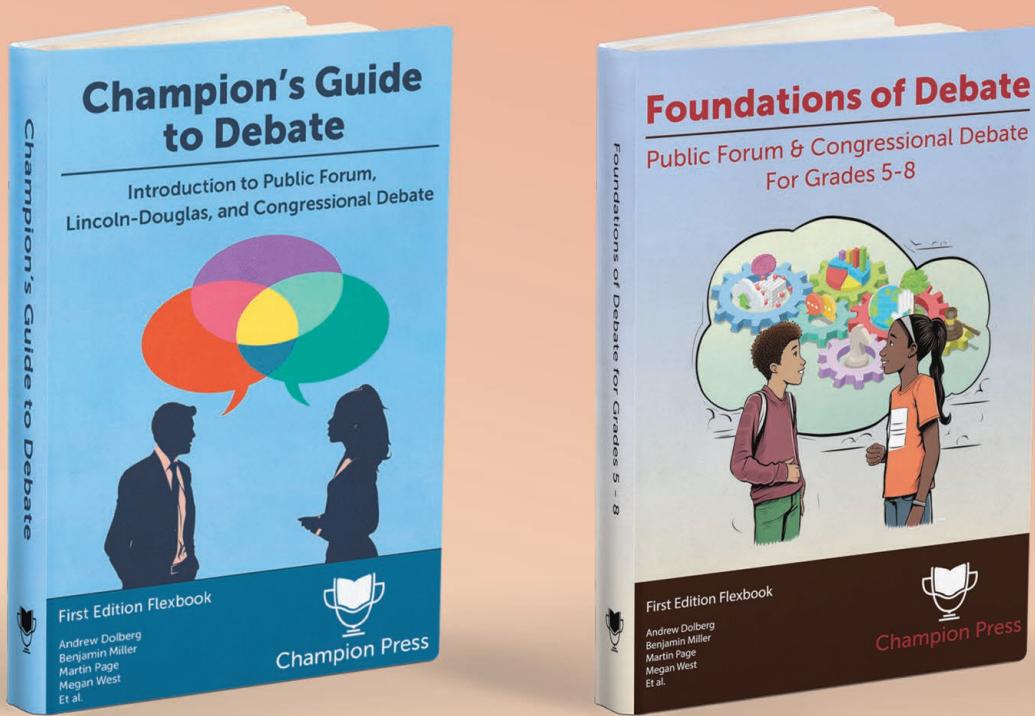
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These seven statements, while simple, represent the complex notion of what it means to advance students' understanding of the world around them, as is the purpose of educators.

Letter from the Editor

This February, we're discussing the resolution, "Resolved: The United States should accede to the Rome Statute of the International Criminal Court." This topic presents interesting angles of international law that are rarely considered in Public Forum Debate, meaning there's an opportunity for debaters to try new and interesting arguments that might have applications to other topics as well. We're also experiencing an especially rare occurrence: the Lincoln-Douglas topic for January/February is also about the Rome Statute! Debaters can collaborate with their teammates for some cross-event discussions.

The crux of this topic is relatively simple. Advocates for U.S. accession argue that joining the ICC would enhance international justice and accountability. They contend that U.S. participation would strengthen the Court's legitimacy and effectiveness in prosecuting crimes such as genocide, war crimes, and crimes against humanity. Conversely, critics raise concerns about potential infringements on national sovereignty and the implications for U.S. military personnel and officials. They fear that accession could subject Americans to politically motivated prosecutions and question the ICC's jurisdiction over non-member states.

The topic has limited ground because of the specificity of the actor, action, and impacted parties. This gives debaters a chance to dive deeper into the arguments themselves rather than interpretations. Impact weighing will be especially important on this topic, as will knowledge of your evidence rather than relying on logical warrants for responses.

This edition aims to provide a comprehensive analysis of these perspectives, offering readers a nuanced understanding of the implications of U.S. accession to the Rome Statute. Good luck learning about this topic!

Yair Fraifeld
Editor-in-Chief

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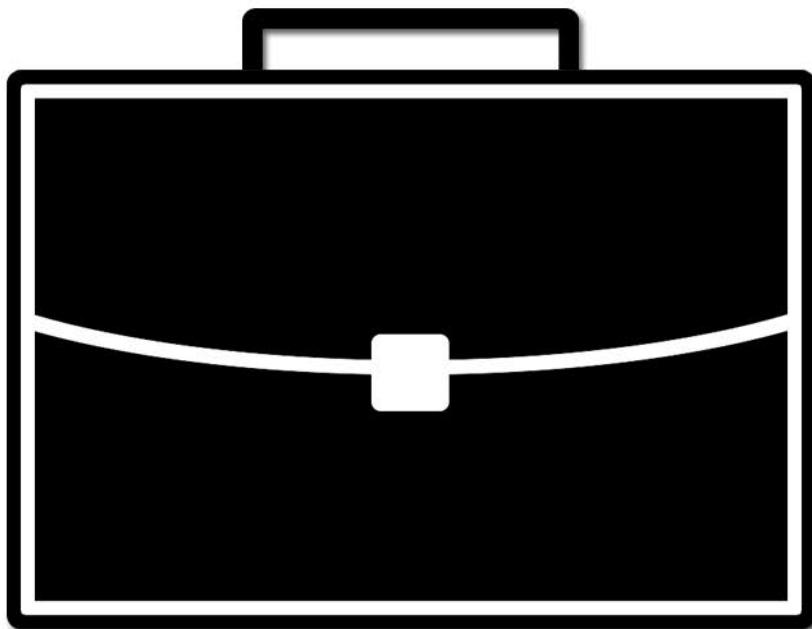
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Champion Briefs

February 2025

Public Forum Brief



Topic Analyses

Topic Analysis By Yair Fraifeld

Resolved: The United States should accede to the Rome Statute of the International Criminal Court.

Introduction

The February resolution invites debaters to grapple with the intersection of international law, accountability, and national sovereignty. The Rome Statute, adopted in 1998, established the International Criminal Court (ICC) as a global institution for prosecuting individuals responsible for crimes of genocide, war crimes, crimes against humanity, and aggression. With over 120 member states, the ICC represents a key mechanism for addressing impunity for grave international crimes. However, the United States has remained outside this framework, citing concerns over sovereignty, politicization, and the potential prosecution of U.S. citizens.

This topic challenges debaters to weigh the benefits of U.S. accession to the Rome Statute, such as strengthening international justice and enhancing U.S. legitimacy, against potential risks, including threats to sovereignty and the effectiveness of U.S. military operations. By analyzing the ICC's history, the U.S.'s role in global governance, and the potential implications of membership, this resolution provides fertile ground for both philosophical and pragmatic arguments.

Strategy Considerations

Debaters must address several critical issues to effectively engage with this resolution. First, defining the word "accede." The term "accede" refers to the formal act of joining a treaty,

typically requiring legislative approval. Affirmatives must explain what accession entails, including the implications for U.S. law and military policy.

Negatives should clarify that accession goes beyond symbolic support and involves binding commitments to the ICC's jurisdiction.

Next, it is important to frame the role of the ICC. Affirmatives can frame the ICC as an essential institution for combating impunity and promoting international accountability.

Negatives might argue that the ICC has faced challenges, including accusations of inefficiency and bias, which undermine its effectiveness. Also, the debate often revolves around whether global accountability should override concerns about U.S. sovereignty. Affirmatives should emphasize the importance of international cooperation, while negatives can highlight the risks of external control over U.S. citizens and policies.

Team should also understand the topic through the lens of case studies and precedents. Both sides should use specific examples, such as the ICC's role in prosecuting warlords in Africa or the U.S.'s support for ad hoc tribunals, to support their arguments. These examples provide real-world evidence of the ICC's strengths and weaknesses.

Finally, debaters should address the pragmatic concerns. Affirmatives should prepare responses to common negative arguments, such as the risk of politically motivated prosecutions or the impact on U.S. military operations. Negatives can argue that the U.S. already upholds international justice through alternative mechanisms, making accession unnecessary.

Affirmative Arguments

The first argument to consider is strengthening the rule of law. Acceding to the Rome Statute would demonstrate U.S. leadership in promoting international justice and accountability. As a global superpower, the U.S. has a moral obligation to support mechanisms that deter crimes like genocide and war crimes. Membership would also enhance the ICC's legitimacy by signaling U.S. commitment to global legal norms. For instance, the ICC's prosecution of war criminals in cases like the Democratic Republic of Congo has brought justice to victims and reinforced international norms. U.S. support could expand these efforts to other regions.

Next, acceding may enhance deterrence of international crimes. The ICC serves as a deterrent by holding perpetrators accountable. U.S. membership would strengthen this deterrent effect, as the court would gain additional resources and credibility. This could prevent atrocities in conflict zones and reduce the need for costly U.S. interventions. A good example here is the ICC's ongoing investigations in Sudan have pressured political leaders to consider reforms. U.S. support could amplify these efforts and prevent future conflicts.

Finally, acceding may resolve inconsistencies in U.S. policy. Critics argue that the U.S. undermines the ICC by selectively supporting cases while avoiding formal membership. Acceding to the Rome Statute would resolve this inconsistency and align U.S. actions with its stated commitment to human rights and international law. The U.S. supported ICC prosecutions in Libya while avoiding jurisdiction for its own personnel, creating a double standard that weakens its moral authority.

Negative Arguments

Now, some negative arguments to consider. The first is regarding concerns to threats of national sovereignty. The ICC's jurisdiction over U.S. citizens could undermine national sovereignty. Critics argue that U.S. military personnel and government officials might face politically motivated prosecutions, even for actions authorized by the U.S. government.

Next, there are concerns about the politicization of the ICC. The ICC has faced accusations of bias and inefficiency, with critics claiming it disproportionately targets African nations while avoiding cases in more powerful states. U.S. membership could expose its citizens to unfair scrutiny without addressing the court's structural flaws. For instance, the African Union has criticized the ICC for perceived bias, with several member states threatening withdrawal. U.S. membership might exacerbate these tensions rather than resolve them.

Finally, there may be risks to the effectiveness of military operations. Accession to the Rome Statute could hinder U.S. military operations abroad. Fear of ICC jurisdiction might lead to excessive caution, reducing the effectiveness of military interventions and alliances. U.S. commanders might avoid necessary actions in conflict zones due to concerns about potential ICC investigations, complicating efforts to protect civilians and achieve strategic objectives.

Conclusion

This month's resolution challenges debaters to evaluate the balance between global accountability and national sovereignty. The affirmative side highlights the moral and practical benefits of U.S. membership, including strengthening international justice and enhancing

cooperation with allies. Meanwhile, the negative side emphasizes the risks to sovereignty, military operations, and the ICC's credibility.

This topic provides a rich platform for high school debaters to explore the complexities of international law and U.S. foreign policy. By engaging with case studies, legal principles, and pragmatic concerns, debaters can craft nuanced arguments that address both the ideals and challenges of global governance. Success in this debate will depend on effectively weighing the trade-offs between moral imperatives and national interests. Good luck!

About Yair Fraifeld

Yair Fraifeld is a former competitor in Public Forum, where he competed at national tournaments for Trinity Preparatory School in Orlando, FL. Yair was invited to several round robins and the Tournament of Champions and ranked seventh at the NSDA National Tournament. Yair holds a Bachelor of Science in Entertainment Management from the University of Central Florida, and is the Executive Office Assistant at Destination DC, Washington D.C.'s official convention and visitors bureau.

Topic Analysis By Rachel Mauchline

Resolved: The United States should accede to the Rome Statute of the International Criminal Court.

Introduction

As we continue into competitions in the Spring Semester, I'm often reminded by the topic selection process that debate is inherently supposed to push kids out of their comfort zone. Debate allows students to learn about topics that they don't usually explore. With this specific topic, I'll transparently say that I have heard about the ICC in the news but never really understood what the ICC did or the impacts on the international scope. While coaches and educators help instruct on topic analysis and learning, it's important to admit that even those individuals need to take time to learn a topic. This type of topic pushes all of us to learn more about topics that might be ones that are taught frequently in school, but it is also a topic that allows us to have different perspectives on issues on the international stage. It's also a topic that individuals in other debate events have debated throughout the years. It's probably time for Public Forum to consider the implications of such a topic.

Throughout the writing of this topic analysis, I spent a lot of time dedicated to learning the intricacies of the topic, but also finding ways to synthesize the material in a way that individuals not able to take that time can understand. It's important that this be a focus of individuals on a topic like this. Some judges may have never heard of the ICC or have limited knowledge, whereas some judges will have much more knowledge. It will be important for debaters to dedicate time to practicing the articulation of their knowledge via drills, practice

speeches, and even explaining their cases with their friends/family questioning them. These tools can be very helpful with topics such as these. As some teams prepare for NSDA Districts, Harvard, and other attempts to qualify for state and national tournaments, it's important that teams find a balance in the midst of a busy season to dedicate time to learning the topic.

Hopefully, this topic analysis provides a starting point for some great knowledge learning for all

☺

Strategy Considerations

With topics like these, there are three components to examine when thinking about the strategy that teams should use for both sides: definitions, historical context, and the recent updates that influence the topics. These three components should be important for teams attempting to learn about the topic. Even though his document, and the brief in general, acts to synthesize important information, I would tell teams that this is the best three aspects to examine on every topic.

There are a few key terms/phrases to examine when looking at this resolution. The first of those is actually just an important note to make rather than a dictionary definition. It's interesting to note that the wording of the topic states, "United States" rather than "United States federal government." This is an important note, especially as you learn more about the topic because the Rome Statute was participated in within the United Nations. It creates a world in which the US Ambassador has the ability to represent the federal government. Of course, this is interesting because of how that role will change along with that of the President of the United States. The current Ambassador is Linda Thomas-Greenfield, but they will be replaced by Elise Stefanik, as indicated in [this](#) media release. Therefore, without getting onto

too much of a tangent, it is interesting to see if teams will represent how the actor is in the United States from a voice speaking on behalf of the President, but also someone that has more independent latitude to act than the federal government.

The next key component of the motion is that of the action, which in this case is to accede. By the definition from [Merriam-Webster](#), is "to become a party to something (such as an agreement)." Therefore, the action of the motion is that at the end of the debate, the United States would agree and accept the Rome Statute of the International Criminal Court. This seems simple in theory, but that's why it is important to understand the crux of this action with the "Rome Statute of the International Criminal Court."

So, let's explore the heart of the topic, which is the phrase "Rome Statute of the International Criminal Court." The simple definition is that this is the treaty that was established in Rome that created the International Criminal Court or the ICC. This was adopted in 1998 and then later enforced in 2002. [This](#) article from the British Broadcasting Company (BBC) is a really good synthesis of the ICC, especially in the wake of some recent updates in the world, which will be discussed later in this analysis. The International Criminal Court is aimed at tackling injustice and atrocities around the world with leaders who aren't able/willing to hold those responsible accountable. The International Criminal Court (ICC) focuses on four main areas of jurisdiction: Genocide, War Crimes, Crimes of Aggression, and Crimes Against Humanity. It truly is the last resort court when national courts aren't, or sometimes will not, prosecute. I'll explain more in the history section regarding the creation and then, later, the modern implications. It's important that teams consider these definitions at face value before examining how the action of the resolution impacts countries and specific scenarios on an international level.

The question that is important to consider delves into history: Why did the International Criminal Court get started? In the wake of global atrocities such as the Rwandan Genocide and the Yugoslav wars, the ICC was created to hold a standard of accountability. [The Council of Foreign Relations](#) provides a clear analysis as to how the ICC originated, along with the lasting implications of the court. However, even in the wake of such events, a court was not formulated immediately. It took time and requests from different countries and parties for it to be considered. As for the writing of this topic analysis, because there are ALWAYS changes, it seems, between the writing of the topic analysis and the last few topics, there are 124 countries who have ratified the Rome Statute. There are also countries that never signed, along with countries that signed and never ratified the treaty. Some of those countries of note include China, India, Saudi Arabia, Iran, Israel, Syria, and many others. I would highly encourage teams to take a look at the interactive map that [The Council of Foreign Relations](#) has about the different statuses of countries in relation to the ICC. One of those countries also includes the United States. That, hence, is the root of the topic. The United States has made the decision over multiple administrations and years to not accept the draft. The abbreviated version of such history would be –

- The final draft of the Rome Statute in 1998 was opposed by President Clinton due to the concerns the “prosecutor would have unchecked power and could subject U.S. soldiers and officials to politicized prosecutions, and that the treaty would not permit reservations.” ([Council of Foreign Relations, 2024](#))
- In 2002, President Bush informed the United Nations that the United States would not ratify the Rome Statute and thus wouldn’t recognize it as such

- Trump and Biden have vastly different stances on the ICC with President Elect Trump imposing sanctions towards those who are involved with the ICC during his last term, and we can probably expect the same again. President Biden on the other hand has a more cooperative approach focused on assisting such as providing documentation to the court in 2023 regarding Russian war crimes.
- However, in May of 2024, the arrest warrants of two officials from Israel led to a harder-line stance from the United States. In fact, while this topic analysis was being written, a vote was taken by the House of Representatives to sanction the International Criminal Court ([Reuters, January 10th, 2024](#)). Therefore, it will be interesting to see how the ICC reacts to such a vote, especially when 45 Democrats voted with 198 Republicans on such a measure.

While the history above includes some contemporary components of the topic, it's important to understand why this topic is being discussed now. There are two main areas of focus to keep in mind –

First – Leadership Changes in the United States. There have been shifting perspectives between different leadership styles, from Obama, Trump, Biden, and then back to Trump. From President Obama's more open policy of attempting to re-engage with the ICC during his term to the sanctions from President Trump, it's been a shifting stance that has impacted the United States' credibility regarding international law. It'll be key to have important evidence that engages with the current time and perspective of the administration. Therefore, it'll be

important for teams on both sides to consider how the recency of their evidence will factor into the timeliness of the action of the resolution.

Second, the reason I had any knowledge of the topic was the news regarding the ICC. The International Criminal Court issued arrest warrants to Israeli Prime Minister Benjamin Netanyahu and former Israel Defense Minister Yoav Gallant in 2024. These were issued “in respect of war crimes and crimes against humanity alleged to have been committed in Palestine in response to the Hamas attack.” ([Chatham House, 2024](#)) Therefore, this is a topic that has become more recent even since the original list was released by the NSDA Public Forum Wording Committee in the Summer. Therefore, the topic's uniqueness has changed in response to current events – which again highlights how Public Forum truly engages with issues that need to be addressed.

While these strategic considerations are probably more in-depth than other topic analyses, it's because teams will need to consider the changing nature of the topic. I'd recommend teams look more into the actions that are continuing to occur in the news. When I search "ICC United States" or "International Criminal Court" within Google News, there are very recent updates within the last few hours as I create this. Therefore, be sure to keep an eye on updates in the leadership and the other scenarios discussed above.

Affirmative Arguments

The affirmative will have the burden of proving that a change is needed, which has been discussed by the United States in different capacities since 1998. Of course, there have been 26 years of opinions, so it'll be interesting to see how affirmative teams prove why the action is

needed now rather than at any previous time in history. While there are a couple of different positions that the affirmative can use, this is a preview of the two main stock arguments –

First, acceding to the Rome Statute will be a signal to the international community that the United States is committed to international law and norm-setting. Currently, in the status quo, the United States plays a role as a global leader in many regards, but not in international law. This action would cement and allow the United States to serve as a leader in shaping international norms in criminal justice. This would help with providing accountability to prevent atrocities throughout the world. There can be many impact scenarios related to precedents that can be set when establishing international law norms. You can talk about the future conflicts/actions that can be prevented or what would have changed in the past.

The second argument I think affirmative teams will execute on this topic is that this action would force the United States to be more aware of its own human rights violations. Therefore, it would set a higher standard for the United States to act on the domestic and international stage. I believe the link chain for such an argument would need to include specific violations that the United States commits and the humanitarian consequences on the individual level. I believe the impact of dehumanization can be very compelling for this argument in the debate.

Negative Arguments

The negative inherently has history on its side. The negative can easily defend a presumption level question as to the United States has decided to not for 26 years, why change now? This will be the question that is probably one that is compelling for judges to possibly be

asked. It's a question of if the risk or the reward is more beneficial, sort of like a set of scales.

There are two arguments that will be important to consider....

The first main stock argument that is the most pressing concern from previous administrations (and the reason the status quo exists) is that acceding to the Rome Statute will have a potential impact on sovereignty for the United States. If the United States has to conform to the structure and demands of the ICC, it will impact the jurisdiction the United States has on its own citizens regarding the prosecution of citizens. This is a concern due to the potential attempts the ICC has to impact military operations and actions by individuals representing the United States. The impact of this can relate to security in other different impact scenarios based on military needs around the world. I believe it'll be important to discuss impacts in both a qualitative and quantitative manner.

The second stock argument that I'd consider important for con teams to consider is the Constitution. I personally don't love this argument, but I'm sure it'll come up in the debate about how the ICC would impact the rights of United States citizens in the judicial system. How would this court system outside of the United States grant the rights guaranteed in the Bill of Rights and other legal documents? I think there are probably some compelling internal link arguments about how legal frameworks can influence the rights of citizens. The reason I don't love it, but I think it'll come up, is because I don't know the impact of constitutionality and how that can weigh, but I'm sure some smart debaters will find a way to explore that more.

Good luck to you all as you debate on this topic. I hope this topic analysis provided some good insight to help you learn about this topic 😊

Topic Analysis By Thadeus Smith

Resolved: The United States should accede to the Rome Statute of the International Criminal Court.

Introduction

For once, we get a topic that I feel qualified to write about! Unfortunately, the February Public Forum topic is worded in a somewhat unintuitive way and focuses on subject matter that is much more contentious than you might expect. I'm always grateful to see a topic about foreign policy (and especially international law) in Public Forum – It's an area that is often neglected but much-discussed in less evidentiary formats like World Schools and British Parliamentary.

In this case, our topic deals with the United States' involvement with the "International Criminal Court," or ICC, which is an international legal body tasked with prosecuting individuals that, in the court's opinion, are guilty of significant human rights violations. The specific crimes are outlined in the "Rome Statute," which is the treaty that created the ICC. Those crimes include genocide (acts committed with the intention of destroying a national, ethnic, racial, or religious group), crimes against humanity (a set of crimes intended to terrorize civilian populations), war crimes (violence and inhumane treatment of civilians during war), and crimes of aggression (essentially the invasion of one state by another state). These crimes are things that most debaters will agree are "bad," but will find a surprising amount of disagreement around what constitutes actual violations of these crimes, how criminals should be held

responsible, and which states are actually bound to follow the rules of the court. We'll be diving into all of those questions by the end of this analysis!

For those new to this sphere, I recommend starting your research with a few starter resources. First, the *Council on Foreign Relations* has an excellent background article on "[The Role of the ICC](#)" that reviews its origins, operations, and the United States' relationship with the court. Second, the *International Criminal Court Project* has an article with a detailed timeline of "[The US-ICC Relationship](#)" that explores notable events in the ICC's history with the United States. Lastly, the court's own page on "[Situations under investigations](#)" will give you a good sense of the scope and scale of the court's task.

Strategy Considerations

As always, we'll open this analysis with a discussion of the strategic considerations that teams will need to consider as they start their research. With this topic, I think teams will need to consider three key things: The definition of "accede," the actor of the resolution, and the current controversies surrounding the court. Let's start with the definition of "accede." I think that it's probably simplest for teams to understand "acceding" to something akin to ratification – It's an expression of approval and an agreement to follow the terms of the Rome Statute. While the framers of the resolution could have used the slightly more specific terminology "sign and ratify," I do not think there's room for a definitional debate here – Certainly not one that will be appealing to judges. Where there is room for discussion is on what happens after the United States accedes to the Rome Statute – Does that mean that we are also repealing any anti-ICC laws on the books in the United States? Or will we now have a situation where we are

bound domestically to oppose the ICC but bound internationally to cooperate with their investigations? These questions are especially important for this topic because February will mark the first month of Donald Trump's second presidency. During his first presidency, he and his administration made [no secret of their opposition to the ICC](#), going as far as imposing economic sanctions on key ICC officials. It is likely that the United States policy towards the court will shift over the course of this topic's lifespan.

The second strategic consideration teams need to make is about the actor of the resolution. In this case, the actor is the "United States," which we can reasonably assume to mean the United States Federal Government – Again, despite the framer's choice to use more concise language, I don't think there's room for definitional disputes here. That said, I do think teams should be considering whose interests take priority in the round. Should teams be considering the best interests of the United States or the best interests of the global community? For those of us used to national circuit competition, it may seem obvious that we ought to take a global stance, but on local and lay circuits, teams will need to reckon with the concept of US hegemony on a much more intimate level.

The final strategic consideration has to do with the current controversies surrounding the court. For most Americans, their introduction to the ICC has been through the court's [issuance of warrants for the arrest](#) of Israeli Prime Minister Benjamin Netanyahu, former Defense Minister Yoav Gallant, and the military chief of Hamas, Muhammad Deif. These warrants were widely supported by [human rights groups](#) and the [international legal community](#) as valid. However, the governments of both the United States and Israel have [strongly pushed back](#) on the warrants. It is likely that your local circuit will have a bias on this issue one way or

the other when it comes to lay judges. That's not to say that teams should self-censor, but they should be aware that some areas of discussion may represent an uphill climb.

Affirmative Arguments

Now that we've discussed the main strategic considerations for this topic, we can shift our focus toward the main arguments I see on this topic. On the affirmative, I think there are three main stock arguments that will appear. First is the argument from international norms. This argument says that the United States acceding to the Rome Statute sends a message that it supports the international legal regime. This would be a massive shift in priorities because while the United States has a strong economy and tends to take a position of global leadership, it has historically not been well-integrated into international legal systems (this will be especially true under the Trump administration). Teams can argue that other countries look to the United States as a model for how to act, and if the United States is clearly supportive of international law, that spills over and improves other countries' integration into those systems.

The second stock argument I see on the affirmative has to do with the United States' own history of war crimes and human rights violations. The United States has been accused of disregarding civilian casualties, torturing prisoners, and other violations of the Rome Statute for decades – Joining the ICC would allow those crimes to be investigated and potentially prosecuted. This argument links well to the argument about international norms but will require teams to show that both the ICC has the political will to investigate the United States and that ICC investigations lead to change.

The final stock argument I see on the affirmative is actually multiple arguments – I think that there is significant room for scenario-based arguments that look at a current ICC investigation and say that United States support makes those investigations easier in some way. The two most obvious candidates here are the ICC's investigations in Palestine and in Ukraine. US support for the ICC could make the investigation in Palestine easier by removing potential roadblocks to investigating Israeli leaders. In Ukraine, the United States is currently supportive of the investigation, but this is hampered by the United States' hypocrisy on the court in general.

Negative Arguments

On the negative, I fear teams will have an uphill battle. Remember that negative arguments need to articulate a net harm of some kind – It's usually not enough to show that the status quo is “fine,” you need to show that change is actively worse. This means that the negative has less ground on this topic because affirmative teams will be able to point to the many member nations of the ICC to argue that there's no harm in joining. That said, I think there are going to be three main arguments on the negative.

The first argument has to do with the ICC's effectiveness. On a purely numerical basis, the ICC has not been very effective at prosecutions. In two decades of existence, it has only investigated a small number of scenarios and has held trials in an even smaller number. Of the people indicted, few have been found guilty, and some have yet to be arrested. The ICC has also seen some high-profile cases fall apart due to a lack of evidence. The United States joining the court could make this worse in a few ways. It expands the court's scope, stretching its already-stretched resources thin. It also increases the visibility of the court, highlighting those

effectiveness deficiencies. Teams can also argue that a Trump administration will simply ignore the requirements of the Rome Statute.

The second argument I see on the negative has to do with allegations of racism against the court. The ICC has had an almost exclusive focus on Africa since its creation, which has led to the African Union threatening a mass withdrawal from the court. While there are very valid reasons for the court's focus on Africa, I think teams on more progressive circuits will be able to run arguments saying that an endorsement of the ICC helps entrench colonial mindsets and a perception of Africa that is not accurate to reality.

The final argument I see on the negative has to do with constitutionality. One of the main reasons the United States has cited for not joining the court is that it would require some citizens to be held accountable before a body that is not specifically authorized in the United States Constitution. Teams will need to do a substantial amount of impact work here to show an actual harm from this, but I think there are ways to connect strong domestic legal frameworks to democracy impacts.

As always, good luck debating this topic! I hope the arguments in this brief will help form the foundation for strong cases.

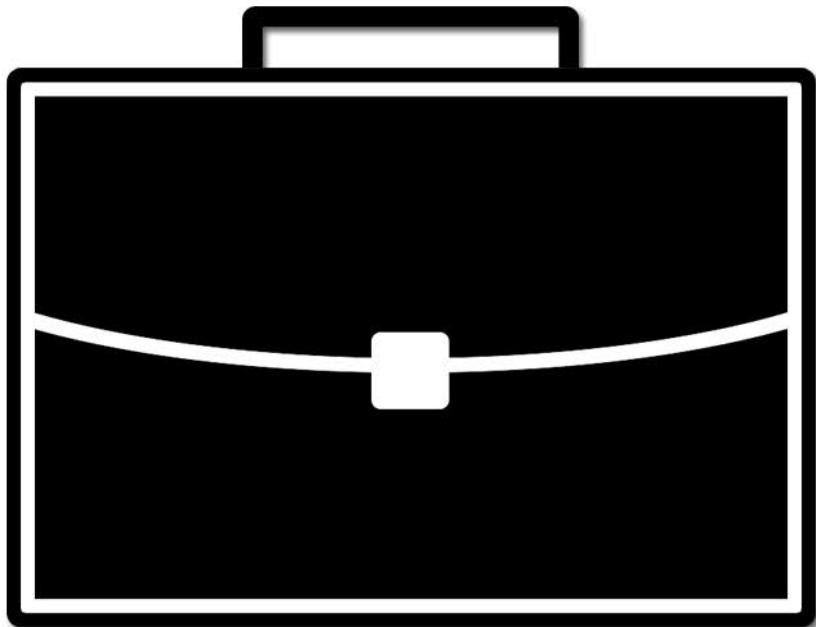
About Thadeus Smith

Thadeus is a speech & debate teacher at the American Heritage School in Plantation, FL, where he has coached state and national champions in multiple events. He holds an MA in Theory & Practice of Human Rights from the University of Essex, where he competed internationally in British Parliamentary Debate. He competed in a variety of events for Kingston High School in Washington and placed tenth in World Schools Debate at NSDA Nationals in 2019.

Champion Briefs

February 2025

Public Forum Brief



General Information

General Information

Resolved: The United States should accede to the Rome Statute of the International Criminal Court.

Foreword: We at Champion Briefs feel that having deep knowledge about a topic is just as valuable as formulating the right arguments. Having general background knowledge about the topic area helps debaters form more coherent arguments from their breadth of knowledge. As such, we have compiled general information on the key concepts and general areas that we feel will best suit you for in- and out-of-round use. Any strong strategy or argument must be built from a strong foundation of information; we hope that you will utilize this section to help build that foundation.

The Rome Statute:

The treaty that established the ICC outlined its jurisdiction, functions, and structure. It defines the core crimes the ICC is responsible for prosecuting and the mechanisms for cooperation between member states and the Court.

We recommend that debaters read through some of the first sections of this document, which has the full text of the Rome Statute: <https://www.icc-cpi.int/sites/default/files/2024-05/Rome-Statute-eng.pdf>

Accede:

To accede to a treaty means to formally agree to be bound by its terms, typically through ratification by the national legislature.

International Criminal Court (ICC) Basics

An independent international organization located in The Hague, Netherlands. It is not part of the United Nations, although it works closely with the UN. The ICC focuses on prosecuting individuals, rather than states, for the most serious international crimes.

Today the Court has:

Over 900 staff members: From approximately 100 States.

6 official languages: English, French, Arabic, Chinese, Russian and Spanish.

1 ICC Liaison Office to the United Nations in New York and 6 ICC Country Offices and Field Presences in Kinshasa and Bunia (Democratic Republic of the Congo, "DRC"); Kampala (Uganda); Bangui (Central African Republic, "CAR"); Abidjan (Côte d'Ivoire); Bamako (Mali); and Kyiv (Ukraine).

2 working languages: English and French.

Headquarters: The Hague, the Netherlands.

2025 budget: €195,481,500

There have thus far been 32 cases before the Court, with some cases having more than one suspect.

ICC judges have issued 59 arrest warrants. Thanks to cooperation from States, 21 people have been detained in the ICC detention centre and have appeared before the Court. 30 people remain at large. Charges have been dropped against 7 people due to their deaths.

ICC judges have also issued 9 summonses to appear.

The judges have issued 11 convictions and 4 acquittals.

Jurisdiction of the International Criminal Court

The Court's founding treaty, called the Rome Statute, grants the ICC jurisdiction over four main crimes.

First, the crime of **genocide** is characterised by the specific intent to destroy in whole or in part a national, ethnic, racial or religious group by killing its members or by other means: causing serious bodily or mental harm to members of the group; deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; imposing measures intended to prevent births within the group; or forcibly transferring children of the group to another group.

Second, the ICC can prosecute crimes against humanity, which are serious violations committed as part of a large-scale attack against any civilian population. The 15 forms of crimes against humanity listed in the Rome Statute include offences such as murder, rape, imprisonment, enforced disappearances, enslavement – particularly of women and children, sexual slavery, torture, apartheid and deportation.

Third, war crimes which are grave breaches of the Geneva conventions in the context of armed conflict and include, for instance, the use of child soldiers; the killing or torture of persons such as civilians or prisoners of war; intentionally directing attacks against hospitals, historic monuments, or buildings dedicated to religion, education, art, science or charitable purposes.

Finally, the fourth crime falling within the ICC's jurisdiction is the **crime of aggression**. It is the use of armed force by a State against the sovereignty, integrity or independence of another State. The definition of this crime was adopted through amending the Rome Statute at the first Review Conference of the Statute in Kampala, Uganda, in 2010.

On 15 December 2017, the Assembly of States Parties adopted by consensus a resolution on the activation of the jurisdiction of the Court over the crime of aggression as of 17 July 2018.

Historical Context

The Rome Statute was adopted in 1998 and came into force in 2002. As of 2024, 123 countries are parties to the statute, representing a broad coalition of states committed to combating impunity for the most serious international crimes. The ICC's creation marked a significant step in international law, providing a mechanism to hold individuals accountable on a global scale.

The United States has historically supported international justice initiatives but has expressed concerns about the ICC. Key objections include the potential for politically motivated prosecutions of U.S. military personnel and officials, the impact on U.S. sovereignty, and the belief that the U.S. judicial system can adequately address war crimes involving its citizens. Proponents of U.S. accession argue that joining the ICC would strengthen the Court's legitimacy, enhance global accountability, and reaffirm U.S. commitment to international justice.

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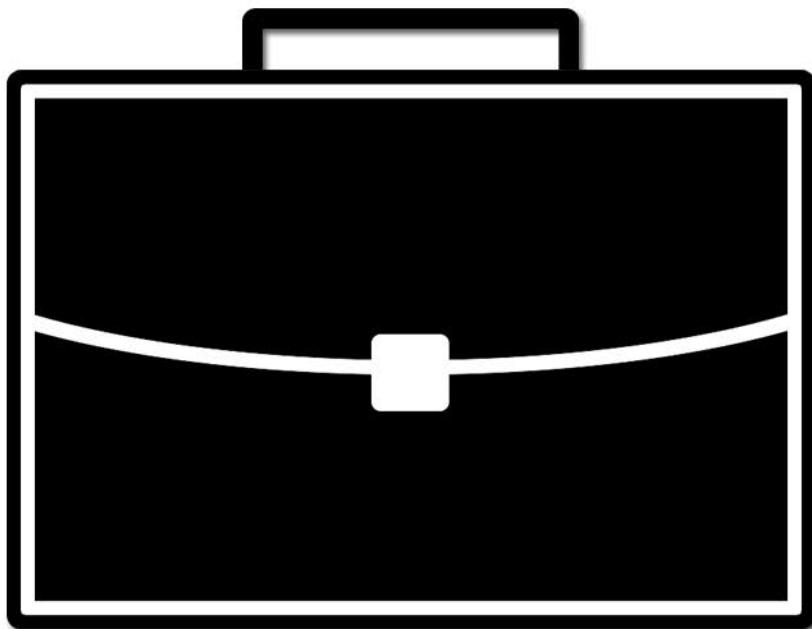
Schabas, William A. *An Introduction to the International Criminal Court*. 6th ed., Cambridge University Press, 2020.

Wahal, Anya. "On International Treaties, the United States Refuses to Play Ball." *Council on Foreign Relations*, 7 Jan. 2022, <https://www.cfr.org/blog/international-treaties-united-states-refuses-play-ball>. Accessed 14 Dec. 2024.

Champion Briefs

February 2025

Public Forum Brief



Pro Arguments

PRO: Acceding to the Rome Statute will help enforce international norms.

Argument: The global liberal order is at a crossroads right now. If we join the ICC, that will help promote international norms and stability..

Warrant: The ICC is a major international institution, as evidenced by the number of countries that have pledged to enforce warrants they politically disagree with.

Jones, Mared Gwyn. "Fact check: Where do EU countries stand on iCC's arrest warrant for Netanyahu?" Euronews, December 3, 2024, <https://www.euronews.com/my-europe/2024/12/03/fact-check-where-do-eu-countries-stand-on-iccs-arrest-warrant-for-netanyahu>. Accessed January 10, 2025.

Belgium, The Netherlands, Ireland, Lithuania, Slovenia and Spain have given the strongest indications they would enforce the arrest warrant. Outgoing prime minister Alexander De Croo said last Thursday that Belgium would "assume its responsibility", adding that there can be "no double standards." Dutch Foreign Minister Caspar Veldkamp has told parliament Netanyahu would be arrested in the Netherlands, and cancelled a visit to Israel in the wake of the ICC issuing the arrest warrant. Ireland and Spain, who have jointly pressed on the EU to sanction Israel for its operations in Gaza and Lebanon, have also suggested they would act on the warrant, as have Lithuania and Slovenia.

Warrant: International norms play an important role in global politics

Manurung, Felix. "The Importance of International Criminal Law Norm in Fostering International Cooperation." Modern Diplomacy, June 20, 2024, <https://moderndiplomacy.eu/2024/06/20/the-importance-of-international->

[criminal-law-norm-in-fostering-international-cooperation/](https://moderndiplomacy.eu/2024/06/20/the-importance-of-international-criminal-law-norm-in-fostering-international-cooperation/). Accessed January 10, 2025.

There are several reasons why international norms are so important. First, norms are important for creating stability and unity. **In an anarchic international political system, norms can provide stability and unity because of certain expectations. Norms also enforce change when norm shifts restructure the international community** (Finnemore and Sikkink, 1998). Second, international norms are important as constraints on foreign policy. They can constrain foreign policy choices and behavior, and even alter states' conceptions of national interest (Shannon, 2017). Third, the ambiguity and plurality of meanings of norms used as a result of the enactment of norms that are generally ambiguous in different contexts can encourage human diversity and the plurality of global life (Linsenmaier et al., 2021).

Warrant: Participation in the ICC helps promote international norms.

Manurung, Felix. "The Importance of International Criminal Law Norm in Fostering International Cooperation." Modern Diplomacy, June 20, 2024, <https://moderndiplomacy.eu/2024/06/20/the-importance-of-international-criminal-law-norm-in-fostering-international-cooperation/>. Accessed January 10, 2025.

In summary, the importance of International Criminal Law (ICL) norms in fostering international cooperation cannot be overstated. These norms serve as the backbone for a collective legal response to transnational crimes and serious violations of humanitarian law, which no single nation can combat effectively on its own. **By establishing common legal standards and procedures, ICL norms enable countries to work together seamlessly, whether it's through extradition treaties, mutual legal assistance, or joint investigations. The United Nations Convention against**

Transnational Organized Crime (UNTOC) and the International Criminal Court (ICC) are prime examples of how these norms facilitate cooperation across borders. UNTOC provides a platform for law enforcement collaboration, while the ICC's efforts to promote cooperation, complementarity, and universality have led to significant advancements in international criminal justice.

Impact: ICC accession solves by affirming US commitment to international law

Vindman, Yevgeny. "It's Time for the United States to Join the ICC." Foreign Policy, April 11, 2023, <https://foreignpolicy.com/2023/04/11/russia-putin-ukraine-war-icc-united-states-crimes-arrest-warrant/>. Accessed January 2, 2025.

Because the United States is already compliant with core principles of international criminal law, supporting and even joining the ICC would have very little practical effect on U.S. operations. Support for the ICC would, however, eliminate the argument that the United States is hypocritical and send a clear message that the United States plays by the same rules that it expects of all other international actors. For example, even though the U.S. military has a robust legal regime that effectively polices compliance with the law of war, there have been recent lapses at the political level, specifically the Trump-era grants of clemency for war criminals such as former Navy SEAL special operations chief Eddie Gallagher, who was accused of committing various war crimes while deployed in Iraq in 2017, and four security guards from the private military firm Blackwater—Paul Slough, Evan Liberty, Dustin Heard, and Nicholas Slatten—who were serving jail sentences for a 2007 civilian massacre in Baghdad.

Impact: This removed hypocrisy leads to enhanced global leadership and improved NATO relations

Geoghegan, Thomas. "There's No Good Reason for the United States to Stay out of the International Criminal Court." The New Republic, May 9, 2022, <https://newrepublic.com/article/166300/international-criminal-court-ukraine-russia>. Accessed January 2, 2025.

Remaining outside the ICC weakens our ability, as well as NATO's, to overcome suspicion of the U.S. on those occasions when winning the cooperation of civilians is crucial. Staying out of the ICC will always be a stain on our military—a mark of Cain on them in any country where American soldiers may find themselves serving. **But regardless of whether joining the ICC will have an effect on military discipline or on amplifying the standards of the U.S. military to a level beyond Russia's or China's reputation, we have a vital interest in being part of a court whose territory is the NATO heartland.** We are the West—and it is in our long-run interest to be the West. The ICC exists as the bearer of values that historically came out of Europe's civil wars. What is the interest of leaving our NATO allies and other countries to develop the legal standards that will inevitably be applied to us? There is a moral issue that has become sharper since the invasion of Ukraine.

Analysis: This argument is premised in the idea that international norms are important and should be protected. For impacts, teams have two routes – In lay rounds, you may find success gesturing towards ideals and the dangers of rising authoritarianism, but for more technical rounds teams will want to find quantitative data about the association between international institutions and democracy.

PRO: Acceding to the Rome Statute removes the perception of US hypocrisy.

Argument: Acceding to the Rome Statute means that the United States could be held accountable. That's important because it removes a global perception that the United States is hypocritical in its support for international law.

Warrant: The US' current position on the court is a roadmap for authoritarian regimes.

Whitson, Sarah. "The White House's Defense of Israel Is Undermining International Law." Foreign Policy, September 18, 2024,
<https://foreignpolicy.com/2024/09/18/biden-israel-icc-icj-gaza-netanyahu-international-law/>. Accessed January 1, 2025.

Thomas-Greenfield's declaration means that the United States, the supposed enforcer of the international rules-based order, is now keeping company with states that ignore the court's orders. This sort of rhetoric from leading U.S. officials further erodes the standing of all international courts and will be used as a justification by authoritarian governments who will copy the U.S. playbook to reject international law and ignore those seeking to enforce it. The Biden administration has made no secret of its disdain for the International Criminal Court's decision to prosecute Israeli officials and members of Palestinian armed groups for war crimes, crimes against humanity, and other violations of the Rome Statute since 2014, following the State of Palestine's 2018 referral.

Warrant: The US position is that the ICC is useful as a tool for it, and nobody else, to use.

Whitson, Sarah. "The White House's Defense of Israel Is Undermining International Law." Foreign Policy, September 18, 2024,
<https://foreignpolicy.com/2024/09/18/biden-israel-icc-icj-gaza-netanyahu-international-law/>. Accessed January 1, 2025.

More significantly, **Thomas-Greenfield's suggestion that compliance with a court's rulings is optional depending on whether or not a government agrees with a ruling further undermines the very basis of the ICC's capacity to act as an international court with the power to issue binding decisions. Basically, Washington's message to the world is that it loves the ICC when it prosecutes America's enemies and hates the court when it prosecutes its friends.** While the Biden administration in 2021 canceled U.S. sanctions against the previous ICC prosecutor, Fatou Bensouda, her staff, and their families that the Trump administration imposed on them for pursuing the prosecution of Israelis and Americans, it has not stopped pressuring the new Prosecutor, Karim Khan, to back off; Khan said that "some elected leaders" even told him, that the ICC "was built for Africa" and for "thugs like Putin" but not Western or Western-backed leaders.

Warrant: Trump's policies spell disaster for the court's ability to exist.

Anderson, Janet. "The Clouded Skies Over the ICC." Justice Info, December 2, 2024,
<https://www.justiceinfo.net/en/139020-clouded-skies-over-the-icc.html>. Accessed January 1, 2025.

When Donald Trump was last in power in Washington between 2016 and 2020, his administration froze the assets of the then-prosecutor Bensouda and a member of her staff. "It's a very fraught situation," says Goldston, who points out that "the incoming Senate majority leader has made clear his desire that the Congress act on that threat of sanctions as soon as it comes into being in January". And that "the Trump

administration itself has the power to impose sanctions, by executive order, in addition to anything Congress does". **Goldston warns of the potential consequences of sanctions:** "The sanctions could be really a devastating blow to the court, simply because such sanctions in principle can essentially cut off the court's ability to function, its ability to retain and command and preserve the services of a variety of vendors, of banking services, of all kinds of things, or IT services, which are likely to have dollar components that run through the U.S."

Impact: ICC accession solves by affirming US commitment to international law

Vindman, Yevgeny. "It's Time for the United States to Join the ICC." Foreign Policy, April 11, 2023, <https://foreignpolicy.com/2023/04/11/russia-putin-ukraine-war-icc-united-states-crimes-arrest-warrant/>. Accessed January 2, 2025.

Because the United States is already compliant with core principles of international criminal law, supporting and even joining the ICC would have very little practical effect on U.S. operations. Support for the ICC would, however, eliminate the argument that the United States is hypocritical and send a clear message that the United States plays by the same rules that it expects of all other international actors. For example, even though the U.S. military has a robust legal regime that effectively polices compliance with the law of war, there have been recent lapses at the political level, specifically the Trump-era grants of clemency for war criminals such as former Navy SEAL special operations chief Eddie Gallagher, who was accused of committing various war crimes while deployed in Iraq in 2017, and four security guards from the private military firm Blackwater—Paul Slough, Evan Liberty, Dustin Heard, and Nicholas Slatten—who were serving jail sentences for a 2007 civilian massacre in Baghdad.

Impact: This removed hypocrisy leads to enhanced global leadership and improved NATO relations

Geoghegan, Thomas. "There's No Good Reason for the United States to Stay out of the International Criminal Court." *The New Republic*, May 9, 2022, <https://newrepublic.com/article/166300/international-criminal-court-ukraine-russia>. Accessed January 2, 2025.

Remaining outside the ICC weakens our ability, as well as NATO's, to overcome suspicion of the U.S. on those occasions when winning the cooperation of civilians is crucial. Staying out of the ICC will always be a stain on our military—a mark of Cain on them in any country where American soldiers may find themselves serving. **But regardless of whether joining the ICC will have an effect on military discipline or on amplifying the standards of the U.S. military to a level beyond Russia's or China's reputation, we have a vital interest in being part of a court whose territory is the NATO heartland.** We are the West—and it is in our long-run interest to be the West. The ICC exists as the bearer of values that historically came out of Europe's civil wars. What is the interest of leaving our NATO allies and other countries to develop the legal standards that will inevitably be applied to us? There is a moral issue that has become sharper since the invasion of Ukraine.

Analysis: This argument is premised on the idea that the United States' current approach to international law is fundamentally hypocritical and that joining the court helps set the record straight. The impacts here are varied and teams should be able to link to a variety of current investigations that could be aided by the United States' support.

PRO: Acceding to the Rome Statute allows American war crimes to be prosecuted.

Argument: Acceding to the Rome Statute means that the United States could be held accountable at the ICC, which is important because American war crimes could be fully prosecuted.

Warrant: The US is a leading committer of war crimes.

Yesko, Parker. "The War Crimes That the Military Buried." New Yorker, September 10, 2024, <https://www.newyorker.com/podcast/in-the-dark/the-war-crimes-that-the-military-buried>. Accessed January 2, 2025.

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. The database began with In the Dark's reporting on the killings of civilians in Haditha, Iraq, on November 19, 2005.

Warrant: Even disregarding indirect deaths, over 400,000 civilians were killed in American wars in the Middle East.

"Civilians Killed & Wounded." Watson Institute for International & Public Affairs, October 1, 2024, <https://watson.brown.edu/costsofwar/costs/human/civilians>. Accessed January 2, 2025.

The U.S. post-9/11 wars in Iraq, Afghanistan, Pakistan, Syria, Yemen, and Somalia have taken a tremendous human toll. The total death toll in these war zones, including direct and indirect deaths, is at least 4.5-4.7 million and counting. **Of these, an estimated 408,000 civilians died directly from war violence.** Precise mortality figures remain unknown.

Warrant: The lack of clear punishment outlets means that American troops feel that civilian lives don't matter.

Nouri, Selma. "Double Standards in International Law: Did the U.S. Get Away with War Crimes in Afghanistan?" Columbia Undergraduate Law Review, June 16, 2022, <https://www.culawreview.org/journal/double-standards-in-international-law-did-the-us-get-away-with-war-crimes-in-afghanistan>. Accessed January 2, 2025.

Despite these atrocities, however, unlike the Sudanese government, the U.S. was never prosecuted or formally condemned by the ICC. **In 2021, the ICC decided to deprioritize an investigation of the crimes committed by the United States in Afghanistan, choosing to focus instead on the crimes committed by the Taliban and Afghan leaders.** [28] This decision by the ICC highlights a double standard in its enforcement of the rule of law. By "deprioritizing" crimes committed by the United States, the ICC is encouraging major powers to continue disrespecting international law without any fear of the consequences. Even if the ICC is unable to convict powerful leaders from countries like the United States, Russia, or China, it should at least investigate and condemn their actions. **By failing to even acknowledge the crimes committed by the United States, the ICC is communicating to the world that the**

dignity and lives of innocent civilians do not matter if major world powers are responsible. As long as international legal organizations such as the ICC continue to allow the U.S. and other major powers to undermine international law, innocent civilians will continue to be the ones who suffer as a consequence of crimes that go unpunished.

Impact: Holding troops accountable makes militaries better

Corn, Geoffrey and Rachel VanLandingham. "Strengthening American War Crimes Accountability." *American University Law Review*, 2020,
<https://aulawreview.org/blog/strengthening-american-war-crimes-accountability>. Accessed January 2, 2025.

However, the common thread that runs through this history is the recognition that accountability contributes to unit effectiveness because it buttresses the expectation that commanders' orders will be followed, even when subordinates face enormous risk. As others have noted, “[m]isconduct on the battlefield loses wars.” To prevent the breakdown of good order and discipline, it is axiomatic that misconduct must be dealt with swiftly—and fairly, as unjust punishment is equally corrosive to good order and discipline. This recognition is found in examples of misconduct punishable as military crimes dating back to the Roman Legions; professional militaries have utilized military penal codes since at least the fourteenth century to delineate specific consequences for misconduct by members of armed forces.

Impact: War crimes are empirically lower in post-ratification countries

Appel, Benjamin. "In the Shadow of the International Criminal Court: Does the ICC Deter Human Rights Violations?" *Journal of Conflict Resolution*, 2018, <https://unlv-research-repository.unlv.edu/bitstream/handle/11714/10303/10303.pdf>

primo.hosted.exlibrisgroup.com/permalink/f/6tvje6/TN_cdi_proquest_journals_1976095460. Accessed January 2, 2025.

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 nonratifiers. 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.

Analysis: This argument assumes that teams are not advocating from the position of the United States government, because surely the US government would not be pleased to find themselves in a war crimes prosecution. However, teams should be able to effectively argue that the United States being held accountable is a good thing for global justice.

PRO: Acceding to the Rome Statute would allow “above-the-law” figures to be held accountable.

Argument: Right now, there are some figures that the ICC is not able to easily hold accountable because of global pressure and bad actors. The US entering sends a strong message that “above-the-law” figures have nowhere to hide.

Warrant: The ICC has been used to prosecute formerly “above-the-law”.

“Leaders Facing Justice.” Council on Foreign Relations, n.d.,

<https://www.cfr.org/timeline/leaders-facing-justice>. Accessed January 11, 2025.

In June 2011, the ICC indicted Libyan leader Muammar al-Qaddafi, his son, and brother-in-law for crimes against humanity arising from their authorization of the killing of protesters during Libya’s popular uprising. Qaddafi is killed by opposition forces in October, and one month later, his son, Saif al-Islam Qaddafi, is arrested during an attempted escape. In the following months, Libyan officials and the ICC dispute the location of Saif’s trial; Libyan authorities argue he should be tried in his home country, while the ICC maintains that he would have a fairer trial at The Hague. **Qaddafi’s brother-in-law and intelligence chief, Abdullah Senussi, is captured in Mauritania in March 2012 and extradited to Libya, where, in 2015, he is sentenced to death.** In 2019, supporters from Senussi’s Magerha tribe begin demanding his release, citing health concerns.

Warrant: Even when the ICC can’t arrest, it pushes for domestic justice systems to operate.

“Leaders Facing Justice.” Council on Foreign Relations, n.d.,

<https://www.cfr.org/timeline/leaders-facing-justice>. Accessed January 11, 2025.

In March 2009, the ICC indicts Sudanese President Omar al-Bashir for orchestrating a campaign of mass violence—including murder, torture, and rape—against non-Arab ethnic groups in the Darfur region since 2003. He is the first sitting president of a nation to be indicted by the ICC. Sudan, which is not a party to the Rome Statute and does not recognize the court, does not turn him over. The African Union (AU) also rejects the warrant, arguing that the ICC has a bias against African nations, and calls on member states not to arrest Bashir if he is received in their countries. **In April 2019, following months of popular protests, the Sudanese military forces Bashir to step down and arrests him, though it says it will not hand him over to the ICC.** Later that year, a Sudanese court convicts Bashir of corruption and financial crimes and sentences him to two years in detention. In 2021, Sudan signs an agreement with the ICC to move forward in the cases against Bashir and others, raising the possibility of Bashir's custody being transferred to the ICC.

Warrant: This extends today, with the ICC issuing warrants against Israeli leaders.

Duster, Chadelis. "What is the ICC and can it really arrest Israeli Prime Minister Benjamin Netanyahu?" NPR, November 21, 2024,
<https://www.npr.org/2024/11/21/nx-s1-5199669/icc-arrest-warrants-netanyahu-gallant-hamas-israel-war-deif>. Accessed January 11, 2025.

The International Criminal Court has issued arrest warrants for Israeli Prime Minister Benjamin Netanyahu for alleged war crimes and crimes against humanity in the Gaza Strip. Warrants have also been issued for Yoav Gallant, Israel's former defense minister, and Muhammad Deif, Hamas' military chief, whom Israel says it killed in August. ICC chief prosecutor Karim Kahn requested the arrest warrants in May. Israel is contesting the allegations against Netanyahu and Gallant, which include "the war

crime of starvation as a method of warfare; and the crimes against humanity of murder, persecution, and other inhumane acts."

Impact: Holding leaders accountable is an important function of democracy

Maciolek, Ashleigh. "Holding Leaders Accountable Is an Essential Feature of Democracy." Brennan Center for Justice, April 23, 2024,
<https://www.brennancenter.org/our-work/analysis-opinion/holding-leaders-accountable-essential-feature-democracy>. Accessed January 11, 2025.

Although there is a very real risk to prosecuting leaders, and there is a high burden for meeting the criteria for appropriate criminal proceedings, democracies should still pursue accountability. The alternative — a culture of impunity for those at the top — is antithetical to democracy. Holding former President Trump accountable for criminal activity that is proven through a fair, impartial, and transparent process is essential — something both the former president's supporters and opponents should remember. The stakes are high not only for him, but for American democracy.

Impact: Democracy is key to all other impacts because it preserves a free society

"The importance of democracy." Chatham House, December 18, 2024,
<https://www.chathamhouse.org/2021/04/importance-democracy>. Accessed January 11, 2025.

Democracy has played a vital role in the story of civilization, helping transform the world from power structures of monarchy, empire, and conquest into popular rule, self-determination, and peaceful co-existence. A direct form of democracy was initially practiced in ancient Greece, but there were many slaves in that society, and hardly anyone was a citizen and able to participate. Democracy then vanished until its re-

emergence as 'representative democracy' in the late 18th century. Since then it has been generally understood that modern human history follows a trend towards greater democracy, with some scholars describing the phenomenon taking place in three waves.

Analysis: This argument states that the United States has a unique position on the world stage that would allow them influence over the ICC arrest process. Teams can impact this out to current situations where there are outstanding warrants (like in Israel, Myanmar, or Russia) or discuss more broadly the conceptual benefits.

PRO: Acceding to the Rome Statute shifts the focus of the ICC away from Africa.

Argument: The ICC has been accused of having a bias against African nations. The United States joining the court would shift that conversation and provide the court a new outlet for prosecution.

Warrant: The ICC has historically focused prosecutions on Africa.

"Africa and the ICC." Coalition for the International Criminal Court, n.d.,
<https://coalitionfortheicc.org/explore-international-criminal-court-africa-icc>. Accessed January 11, 2025.

With nine of the first ten ICC investigations located in Africa, some African leaders have claimed that the ICC is unfairly targeting the continent and is a tool of "western neo-colonialism." The ICC's detractors have tried to rally a mass withdrawal of African states from the Rome Statute system of international justice. They have failed in this, but a few individual African states have indicated intent to leave the ICC. To date, only Burundi looks set to complete the withdrawal process at the end of 2017.

Warrant: This has led to African leaders threatening to boycott the court entirely.

"African Union backs mass withdrawal from ICC." BBC News, February 1, 2017,
<https://www.bbc.com/news/world-africa-38826073>. Accessed January 11, 2025.

The African Union has called for the mass withdrawal of member states from the International Criminal Court (ICC). However, the resolution is non-binding, with Nigeria and Senegal opposing a withdrawal. South Africa and Burundi have already

decided to withdraw, accusing the ICC of undermining their sovereignty and unfairly targeting Africans. The ICC denies the allegation, insisting it is pursuing justice for victims of war crimes in Africa. The AU took the decision on Tuesday following a divisive debate at its annual heads of state of summit in Addis Ababa. Part of the resolution also said the AU would hold talks with the UN Security Council to push for the ICC to be reformed.

Warrant: The ICC's African focus is not entirely their fault, it's because African nations are active participants while non-African nations are not.

Roth, Kenneth. "Africa Attacks the International Criminal Court." Human Rights Watch, January 14, 2014, <https://www.hrw.org/news/2014/01/14/africa-attacks-international-criminal-court>. Accessed January 11, 2025.

Moreover, the ICC's focus on Africa is largely not of its own doing. In five of the eight countries where it is actively prosecuting suspects—Uganda, Mali, Ivory Coast, the Central African Republic, and the Democratic Republic of Congo—the African state in question asked the court to intervene, often with significant encouragement from victims and local rights groups. In two other countries—Sudan and Libya—the UN Security Council asked that the ICC become involved. Only in the case of Kenya did the ICC act entirely on its own initiative. In fact the focus on Africa largely reflects current limits on the reach of international justice. The court can exercise jurisdiction only when the crime was committed by a citizen of a member state or on the territory of a member state, or if the situation is referred to the court by the UN Security Council

Impact: The US joining means that US crimes could be prosecuted, shifting the court's focus

Vindman, Yevgeny. "It's Time for the United States to Join the ICC." *Foreign Policy*, April 11, 2023, <https://foreignpolicy.com/2023/04/11/russia-putin-ukraine-war-icc-united-states-crimes-arrest-warrant/>. Accessed January 11, 2025.

The greatest concern about cooperating with the ICC is that doing so would expose U.S. service members and leaders to politically motivated prosecution by foreign bureaucrats. But the court operates on the principle of complementarity, meaning that the ICC will not exercise jurisdiction when a state exercises its own prerogatives to investigate and prosecute potential war crimes. The ICC steps in only when a state fails to use its own national criminal justice apparatus to handle war crimes, as is currently the case in Russia. **In the United States, however, the robust military justice systems ensure that crimes are investigated and prosecuted as a matter of maintaining order and discipline within the armed forces, making ICC jurisdiction against U.S. military personnel unlikely, so long as the United States continues to police its own behavior.**

Impact: War crimes are empirically lower in post-ratification countries

Appel, Benjamin. "In the Shadow of the International Criminal Court: Does the ICC Deter Human Rights Violations?" *Journal of Conflict Resolution*, 2018, https://unlv-primo.hosted.exlibrisgroup.com/permalink/f/6tvje6/TN_cdi_proquest_journals_1976095460. Accessed January 2, 2025.

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 nonratifiers. 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.

Analysis: Teams should have success running this argument under a settler-colonialism framework or on a progressive circuit. There are significant opportunities for impacts here about the rise in global far-right politics and the importance of holding non-white countries to account under international law.

PRO: US support of the ICC is key to advancing accountability in the Israel-Gaza War

Argument: Right now, the ICC's investigation into war crimes during the Israel-Gaza War is significantly hampered by American opposition. The United States joining the court would remove that opposition and make investigation and prosecution (if necessary) easier.

Warrant: In response to alleged war crimes during the Israel-Gaza war, the ICC has issued warrants for the arrest of Israeli and Hamas leaders

"ICC issues arrest warrants for Netanyahu, Gallant and Hamas commander." United nations, November 21, 2024, <https://news.un.org/en/story/2024/11/1157286>. Accessed January 11, 2025.

The UN-backed International Criminal Court (ICC) on Thursday issued arrest warrants for Israeli Prime Minister Benjamin Netanyahu and former defence minister Yoav Gallant, together with a former Hamas commander, citing allegations of war crimes and crimes against humanity. Judges on the ICC said there were reasonable grounds that the three men bore "criminal responsibility" for the alleged crimes committed "from at least 8 October 2023 until at least 20 May 2024" – the day the Prosecution filed the applications for warrants of arrest – the Court said in a press release.

Warrant: In response, the US has rejected the court's authority and is imposing sanctions on the body.

"US House votes to advance bill to sanction ICC over Israel arrest warrants." Al Jazeera, January 9, 2025, <https://www.aljazeera.com/news/2025/1/9/us-house-votes-to->

advance-bill-to-sanction-icc-over-israel-arrest-warrants. Accessed January 11, 2025.

The United States House of Representatives has voted in favour of a bill to sanction the International Criminal Court (ICC) in retaliation for its arrest warrants against Israeli Prime Minister Benjamin Netanyahu and the country's former Defence Minister Yoav Gallant. Legislators in the lower chamber of the US Congress passed the "Illegitimate Court Counteraction Act" by an overwhelming margin, 243 to 140, on Thursday in a signal of strong support for Israel. Forty-five Democrats joined 198 Republicans in backing the bill. No Republicans voted against it. The bill now heads to the Senate, where a Republican majority was sworn in earlier this month. The legislation proposes sanctions for any foreigner who helps the ICC in its attempts to investigate, detain or prosecute a US citizen or citizen of an allied country that does not recognise the authority of the court.

Warrant: Sanctions are a misstep that hurt the court's ability to seek an end to violence.

Al-Assil, Ibrahim. "Sanctioning the ICC over Israel is a strategic misstep for the US." Atlantic Council, June 13, 2024,
<https://www.atlanticcouncil.org/blogs/menasource/icc-israel-misstep-netanyahu-gallant/>. Accessed January 11, 2025.

President Biden has emphasized the importance of a rules-based international order, consistent with the US support for the ICC's warrant against Russian President Vladimir Putin for war crimes in Ukraine. However, Biden's vision for a rules-based world has been widely criticized due to what appears to be unconditional support for Israel in Gaza. **If the administration chooses to sanction the ICC, it would display inconsistency and undermine Biden's efforts to distinguish his administration from those of Barack Obama and Trump, both of whom were criticized for fluctuating foreign policy stances**

and values. With that, the United States would concede to Russia and China that great-power competition would be based on their values of selective interference and legal reasoning, not acclaimed, consistent US values.

Impact: The ICC is vital to maintaining order in an unstable world, even for non-member countries.

Al-Assil, Ibrahim. "Sanctioning the ICC over Israel is a strategic misstep for the US." Atlantic Council, June 13, 2024,
<https://www.atlanticcouncil.org/blogs/menasource/icc-israel-misstep-netanyahu-gallant/>. Accessed January 11, 2025.

The existence of the ICC benefits the United States by helping maintain order in an increasingly unstable world. As the world moves into the second quarter of the twenty-first century, with great-power competition involving China and Russia as a major theme, many middle powers are finding more space to avoid pressure by hedging their alliances. This hedging allows these middle powers greater latitude to resist any US efforts against domestic or regional conflicts. Isolated ideological regimes like those in Syria and North Korea do not need to meet economic demands to survive; their legitimacy comes from their authoritarian control and mafia-like rule of society. In contrast, middle and regional powers such as Saudi Arabia, Turkey, Qatar, and the United Arab Emirates (UAE) must remain connected to the world. They will take seriously the risk of being targeted by the ICC if the court is allowed to operate effectively. However, these countries are not members of the ICC, and the lack of prosecution against their governments and others for alleged atrocities limits the ICC's ability to influence their behavior and casts doubt on its credibility. By sanctioning ICC officials, the United States forfeits a potential deterrent against human rights violations and sets a dangerous precedent for nations seeking Chinese or Russian protection from future ICC prosecutions.

Impact: Reducing unnecessary casualties in the Israel-Gaza war is crucial due to large civilian casualties

“More women and children killed in Gaza by Israeli military than any other recent conflict in a single year.” Oxfam, September 30, 2024,
<https://www.oxfam.org/en/press-releases/more-women-and-children-killed-gaza-israeli-military-any-other-recent-conflict>. Accessed January 11, 2025.

More women and children have been killed in Gaza by the Israeli military over the past year than the equivalent period of any other conflict over the past two decades, new Oxfam analysis has found. As hostilities and tragic loss of life spread in Lebanon and the West Bank - including East Jerusalem - the regional escalation underscores the urgent need for an immediate and permanent ceasefire. **Conservative figures show that more than 6,000 women and 11,000 children were killed in Gaza by the Israeli military over the last 12 months. Data from 2004-2021 on direct conflict deaths from the Small Arms Survey, estimates that the highest number of women killed in a single year was over 2,600 in Iraq in 2016.**

Analysis: This argument has the same basic link chain as the arguments discussing why the United States is a uniquely powerful figure on the world stage but has a more specific impact focusing on the ongoing Israel-Gaza War. Teams will want to articulate the specific impacts that come from ending unnecessary violence for this argument to work successfully.

PRO: US support of the ICC makes it easier for warrants to be served

Argument: Right now, the ICC cannot properly serve warrants against all figures because some are protected by other states. If the United States were to join the court, it would become much harder for rogue states to protect those people.

Warrant: The ICC has only had a small number of successful convictions since its creation – More people are at large.

“Is the International Criminal Court fit for purpose?” Do Better, September 26, 2023,
<https://dobetter.esade.edu/en/25-years-international-criminal-court-purpose>.
Accessed January 11, 2025.

The first individual to be successfully prosecuted by the ICC was Thomas Lubanga Dylio, the former President of the Democratic Republic of Congo. In March 2012, Dylio was found guilty of the war crimes of enlisting and conscripting children under the age of 15 years and using them to participate actively in hostilities. Since then, the ICC has instigated a further 30 cases, with 10 convictions, four acquittals and 16 suspects remaining at large. With 18 judges selected by the Assembly of States Parties for nine-year, non-renewable terms and an annual budget of around €200 million, many have argued that the ICC is a waste of money and not fit for purpose — allegations the Coalition for the ICC strongly denies.

Warrant: This is partly because of lengthy warrant application processes delayed by other countries

Nessa, Jasmin. “Delays, Interference, and Espionage: The ICC’s Struggle with Arrest Warrants in the Situation in the State of Palestine.” OpinioJuris, November 10, 2024, <https://opiniojuris.org/2024/10/11/delays-interference-and-espionage->

[the-iccs-struggle-with-arrest-warrants-in-the-situation-in-the-state-of-palestine/](https://www.icc-cpi.org/the-iccs-struggle-with-arrest-warrants-in-the-situation-in-the-state-of-palestine/).

Accessed January 11, 2025.

The UK's request, ostensibly focused on the Court's jurisdiction over Israeli nationals, was granted an extension, only for the UK to withdraw the filing after a change in Government. However, by that point, the damage had been done. **The Chamber's decision opened the floodgates for a wave of amicus curiae submissions, many of which introduced unrelated arguments, assumptions about unseen evidence, and political rhetoric into the legal process. Just as troubling is the lack of transparency surrounding this process. The over 70 requests for amicus curiae submissions were kept secret by the Chamber, and, except for the UK's request, their content remains shrouded in secrecy.** This raises serious concerns: How is it possible that the Chamber accepted requests for amicus curiae submissions that are completely unrelated to these proceedings, and why are these requests hidden from public scrutiny?

Warrant: Once warrants are issued, the US can influence arrests by rejecting their influence – This emboldens other countries.

Burman, Max. "Who would arrest Netanyahu? ICC warrant for Israeli leader draws a global dividing line." NBC News, November 22, 2024,
<https://www.nbcnews.com/news/world/arrest-netanyahu-icc-warrant-divides-world-israel-gaza-rcna181320>. Accessed January 11, 2025.

Hungary, in contrast, promised not to arrest the Israeli leader. Its strongman leader Viktor Orbán sent a letter condemning the decision and inviting Netanyahu for an official visit on which he promised to “ensure your safety and freedom.” The Israeli leader praised Hungary, who he said had “like our friends in the U.S.,” shown “moral clarity and steadfastness on the side of justice and the truth.” He contrasted this to what he called the “shameful weakness of those who have lined up alongside the

outrageous decision." The White House said Thursday that President Joe Biden's administration was "deeply concerned by the prosecutor's rush to seek arrest warrants and the troubling process errors that led to this decision."

Impact: Without country support, ICC warrants cannot be enforced

Duster, Chadelis. "What is the ICC and can it really arrest Israeli Prime Minister Benjamin Netanyahu?" NPR, November 21, 2024,
<https://www.npr.org/2024/11/21/nx-s1-5199669/icc-arrest-warrants-netanyahu-gallant-hamas-israel-war-deif>. Accessed January 11, 2025.

"They send a very strong signal against impunity and a very strong signal to all sides to comply with international humanitarian law, international criminal law and to, above all, protect the rights and safety of civilians," David Scheffer, former ambassador-at-large for war crimes issues during the Clinton administration and a senior fellow at the Council on Foreign Relations, previously told NPR. **Now that arrest warrants have been issued, it is up to the ICC's state parties to enforce the warrants, make the arrests if Netanyahu or others come to their country, and transfer them to the ICC for detention.**

Impact: Enforcing ICC warrants is key to reducing war crimes

Ford, Stuart. "Can the International Criminal Court Succeed? An Analysis of the Empirical Evidence of Violence Prevention." UIC School of Law, 2020,
<https://repository.law.uic.edu/cgi/viewcontent.cgi?article=1790&context=facpubs>. Accessed January 11, 2025.

She found that civilian death tolls did decrease in the aftermath of ICC intervention.
"The results of this analysis suggest that the ICC's involvement in Libya had a negative

and statistically significant effect on the number of fatalities.” And, this effect was cumulative. The more action the ICC took, the lower the rate of civilian fatalities. Of course, ICC involvement did not stop the violence against civilians, but it did correlate with a statistically significant reduction in that violence.

Analysis: Again, this argument is similar to other arguments about the United States making it easier for the court to function. This one focuses on the court’s ability to serve warrants and notes that the United States has a unique ability to pressure other countries into complying with warrants.

PRO: Acceding to the Rome Statute is compatible with the United States Constitution

Argument: Ratifying the Rome Statute is perfectly compatible with the United States Constitution as there is a significant amount of precedent showing that the United States can join international courts and institutions.

Warrant: The United States has historically claimed that the Rome Statute is incompatible with the Constitution.

Casey, Lee. "The Case Against Supporting the International Criminal Court." Washington University School of Law, 2018, <https://law.washu.edu/wp-content/uploads/2018/10/The-Case-Against-Supporting-the-International-Criminal-Court.pdf>. Accessed January 11, 2025.

With respect to the Constitutional objections, by joining the ICC Treaty, the United States would subject American citizens to prosecution and trial in a court that was not established under Article III of the Constitution for criminal offenses otherwise subject to the judicial power of the United States. This, it cannot do. As the Supreme Court explained in the landmark Civil War case of *Ex parte Milligan* (1866), reversing a civilian's conviction by a military tribunal, "[e]very trial involves the exercise of judicial power," and courts not properly established under Article III can exercise "no part of the judicial power of the country."

Warrant: This claim is not accurate – Our participation in other organizations proves.

Reeves, Teresa. "A Global Court? U.S. Objections to the International Criminal Court and Obstacles to Ratification." Human Rights Brief, 2000,

<https://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1472&context=hrbrief>. Accessed January 11, 2025.

The Rome Statute does not deny U.S. citizens their rights under the U.S. Constitution. According to Yale Law School Professor Ruth Wedgwood's extensive study, there "is no forbidding constitutional obstacle to U.S. participation in the treaty." Wedgwood cites five reasons for this conclusion, three of which will be addressed here. **First, historically the United States has signed treaties allowing U.S. participation in international tribunals that could affect the lives and property of U.S. citizens. For example, the North American Free Trade Agreement and the World Trade Organization subject U.S. businesses to judicial processes that do not mirror those found in an American courtroom, i.e., fact-finding by a panel of judges rather than by a jury.**

Warrant: In fact, this has been confirmed by researchers at the Department of Justice.

Scheffer, David and Ashley Cox. "Constitutionality of the Rome Statute of the International Criminal Court." *Journal of Criminal Law and Criminology*, 2008, <https://www.ojp.gov/ncjrs/virtual-library/abstracts/constitutionality-rome-statute-international-criminal-court>. Accessed January 11, 2025.

The authors of this article argue that ratification following adoption of implementing legislation would not violate Article III, Section 1. They propose a ratification strategy that would be grounded in the Article II, Section 2 treaty power and the Article 1, Section 8, Clause 10 Define and Punish Clause of the Constitution. It would also include amendments to the Federal criminal code and military code, so as to ensure the ability of U.S. courts to investigate and prosecute the atrocity crimes that compose the subject-matter jurisdiction of the Rome Statute. Fundamental due process rights are protected by the Rome Statute and its Rules of Procedure and Evidence, and the absence of jury trials before the ICC does not violate the U.S. Constitution. Also, the

complementarity regime of the Rome Statute enables the United States to prosecute any American citizen or other individual within its jurisdiction before a jury and in accordance with the full range of due process rights guaranteed by the U.S. Constitution and American jurisprudence.

Impact: The US joining means that US crimes could be prosecuted, shifting the court's focus

Vindman, Yevgeny. "It's Time for the United States to Join the ICC." *Foreign Policy*, April 11, 2023, <https://foreignpolicy.com/2023/04/11/russia-putin-ukraine-war-icc-united-states-crimes-arrest-warrant/>. Accessed January 11, 2025.

The greatest concern about cooperating with the ICC is that doing so would expose U.S. service members and leaders to politically motivated prosecution by foreign bureaucrats. But the court operates on the principle of complementarity, meaning that the ICC will not exercise jurisdiction when a state exercises its own prerogatives to investigate and prosecute potential war crimes. The ICC steps in only when a state fails to use its own national criminal justice apparatus to handle war crimes, as is currently the case in Russia. **In the United States, however, the robust military justice systems ensure that crimes are investigated and prosecuted as a matter of maintaining order and discipline within the armed forces, making ICC jurisdiction against U.S. military personnel unlikely, so long as the United States continues to police its own behavior.**

Impact: War crimes are empirically lower in post-ratification countries

Appel, Benjamin. "In the Shadow of the International Criminal Court: Does the ICC Deter Human Rights Violations?" *Journal of Conflict Resolution*, 2018, https://unlv-primo.hosted.exlibrisgroup.com/permalink/f/6tvje6/TN_cdi_proquest_journals_1976095460. Accessed January 2, 2025.

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 nonratifiers.** 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.

Analysis: This is a defensive argument that preempts the NEG argument that the Rome Statute somehow violates the United States Constitution. It can effectively function as rebuttal or as an overview in the late round – Don't feel constrained to simply using this argument in your case!

PRO: US support of the ICC restrains Putin in Ukraine

Argument: If the U.S. accedes to the Rome Statute, it empowers the ICC to act against bad actors like Russia in the Ukraine war.

Warrant: The US joining would provide important assistance

Vindman, Yevgeny. "It's Time For The United States To Join The ICC." Foreign Policy.

April 11, 2023. Web. December 10, 2024.

<<https://foreignpolicy.com/2023/04/11/russia-putinukraine-war-icc-united-states-crimes-arrest-warrant/>>.

On March 17, the International Criminal Court (ICC) took a momentous step. For only the second time in its history, the ICC issued a public arrest warrant for a sitting head of state: Russian President Vladimir Putin. No sanctions, weapons, or ammunition delivered to Ukraine since the start of Russia's full-scale invasion in February 2022 has targeted Putin as directly as this action. And even if the immediate prospect of Putin appearing in the dock at the Hague is remote, there will still be significant ramifications resulting from the ICC's announcement. Founded in 1998 after nearly a century of major-power wars and conflicts, the ICC was designed to hold individuals accountable for genocide, war crimes, and other serious international crimes. The ICC is a critical pillar of the rules-based international order and has played an important role in getting justice for victims of regimes that flaunt human rights and international norms. However, despite touting the importance of this order and having called for accountability for Russia's war crimes, the United States has declined to join or recognize the jurisdiction of the ICC in the 25 years since its founding. **Even if the arguments against cooperation with the ICC were compelling in the past, the costs of not supporting the court are now too high in a world where authoritarian empires are once again embracing aggressive neocolonial warfare against their sovereign**

neighbors. The time for straddling the fence is over: The United States should cease its objections and robustly support—and perhaps even finally join—the ICC. Doing so will not only benefit justice efforts in Ukraine but will also strengthen U.S. foreign policy and international leadership for decades to come. Despite being an active proponent of the rules-based order, the United States is an outlier in the democratic world when it comes to its lack of support for the ICC. The ICC's founding treaty, the Rome Statute, boasts a broad geographical coalition of 123 state party signatories—including many of the United States' strongest allies, such as Japan and the United Kingdom. The United States has thus far provided several justifications for not joining the treaty, yet many still see this absence as hypocrisy.

Warrant: Joining the ICC doesn't restrain US military dominance---it's a strategic decision that strengthens the credibility of US leadership and the broader rules-based order

Vindman, Yevgeny. "It's Time For The United States To Join The ICC." Foreign Policy.

April 11, 2023. Web. December 10, 2024.

<<https://foreignpolicy.com/2023/04/11/russia-putinukraine-war-icc-united-states-crimes-arrest-warrant/>>.

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Because the United States is already compliant with core principles of international criminal law, supporting and even joining the ICC would have very little practical effect on U.S. operations. Support for the ICC would, however, eliminate the argument that the United States is hypocritical and send a clear message that the United States plays by the same rules that it expects of all other international actors.

Warrant: The US is being hypocritical and it has a moral obligation for protecting global security

Burke, Anthony. "An Ethics Of Global Security." *Journal of Global Security Studies* 1:1. 2016. Web. December 11, 2024. <doi: 10.1093/jogss/ogv004>.

This article welcomes this journal's focus on questions of global security—a framing that stands in contrast to an existing emphasis on international relations (IR) thought on national and international approaches to security. What is needed is an approach to security that recognizes the global contexts and dynamics and the limits of existing institutions as both referent objects and agents of security. As Dan Bray (2013), among others, has argued, **the increasingly transnational, global nature of key challenges—from economic crises and nuclear proliferation to climate change and disease—necessitates a shift toward a genuinely global perspective. This global perspective is a fourfold one: of scale, ontology, governance, and morality. Our scale must be planetary to address globalized or dramatically transnationalized systems of insecurity—like nuclear weapons, ecological collapse, economic crisis, and terrorism. Ontologically, state sovereignty can no longer be privileged, and fundamental policy aims must shift from national security to global security. Global governance must become an intensified focus of reform and effort. Finally, we must enlarge our sphere of moral concern: Global cooperation must involve affected communities and aim to secure humanity and the biosphere itself** (Burke 2013, 2015a).

Impact: Exporting American values is key rather than playing global police

Kagan, Robert. "The Price Of Hegemon." Foreign Affairs. 2022. Web. December 13, 2024. <<https://www.foreignaffairs.com/articles/ukraine/2022-04-06/russia-ukraine-war-pricehegemony>>.

For critics of American power, the best way for the United States to cope is for it to retrench its position in the world, divest itself of overseas obligations that others ought to handle, and serve, at most, as a distant offshore balancer. These critics would grant China and Russia their own regional spheres of interest in East Asia and Europe and focus the United States' attention on defending its borders and improving the well-being of Americans. But there is a core of unrealism to this “realist” prescription: it doesn’t reflect the true nature of global power and influence that has characterized most of the post–Cold War era and that still governs the world today. The United States was already the only true global superpower during the Cold War, with its unparalleled wealth and might and its extensive international alliances. The collapse of the Soviet Union only enhanced U.S. global hegemony—and not because Washington eagerly stepped in to fill the vacuum left by Moscow’s weakness. Instead, the collapse expanded U.S. influence because the United States’ combination of power and democratic beliefs made the country attractive to those seeking security, prosperity, freedom, and autonomy. The United States is therefore an imposing obstacle to a Russia seeking to regain its lost influence. What has happened in eastern Europe over the past three decades is a testament to this reality. Washington did not actively aspire to be the region’s dominant power.

PRO: A lack of US involvement in international law has negative implications for international law's future

Argument: International law is not possible without buy-in from the most major international actors, like the United States.

Warrant: International law alone is ineffective.

True-Frost, Cora. "International Law Under Pressure." Syracuse University College of Law. July 08, 2024. Web. December 13, 2024.
<<https://law.syracuse.edu/news/international-lawunder-pressure/>>.

International law sets the ground rules for state collaboration and conflict resolution. In the tumultuous times in which we are living, the processes for establishing and enforcing those rules are under pressure. It's an increasingly multipolar global environment, in which strong countries take action in the absence of a clear international leader; uncertainty, not order, increasingly reigns. With its five permanent, veto-wielding members, the United Nations Security Council (SC or Council) sits at the apex of international power.¹ It is the sole UN organ mandated to take decisive and legally binding international-level enforcement action with the aim of avoiding conflict and maintaining international peace and security.² For some time now, the SC has mostly been unable and unwilling to respond to multiple threats to international peace and security. These threats include global problems such as COVID-19, climate change, cyberwarfare, and interstate conflicts, all of which certainly require interstate comity and global solutions based on international law.

Warrant: The ICC is key to preserving international law

Powell, Catherine. "International Criminal Court Plays Important Role In Global Rule Of Law." Council on Foreign Relations. September 11, 2018. Web. December 13, 2024. <<https://www.cfr.org/article/international-criminal-court-plays-important-role-globalrule-law>>.

The idea behind creating the ICC emerged from the ashes of World War II and the Nazi Holocaust. It took another half century after the founding of the UN before the ICC came into effect. Its establishment not only offers a way to punish war atrocities, but also deters would-be abusers from even contemplating committing genocide and other serious international crimes. International criminal justice is important not only to secure justice for victims, but also to preserve rule of law and promote greater peace, security, and stability in an otherwise tumultuous world. When courts dispense justice, aggrieved individuals and communities are less likely to take matters into their own hands, which can escalate into serious conflicts with spillover effects for all. National courts can occasionally prosecute these crimes, but are sometimes not willing or able to do so. While the ICC is a relatively new institution, it has investigated numerous allegations and prosecuted several cases, leading to a handful of convictions thus far in cases ranging from the use of child soldiers to the war crime of murder.

Warrant: US acceding is key to success

Hughes, Justin. "The Charming Betsy Canon, American Legal Doctrine, And The Global Rule Of Law." Vanderbilt Journal of Transnational Law. 2020. Web. December 13, 2024. <<https://scholarship.law.vanderbilt.edu/vjtl/vol53/iss4/1/>>.

Turning to domestic rule of law in other countries—and those countries implementing in their domestic laws the treaty obligations they have undertaken, *pacta sunt servanda*, it should be clear that the Charming Betsy doctrine provides an example for other countries. Each American court decision interpreting an ambiguous statute to fulfill our

treaty obligations sends a signal to judges in other jurisdictions to do the same. One can debate how strong a signal and how much American courts can lead by example, but there is no question that the American legal system—judicial decisions,¹²⁴ regulations,¹²⁵ and statutes¹²⁶—provides an important role model for other countries. Strengthening this global rule of law serves both the United States' ideals and its pragmatic needs. Idealistically, in the post-1945 world the thicket of international legal norms has grown more vast and dense—and that thicket of norms has been largely shaped by the United States.¹²⁷ The great international project of the United States—the Pax Americana—has not just been relative peace, but the spread of democratic institutions and human rights as well as the increasing economic prosperity of the world based on increasingly transparent, predictable market conditions. It may be diplomatically awkward to discuss, but it is simply hard to overstate how much the post-1945 international human rights, trade, and finance regimes have been built along American outlines.¹²⁸ The rule of law's strengthening in as many jurisdictions as possible undergirds these projects. On the practical side, nothing is more important for the efficient, affordable maintenance of America's far-flung geopolitical and commercial interests than rule of law in as many of those jurisdictions as possible.

Impact: International law is key to solving global conflicts

Herd, Graeme. "Great Powers: Towards A “cooperative Competitive.” Geneva Centre for Security Policy. 2010. Web. December 13, 2024.
<<https://www.taylorfrancis.com/chapters/mono/10.4324/9780203865828-22/greatpowers-towards-cooperative-competitive-future-world-order-paradigm-graeme-herdgraeme-herd>>.

Given the absence of immediate hegemonic challengers to the US (or a global strategic catastrophe that could trigger US precipitous decline), and the need to cooperate to address pressing strategic threats - the real question is what will be the nature of

relations between these Great Powers? Will global order be characterized as a predictable interdependent oneworld system, in which shared strategic threats create interest-based incentives and functional benefits which drive cooperation between Great Powers? This pathway would be evidenced by the emergence of a global security agenda based on nascent similarity across national policy agendas. In addition, Great Powers would seek to cooperate by strengthening multilateral partnerships in institutions (such as the UN, G20 and regional variants), regimes (e.g., arms control, climate and trade), and shared global norms, including international law.

PRO: The ICC can advance values and goals shared by the US.

Argument: The ICC can use its international power to advance the ideals of the United States.

Warrant: The ICC values justice and a rules-based international order.

Vindman, Yevgeny. "It's Time for the United States to Join the ICC," April 11, 2023, Foreign Policy, <https://foreignpolicy.com/2023/04/11/russia-putin-ukraine-war-icc-united-states-crimes-arrest-warrant/>. Accessed January 8, 2025.

Even if the arguments against cooperation with the ICC were compelling in the past, **the costs of not supporting the court are now too high in a world where authoritarian empires are once again embracing aggressive neocolonial warfare against their sovereign neighbors.** The time for straddling the fence is over: **The United States should cease its objections and robustly support—and perhaps even finally join—the ICC. Doing so will not only benefit justice efforts in Ukraine but will also strengthen U.S. foreign policy and international leadership for decades to come.** But many short-sighted critiques of the ICC miss the larger point that support for this body is not just the morally correct choice; it's also the strategically correct one for U.S. foreign policy. **A demonstrated commitment to accountability will strengthen the United States' own institutions and make U.S. leadership of international institutions more credible and viable.**

Warrant: By not being part of the ICC, the US excuses behaviors that go against its values.

Scheffer, David. "The United States Should Ratify the Rome Statute," July 17, 2023, Lieber Institute at West Point, <https://ieber.westpoint.edu/united-states-should-ratify-rome-statute/>. Accessed January 8, 2025.

There is longstanding American policy that while the United States remains a non-party State to the Rome Statute, the ICC has no jurisdiction over U.S. nationals for actions undertaken even on the territory of a State Party of the Rome Statute. The same standard would apply to any other non-party State (like Russia) and its nationals acting on State Party territory (or territory of a non-party State—like Ukraine—that has fallen under the jurisdiction of the ICC voluntarily or because of a UN Security Council mandate). I term this the “immunity interpretation,” which makes it difficult for the United States to fully embrace the ICC’s investigations of Russian suspects for atrocity crimes (war crimes, crimes against humanity, genocide) committed in Ukraine. **The immunity interpretation reached its peak under the Trump Administration**, with the threat and, in two cases, imposition of sanctions against key personnel of the ICC and foreigners. President Joe Biden repealed the executive order authorizing such sanctions on April 2, 2021, though Secretary of State Antony J. Blinken stated, “**We maintain our longstanding objection to the Court’s efforts to assert jurisdiction over personnel of non-States Parties such as the United States and Israel.**”

Warrant: Joining the ICC embeds US values and promotes accountability.

Scheffer, David. “The United States Should Ratify the Rome Statute,” July 17, 2023, Lieber Institute at West Point, <https://ieber.westpoint.edu/united-states-should-ratify-rome-statute/>. Accessed January 8, 2025.

Those who express concerns about “reciprocity” unfortunately convey an intimidated attitude about the ICC. **Rather than be on the defensive about the ICC, the U.S. Government and particularly the Pentagon should take the offensive and recognize how the ICC in fact advances critical U.S. values, particularly against an aggressor State like Russia. The United States can weigh in and influence gravity requirements at the ICC and how the Prosecutor can best utilize his discretion, not to mention placing an American judge on the bench and perhaps one day greeting an American chief**

prosecutor. Washington can use its diplomatic clout to advance ICC investigative and prosecutorial objectives globally and in ways that are compatible with U.S. foreign policy and global security needs. The ICC should become part of this nation's lawfare strategy. In other words, Washington should weaponize the ICC for worthy objectives—such as justice in Ukraine and Darfur—that reflect critical American values rather than taking an anemic defensive posture towards the Court.

Impact: US values like the rules-based international order are important.

Ellis, Evan R. "Strategic Implications of the Deterioration of the Rules-Based International Order," February 2, 2024, US Army War College Strategic Studies Institute, <https://ssi.armywarcollege.edu/SSI-Media/Recent-Publications/Display/Article/3668233/strategic-implications-of-the-deterioration-of-the-rules-based-international-or/>. Accessed January 8, 2025.

The multiple crises currently playing out in Ukraine, the Middle East, the Taiwan straits, and even Guyana's Essequibo region, reflect a deterioration of the rules-based international order that has served as the foundation for economic growth, technological progress, and the limitation of interstate conflict since the end of the Second World War. The current deterioration is a product of the expansion of PRC economic and other power as the country pursues its interests, complimented by the enabling effect of that pursuit on a range of illiberal states, with distinct agendas, but united by a common interest in limiting the constraints of that order as they pursue their own interests. **Over the long run, the deterioration of the rules-based order undermines democracy and economic progress and facilitates transnational crime and domestic conflict. It may also expand the frequency of inter-state conflict, even in Latin America, in a system in which militarily “stronger” authoritarian regimes increasingly lack constraint in taking what they want from their weaker neighbors.**

Governments in the region may rediscover the relevance of their militaries in defending the nation against external, as well as environmental, criminal, and internal challenges.

Impact: Justice and the rule of law maintain global stability and save lives.

“Rule of Law Essential for Maintaining International Peace, Secretary-General Says at Open Debate, Stressing Security Council’s Critical Role in Upholding Principle,” January 12, 2023, United Nations Secretary-Generals’ Statements, <https://press.un.org/en/2023/sgsm21653.doc.htm>. Accessed January 8, 2025.

From the smallest village to the global stage, the rule of law is all that stands between peace and stability, and a brutal struggle for power and resources. The rule of law protects the vulnerable. It prevents discrimination, harassment and other abuses. It is our first line of defence against atrocity crimes, including genocide. It creates and bolsters trust in institutions. It supports fair, inclusive economies and societies. And it is the basis of international cooperation and multilateralism.

Analysis: Teams can argue that not only does the US remaining a non-party to the ICC weaken the Court, but it also enforces an “immunity doctrine” that excuses all non-party states from being held accountable under lots of international laws. Joining the Court makes it much more effective and helps strengthen the rules-based international order at a moment when that’s particularly necessary. Note that the last card here mentions the UN a lot. The ICC is not a sub-body of the UN, but The Rome Statute, which created the ICC, was negotiated within the UN, meaning it is just one of the UN’s creations that’s intended to enforce the rule of law.

PRO: Accession benefits justice efforts in Ukraine and deters future aggression.

Argument: Right now, the ICC's attempts at investigating war crimes in Ukraine are hampered by the United States' opposition to the court. Modifying our approach makes that investigation more legitimate.

Warrant: The ICC holds countries accountable for violations of international law.

Vindman, Yevgeny. "It's Time for the United States to Join the ICC," April 11, 2023, Foreign Policy, <https://foreignpolicy.com/2023/04/11/russia-putin-ukraine-war-icc-united-states-crimes-arrest-warrant/>. Accessed January 8, 2025.

On March 17, the International Criminal Court (ICC) took a momentous step. For only the second time in its history, the ICC issued a public arrest warrant for a sitting head of state: Russian President Vladimir Putin. No sanctions, weapons, or ammunition delivered to Ukraine since the start of Russia's full-scale invasion in February 2022 has targeted Putin as directly as this action. And even if the immediate prospect of Putin appearing in the dock at the Hague is remote, there will still be significant ramifications resulting from the ICC's announcement. Founded in 1998 after nearly a century of major-power wars and conflicts, the ICC was designed to hold individuals accountable for genocide, war crimes, and other serious international crimes. **The ICC is a critical pillar of the rules-based international order and has played an important role in getting justice for victims of regimes that flaunt human rights and international norms.**

Warrant: Accountability for Russia will deter future aggression by other countries.

Vindman, Yevgeny. "It's Time for the United States to Join the ICC," April 11, 2023, Foreign Policy, <https://foreignpolicy.com/2023/04/11/russia-putin-ukraine-war-icc-united-states-crimes-arrest-warrant/>. Accessed January 8, 2025.

Since World War II, the United States has helped build, reinforce, and lead an international order in which countries play by predictable rules. Conflicts, at least between major powers, are resolved through negotiation and consensus instead of force. **This system of postwar institutions provides a bedrock of stability that has allowed for a climate of relative peace among global powers and economic prosperity for the American public. Russia's aggression in Ukraine is the most serious attack on this system since at least the collapse of the Soviet Union and the greatest threat to peace on the European continent since World War II. As one of the guardrails put in place to maintain the rules-based international order, if the ICC's warrant is ignored, then the other remaining guardrails to prevent illegal warfare may erode, too.** Inversely, abiding by international legal norms, including those enforced by the ICC, has the potential to walk back the damage Russia has already done to the rule of law. If the global community can put up a united front to hold Russia accountable for its crimes, other would-be aggressors—especially Russia's backers in Beijing—would take note.

Warrant: American condemnation of Russia is hollow and useless when we enforce an immunity interpretation regarding non-party states of the ICC.

Scheffer, David. "The United States Should Ratify the Rome Statute," July 17, 2023, Lieber Institute at West Point, <https://ieber.westpoint.edu/united-states-should-ratify-rome-statute/>. Accessed January 8, 2025.

Granted, the Russian invasion of Ukraine has proven to be an inflection point on the issue. **At some stage the hypocrisy of the matter must be acknowledged. It simply is**

implausible to keep arguing the immunity interpretation with a straight face when the criminal assault against Ukraine and its people is so blatant, so widespread, so deadly, so destructive, and so persistent and while the U.S. Congress and the Biden Administration have evolved to support efforts, such as the ICC investigations, to hold Russian officials accountable under international criminal law.

Impact: Moving toward the end of the Russia-Ukraine war is important as it's been extremely deadly.

Binley, Alex and Jonathan Beale. "43,000 troops killed in war with Russia, Zelensky says," December 8, 2024, BBC News,
<https://www.bbc.com/news/articles/c5yv75nydy3o>. Accessed January 8, 2025.

Some 43,000 Ukrainian soldiers have been killed since Russia's full-scale invasion began, Volodymyr Zelensky has said in a rare admission of the extent of the nation's casualties. In a post on social media, the Ukrainian president said 370,000 injuries had been reported, though this figure included soldiers who had been hurt more than once and some of the injuries were said to be minor. He also claimed that 198,000 Russian soldiers had been killed and a further 550,000 wounded.

Impact: Holding Russia accountable can help prevent future war.

Odarchenko, Kateryna and Lesia Zaburanna. "Ending Russian impunity: Why Ukraine needs justice as well as security," October 8, 2024, Atlantic Council,
<https://www.atlanticcouncil.org/blogs/ukrainealert/ending-russian-impunity-why-ukraine-needs-justice-as-well-as-security/>. Accessed January 8, 2025.

With no end in sight to the Russian invasion of Ukraine, some members of the international community are now advocating for a negotiated settlement that risks

rewarding Moscow for its aggression. **The idea of offering the Kremlin concessions is dangerously shortsighted and overlooks the central importance of justice in any future peace settlement. Failing to hold Russia accountable for crimes committed in Ukraine would set a disastrous precedent for the future of international security, and would create the conditions for more war.** Since the start of Russia's full-scale invasion, the Ukrainian authorities have been vocal about the need to document Russian war crimes and bring the perpetrators to justice.

Analysis: Teams can argue that holding Russia accountable for war crimes in Ukraine is very important to international order and security. There are a couple ways to expand the scope of the impact here if desired. First is with the Odarchenko impact card, that does a lot of the analysis for teams on future aggression by other expansionist powers and the danger of turning one outlier war into a whole new era of instability and violence. Second is if teams do their own research to apply the same principles on the importance of strong international law, accountability, and justice, to other crises where violations of IL have been happening (Israel-Palestine, the Sahel, North Korea, Afghanistan, etc).

PRO: The US lends legitimacy to the ICC and strengthens the rule of law.

Argument: The support of the United States helps make the ICC more legitimate as an international organization, strengthening the global liberal order and the rule of law.

Warrant: Lack of US participation calls the legitimacy and power of the ICC into question since the US is a global power.

Wheeler, Caleb H. "In the Spotlight: The Legitimacy of the International Criminal Court," October 22, 2018, International Law Blog,
<https://internationallaw.blog/2018/10/22/in-the-spotlight-the-legitimacy-of-the-international-criminal-court/>. Accessed January 8, 2025.

Recently, the International Criminal Court ('ICC' or 'the Court') has increasingly found itself in the political spotlight. On 10 September John Bolton, a United States National Security Adviser, attacked the Court as 'illegitimate' and claimed that 'for all intents and purposes, the ICC is already dead.' Donald Trump reinforced those contentions in his address to the United Nations General Assembly on 24 September when he asserted that 'the ICC has no jurisdiction, no legitimacy and no authority.'

Warrant: The ICC has only experienced a small amount of success as an institution because it is constrained by its budget, level of cooperation, and not enough backing by strong members of the international community.

"The International Criminal Court and the United States," September 2, 2020, Human Rights Watch, <https://www.hrw.org/news/2020/09/02/qa-international-criminal-court-and-united-states>. Accessed January 8, 2025.

The ICC has so far opened more than two dozen cases, and pre-trial or trial proceedings are ongoing in three cases. However, trials for war crimes and crimes against humanity have only been completed in a handful of cases, with four people convicted and four others acquitted. Some other cases have been dismissed for lack of evidence. Court officials have made a number of missteps and stronger investigations by the ICC prosecutor, better choices in the selection of cases, more efficient proceedings, and more effective outreach with victims and affected communities are needed. The court's leadership took an important step forward in 2019, requesting an independent expert review of its performance. The review, conducted by a panel of nine experts, is expected to be completed by the end of September 2020. **The court also faces steep challenges in carrying out its mandate. Without a police force, it relies on states for cooperation in arrests, and that cooperation has been inadequate. Arrest warrants remain outstanding against 14 individuals. ICC member states have also held back on necessary budget increases even as the court's workload has grown.**

Warrant: In the status quo the ICC hasn't been successful to its full potential.

Goodman, Sarah. "The Effectiveness of the International Criminal Court: Challenges and Pathways for Prosecuting Human Rights Violations," November 8, 2020, Inquiries Journal 12(9), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4228603. Accessed January 8, 2025.

Of the thousands of potential cases that could have been investigated by the International Criminal Court (ICC), only 44 individuals have been indicted, with 45 cases currently before the ICC. Further, only 14 out of the 45 have resulted in a complete proceeding, and only nine were convicted. Scholars in the field have not adequately addressed why cases come before the ICC and how this process may result in a full hearing and verdict. Because of these gaps, empirically-informed

recommendations for areas of improvement for the ICC are also largely absent. To begin to fill these gaps, this research uses a systematic analysis of ICC cases to answer a central question: **Under what conditions is the ICC most likely to be successful in achieving confirmation of charges, where the Prosecutor's efforts result in moving towards a trial? I hypothesize that this comes from state biases, state cooperation, and domestic politics. Case studies from Uganda, Sudan, the Democratic Republic of the Congo, and Mali seem to confirm this hypothesis.**

Impact: The ICC could curb the abuse of power.

"The ICC must become a champion of justice over abuse of power," February 23, 2018, Amnesty International, <https://www.amnesty.org/en/latest/news/2018/02/the-icc-must-become-a-champion-of-justice-over-abuse-of-power/>. Accessed January 9, 2025.

Disturbingly, since 9/11, states support for such ideals has waned. **The Statute adopted in Rome would not see the light of day if the negotiations took place now. Armed conflicts are as prevalent as ever, with civilians continuing to experience the brunt of the violence. "Wars" on terror and drugs, as well as repression and exploitation by state and non-state actors, including corporations, have escalated in almost all corners of the globe. Extremist politics advocating religious and racial hatred, misogyny and persecution of marginalized groups have gained traction in a disturbing number of states. Abuse of power has been exposed almost everywhere that power exists. In this context, the system of international justice developed in Rome should stand as a beacon of hope for accountability – the ICC a powerful mechanism to hold abuse of power in check.** Instead it is barely relevant. This is only partly due to the UN Security Council's shameful record of refusing to refer situations like Syria to the ICC Prosecutor.

Impact: The ICC could provide international justice and peace.

Gegout, Catherine. "The International Criminal Court: limits, potential and conditions for the promotion of justice and peace," June 24, 2013, Third World Quarterly 34 (5), <https://www.tandfonline.com/doi/full/10.1080/01436597.2013.800737>. Accessed January 9, 2025.

Despite all this, the ICC does have the potential to become a Court that provides international justice and peace. It is a court with an ethical aim, that is, the prosecution of criminals, and it is gaining in legitimacy. It could attract states which want to show their support for the defence of human rights. The Court sometimes does work independently from state leaders: on its own initiative it is focusing on the actions of regime leaders in Kenya and Ivory Coast. But the ICC is not only centred on Africa, it has also considered investigating crimes committed in other regions of the world, such as South America, Asia and the Middle East. The work of the ICC could create a long-term deterrent effect, that is, potential criminals could fear the consequences of their acts, especially once they are no longer in positions of power.

Analysis: Teams can argue that by having the US fully on board, the ICC gains credibility and power to pursue its agenda. This can be impacted out in a variety of ways. There is lots of good uniqueness evidence that says the ICC has potential for solving X and Y problems, but is hampered by the lack of international buy-in from powerful actors like the US.

PRO: Accession supports US alliances and removes foreign policy inconsistencies.

Argument: Joining the ICC would strengthen the United States' relationship with its allies and help streamline our foreign policy.

Warrant: US allies are almost universally parties to the Rome Statute and support cooperation in Court settings.

Scheffer, David. "The United States Should Ratify the Rome Statute," July 17, 2023, Lieber Institute at West Point, <https://ieber.westpoint.edu/united-states-should-ratify-rome-statute/>. Accessed January 8, 2025.

In a recent Senate Appropriations defense subcommittee hearing, Senators Lindsay Graham (R-SC) and Dick Durbin (D-IL) pressed Secretary of Defense Lloyd Austin on the Pentagon's resistance to the legal mandate. Austin said that he was concerned about the issue of reciprocity. **Such views are old think and reflect the [outdated] concern that someday the tables will be turned and the ICC will be investigating and prosecuting U.S. actions and that we would not want other governments to cooperate with the ICC in its investigative work. The cooperation train left the station decades ago. All of America's allies, with the exception of Israel and Turkey, are States Parties to the Rome Statute and are obligated to cooperate with ICC investigations.**

Warrant: The overwhelming majority of US allies are parties to the ICC.

Sampson, Eve. "Why Some Countries Won't Join the I.C.C." November 21, 2024, New York Times <https://www.nytimes.com/2024/11/21/world/middleeast/us-icc-member-countries.html>. Accessed January 8, 2025.

More than 120 countries are members of the court. The United States, China, India, Russia and Israel are not. The International Criminal Court is the world's highest criminal court, prosecuting warlords and heads of state alike. But several powerful countries, including the United States, do not recognize its authority and refuse to become members. The court was created over two decades ago to hold people accountable for crimes against humanity, war crimes and genocide under the Rome Statute, a 1998 treaty. On Thursday, it issued warrants for Prime Minister Benjamin Netanyahu of Israel, Israel's former defense minister, Yoav Gallant, and Muhammad Deif, Hamas's military chief.

Warrant: Accession reduces hypocrisy and shows that the US plays by the same rules as all other international actors.

Vindman, Yevgeny. "It's Time for the United States to Join the ICC," April 11, 2023, Foreign Policy <https://foreignpolicy.com/2023/04/11/russia-putin-ukraine-war-icc-united-states-crimes-arrest-warrant/>. Accessed January 8, 2025.

Because the United States is already compliant with core principles of international criminal law, supporting and even joining the ICC would have very little practical effect on U.S. operations. Support for the ICC would, however, eliminate the argument that the United States is hypocritical and send a clear message that the United States plays by the same rules that it expects of all other international actors.

Impact: Strengthening our alliances and aligning our principles increases US security.

Hannah, Harry L. "The US needs to reinvent its alliances. Today's threats demand it," October 22, 2021, Atlantic Council, <https://www.atlanticcouncil.org/blogs/new->

atlanticist/the-us-needs-to-reinvent-its-alliances-todays-threats-demand-it/.

Accessed January 9, 2025.

When it comes to working with allies, business-as-usual won't cut it anymore for the United States—especially in the face of growing Chinese and Russian competition and expanding systemic, regional, and terrorist threats. This is why the United States needs to make strengthening its alliances, particularly in Europe and the Indo-Pacific, a core element of its national-security strategy. Before World War II, alliances had been composed of two or more countries cooperating in an additive fashion to independently combat a specific threat: Country A plus country B yielded the alliance's total capability and value. **But during the Cold War, the United States began designing its alliances differently, with the understanding that integrated partners are greater than the sum of their parts.** Now, the strengths of country A plus country B are multiplied by the extent to which the partners intertwine their military organizations—including their staffs, rules, standards, and training—and share their capabilities.

Impact: Hypocrisy and lack of alignment with allies weakens the US's international position.

Dunne, Charles W. "Joe Biden's Imaginary Middle East Policy," August 24, 2023, Arab Center Washington DC, <https://arabcenterdc.org/resource/joe-bidens-imaginary-middle-east-policy/>. Accessed January 9, 2025.

No American president is a stranger to hypocrisy, especially when it comes to the Middle East, and Joe Biden is well known to be prone to gaffes and rhetorical flights of fancy. But in this case Biden's adherence to obsolete diplomatic formulations and wishful thinking is more than just political double talk or forgivable hyperbole. **It produces confusion among both friends and adversaries in the region and weakens America by making Washington appear feckless or naive. The failure of bold, yet risky and improbable initiatives creates the appearance of incompetence and fosters**

distrust in US diplomacy. This damages US credibility and leadership, prompting allies to look for support elsewhere, as Saudi Arabia and others have done with China.

Imagination is good for the spirit, and sometimes even for foreign policy. But when it comes to a region as volatile and cynical as the Middle East, it can do more harm than good, for both the region and for US interests.

Analysis: The Sampson card begins to touch on this point, but every single one of the US's NATO allies is party to the statue. The "no-shows" include China and Russia but also Cuba, Iran, Israel, Saudi Arabia, and North Korea. Teams can argue that part of the decision on whether or not to ratify the statute is a decision about what kind of company the US wants to keep, in terms of our perceptions of justice and order.

PRO: The ICC's oversight strengthens the US justice system and holds it accountable.

Argument: The ICC would provide much-needed oversight to the United States justice system, strengthening the rule of law in the United States.

Warrant: Right now the ICC can almost never exercise accountability over the US.

Wheeler, Caleb H. "In the Spotlight: The Legitimacy of the International Criminal Court," October 22, 2018, International Law Blog,
<https://internationallaw.blog/2018/10/22/in-the-spotlight-the-legitimacy-of-the-international-criminal-court/>. Accessed January 8, 2025.

The United States is not a state party to the International Criminal Court and as such the Court can only apply jurisdiction over its populace in two situations. The first is if an American citizen commits a crime on the territory of a state that is a party to the Statute. The second would arise following a Security Council referral to the Court of a situation occurring in the United States. However, as a permanent member, the United States can veto any Security Council decision, making it functionally impossible that there ever will be such a referral. **Further, The United States has negotiated over 100 bilateral agreements in which states parties to the Rome Statute have agreed that they will not surrender Americans found on their territory to the International Criminal Court. While it is not strictly true that the International Criminal Court can never exercise jurisdiction over Americans accused of international crimes, it can only happen under a narrow set of circumstances.**

Warrant: In many cases, US actions that would warrant ICC prosecution would warrant internal investigations as well; joining the ICC aligns the two systems.

Scheffer, David. "The United States Should Ratify the Rome Statute," July 17, 2023, Lieber Institute at West Point, <https://ieber.westpoint.edu/united-states-should-ratify-rome-statute/>. Accessed January 8, 2025.

The Pentagon should embrace the duty of the law and when necessary justify the conduct of warfare to Congress, to the public, and even to the courts during the adjudication of relevant cases. **A skeptical fear of being accused of atrocity crimes is a long way from the reality of credibly being investigated or prosecuted for such international crimes. The world has changed, and any presumption of the right to commit atrocity crimes, or to be shielded from accountability, is quite antiquated. If the U.S. military dared to plan and implement genocide, crimes against humanity, or serious war crimes anywhere in the world, then such action would demand investigation and prosecution at home with enforcement of federal and military law.**

Warrant: The ICC can complement the US justice system while holding it accountable.

Vindman, Yevgeny. "It's Time for the United States to Join the ICC," April 11, 2023, Foreign Policy <https://foreignpolicy.com/2023/04/11/russia-putin-ukraine-war-icc-united-states-crimes-arrest-warrant/>. Accessed January 8, 2025.

The greatest concern about cooperating with the ICC is that doing so would expose U.S. service members and leaders to politically motivated prosecution by foreign bureaucrats. But the court operates on the principle of complementarity, meaning that the ICC will not exercise jurisdiction when a state exercises its own prerogatives to investigate and prosecute potential war crimes. **The ICC steps in only when a state fails to use its own national criminal justice apparatus to handle war crimes, as is currently the case in Russia. In the United States, however, the robust military justice systems ensure that crimes are investigated and prosecuted as a matter of maintaining order**

and discipline within the armed forces, making ICC jurisdiction against U.S. military personnel unlikely, so long as the United States continues to police its own behavior.

Impact: ICC accountability can ensure the US adheres to international laws about war.

Saul, Neil A. "The ICC's Potential to Check US Warmongering," January 14, 2022, Inkstick International Affairs, <https://inkstickmedia.com/the-iccs-potential-to-check-us-warmongering/>. Accessed January 9, 2025.

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).**

Impact: State parties to the ICC strengthen their internal justice systems as a result.

Saul, Neil A. "The ICC's Potential to Check US Warmongering," January 14, 2022, Inkstick International Affairs, <https://inkstickmedia.com/the-iccs-potential-to-check-us-warmongering/>. Accessed January 9, 2025.

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**

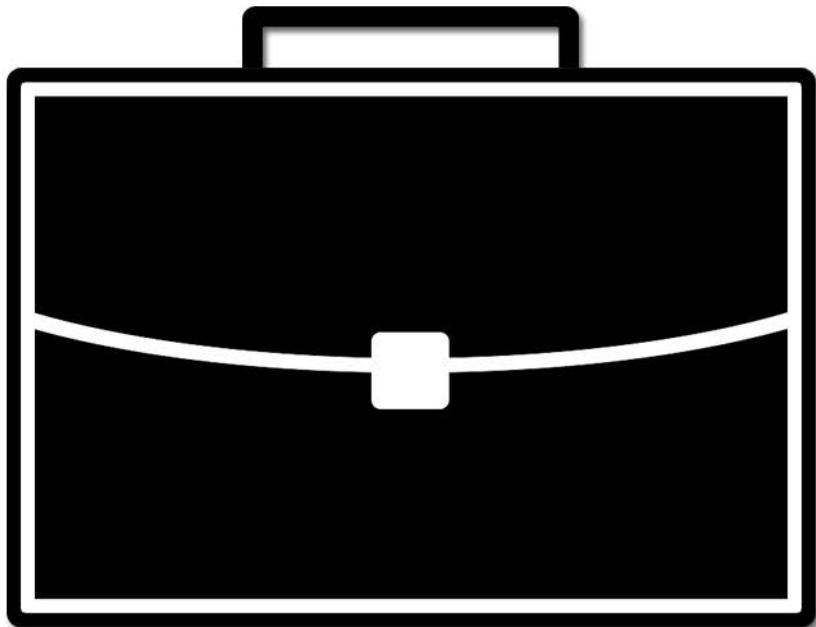
arrests and convictions isn't necessarily a measure of success either. Human rights scholars Geoff Dancy and Kathryn Sikkink have found evidence that state parties who sign on to the Rome Statute are much more likely to adopt atrocity laws into their own domestic penal codes with the technical assistance 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.

Analysis: The fact that the US has not joined the ICC means the ICC can almost never hold it accountable for violations of international law. The Saul card provides helpful analysis for how joining the ICC can be a tool to curb US military overreach and promote restraint.

Champion Briefs

February 2025

Public Forum Brief



Pro Responses to Con Arguments

A/2: The US could be politically targeted by the ICC.

Delink: If the ICC was going to target the US, they would already be doing so.

Warrant: The ICC criminal court can issue a warrant for anyone that is connected to a crime occurring in its jurisdiction.

"Understanding the International Criminal Court." International Criminal Court, 2020,

<https://www.icc-cpi.int/sites/default/files/Publications/understanding-the-icc.pdf>. Accessed January 5, 2025.

12. Who can be prosecuted before the ICC? The ICC prosecutes individuals, not groups or States. **Any individual who is alleged to have committed crimes within the jurisdiction of the ICC may be brought before the ICC. In fact, the Office of the Prosecutor's prosecutorial policy is to focus on those who, having regard to the evidence gathered, bear the greatest responsibility for the crimes**, and does not take into account any official position that may be held by the alleged perpetrators. The Prosecutor's policy is to focus on those who bear the greatest responsibility for the crimes. The Office of the Prosecutor does not take into account any official position that may be held by the alleged perpetrators. 13. If those who bear the greatest responsibility hold high political or military office, are they not exempt from prosecution? Can they not be granted immunity or amnesty? **No one is exempt from prosecution because of his or her current functions or because of the position he or she held at the time the crimes concerned were committed. Acting as a Head of State or Government, minister or parliamentarian does not exempt anyone from criminal responsibility before the ICC.** In some circumstances, a person in a position of authority may even be held responsible for crimes committed by those acting under his or her command or orders. Likewise, amnesty cannot be used as a defence before the ICC. As such, it cannot bar the Court from exercising its jurisdiction.

Warrant: For example, Putin has an arrest warrant out for him for actions in Ukraine despite Russia not being party to the ICC.

Corder, Mike & Casert, Raf. International Court Issues War Crimes Warrant for Putin.”

AP News, March 17, 2023, <https://apnews.com/article/icc-putin-war-crimes-ukraine-9857eb68d827340394960eccf0589253>. Accessed January 7, 2025.

The International Criminal Court said Friday that it has issued an arrest warrant for Russian President Vladimir Putin for war crimes, accusing him of personal responsibility for the abductions of children from Ukraine. It was the first time the global court has issued a warrant against a leader of one of the five permanent members of the U.N. Security Council. The ICC said in a statement that Putin “is allegedly responsible for the war crime of unlawful deportation of (children) and that of unlawful transfer of (children) from occupied areas of Ukraine to the Russian Federation.” The move was immediately dismissed by Moscow — and welcomed by Ukraine as a major breakthrough. **Its practical implications, however, could be limited as the chances of Putin facing trial at the ICC are highly unlikely because Moscow does not recognize the court’s jurisdiction or extradite its nationals.**

Warrant: Most potential crimes committed by the US occur in other countries.

“Q&A: The International Criminal Court and the United States.” Human Rights Watch, September 2, 2020, <https://www.hrw.org/news/2020/09/02/qa-international-criminal-court-and-united-states#2>. Accessed January 6, 2025.

There are limited situations in which the ICC has jurisdiction over the nationals of countries, such as the US, that have not joined the Rome Statute. This includes when a citizen of a non-member country commits war crimes, crimes against humanity, and

genocide on the territory of an ICC member country. That's why US citizens may be subject to the court's jurisdiction as it investigates alleged grave crimes that took place in Afghanistan, which is a state party, or in Poland, Lithuania, and Romania, which are also states parties. There is nothing unusual in this. US citizens who commit crimes abroad are already subject to the jurisdiction of foreign courts. This is a basic and well established principle of international law. Countries that ratify the Rome Statute are simply delegating their authority to prosecute certain grave crimes committed on their territory to an international court. By providing accountability for war crimes, the ICC promotes respect for the laws of war, which protect civilians as well as soldiers.

Warrant: No US personnel or office has ever had a warrant for them from the ICC.

Klobucista, Claire & Ferragamo, Mariel. "The Role of the ICC." Council on Foreign Relations, November 22, 2024, <https://www.cfr.org/backgrounder/role-icc>. Accessed January 5, 2025.

In 2002, Congress passed and President Bush signed the American Service-Members' Protection Act, which required the government to cut off financial assistance to ICC members who would agree to surrender U.S. personnel to the ICC. The law also authorized the president to use all means necessary to free Americans detained by the ICC. The Bush administration struck bilateral agreements with dozens of countries obliging them not to hand over U.S. personnel. **To date, the ICC has never issued an arrest warrant for any U.S. official.**

Delink: The US's power makes it very unlikely that the Court would take political actions to upset the United States.

Warrant: The US uses soft power to get what they want.

Pulte, Bobby. "What Is Soft Power, and How Does the United States Use It?" Medium, November 14, 2024, <https://medium.com/@bobbypulte/what-is-soft-power-and-how-does-the-united-states-use-it-0da04e6d3ba2>. Accessed January 6, 2025.

Soft power has been an important tool for the United States in achieving its geopolitical goals, from shaping global public opinion to fostering diplomatic ties. Cultural influence, education, humanitarian aid, international cooperation, and more have helped the U.S. further establish itself as a leading force in global affairs. The challenges of maintaining a consistent and credible image, especially in the face of political and military actions, require strategic planning to ensure that soft power remains a cornerstone of American foreign policy.

Warrant: This soft power has been especially used when it comes to the ICC.

Mathur-Ashton, Aneeta. "The Complicated Relationship Between the U.S. and the ICC, Explained." U.S. News and World Report, May 23, 2024, https://www.usnews.com/news/national-news/articles/2024-05-23/the-complicated-relationship-between-the-u-s-and-the-icc-explained?utm_source=chatgpt.com. Accessed January 5, 2025.

Hafetz says the U.S. has “significant” leverage when it comes to the court. “The ICC relies on states to cooperate and to assist its investigations. I think the U.S., given its power, given the size of its military-intelligence apparatus, is important to the ICC’s work.” Aksanova adds that, despite not being a party to the court, there is a “soft power” the U.S. has that can be brought to bear given the current situation. She says the U.S. has some enforcement powers that “can assist in finding and surrendering suspects to the court,” as it did with Ntaganda and Ongwen. **But she notes that the U.S. can also work against the ICC to pressure its allies in Europe not to comply. And the**

threats of U.S. sanctions stand to have a chilling effect on those who might potentially cooperate with prosecutors.

Warrant: The Afghanistan investigations empirically prove this soft power influence.

Mathur-Ashton, Aneeta. "The Complicated Relationship Between the U.S. and the ICC, Explained." U.S. News and World Report, May 23, 2024,
https://www.usnews.com/news/national-news/articles/2024-05-23/the-complicated-relationship-between-the-u-s-and-the-icc-explained?utm_source=chatgpt.com. Accessed January 5, 2025.

U.S. relations with the court under the Biden administration improved substantially. The White House soon after inauguration in April 2021 revoked the Trump executive order issuing sanctions. **Khan replaced former ICC chief prosecutor Fatou Bensouda and announced he would “deprioritize” the U.S. aspect of the court’s investigation into the war in Afghanistan in favor of offenses committed by the Taliban, an Islamic State group affiliate and others.** Aksanova says Khan dropped the cause citing a provision in the Rome Statute that allows for ending investigations “if it's not in the interest of justice.”

Turn: Joining the Court would allow the US to exercise more influence over the Court.

Warrant: The US would be able to control internal processes of the Court by joining the Court.

Sewall, Sarah & Kaysen, Carl. "The US and the International Criminal Court: The Choices Ahead." American Academy of Arts and Sciences, January, 1999,
<https://www.amacad.org/publication/us-and-international-criminal-court-choices-ahead>. Accessed January 6, 2025.

As a purely pragmatic matter, there are stronger arguments for joining the Court in order to shape it from the inside, as the United States has done in the case of other major international institutions. If the United States joined the ICC, it could help nominate, select and dismiss ICC Judges and Prosecutors, helping ensure the competence of those who will carry out ICC responsibilities. Becoming a State Party also would allow the United States to participate in efforts to define the crime of aggression, or any potential new crime of ICC jurisdiction. **And while the United States could not control the Assembly of States Parties, America's influence certainly would be stronger if it supported the institution.** Even ICC skeptics should be able to see that practical American interests are better served by engaging, not fighting, the Court.

Analysis: These three responses are good because they demonstrate how the politicized ICC wouldn't affect the United States even if the United States were to become a member. The first response shows how an investigation into the United States would have already happened if it was going to happen. The second response proves that the ICC won't mess with the US. The final response takes all of these delinks and turns them to say that the US will now have even more influence by joining the Court; thus, it will be able to further advance its agenda on the international stage.

A/2: The US acceding to the Rome Statute would further politicize the ICC.

Delink: The US already is exercising great power over the Court.

Warrant: The US uses soft power to get what they want.

Pulte, Bobby. "What Is Soft Power, and How Does the United States Use It?" Medium, November 14, 2024, <https://medium.com/@bobbypulte/what-is-soft-power-and-how-does-the-united-states-use-it-0da04e6d3ba2>. Accessed January 6, 2025.

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Turn: The US joining the Court would legitimize US actions on the international stage.

Warrant: Powerful nations have their actions legitimized by international organizations.

Baldota, Khushi. "Why Powerful States Act Through International Organizations."

Diplomatist, June 5, 2021, <https://diplomatist.com/2021/06/05/why-powerful-states-act-through-international-organizations/>. Accessed January 6, 2025.

Powerful nations are required to grant independence to an IO in exchange for legitimizing their actions on the international level. This allows the IOs to function on the basis of values and rules that are acceptable to all member states, many of which lack the means to project their influence on their own. In this fashion, the creation of an IO platform introduces an opportunity for smaller nations to form alliances and partnerships which would have otherwise been impossible due to them being unable to stomach the costs on their own. While operating through an IO minimizes the personal cost and maximizes efficiency for powerful nations by pooling resources and through specialized staff, the principle of equality enables smaller nations to also benefit from this structure. **Therefore, the influence of powerful nations in the IO, while it may undermine the ability of the UN to achieve its stated goals, also inevitably ends up levelling the playing field to a certain extent, creating opportunities for smaller, and developing nations that might have otherwise not existed if relations had been conducted merely on the interstate level.**

Turn: US interference in the Court is good.

Warrant: The US is on a mission to promote peace and democracy worldwide.

Bureau of Conflict and Stabilization Operations. "United States Strategy to Prevent Conflict and Promote Stability." United States Department of State, April 1, 2022,

<https://www.state.gov/united-states-strategy-to-prevent-conflict-and-promote-stability/>. Accessed January 6, 2025.

The 2017 National Security Strategy (NSS) affirms that the United States will work to strengthen fragile states “where state weakness or failure would magnify threats to the American homeland” and “empower reform-minded governments, people, and civil society” in these places. The President affirmed this commitment when he signed the Global Fragility Act of 2019 (Title V of Div. J, P.L. 116-94) (GFA) into law in December 2019. This Strategy meets the law’s requirement for a “Global Fragility Strategy.” **The United States Strategy to Prevent Conflict and Promote Stability seeks to break the costly cycle of fragility and promote peaceful, self-reliant nations that become United States economic and security partners.** The United States will pursue a new approach that addresses the political drivers of fragility and supports locally driven solutions. The United States will engage selectively based on defined metrics, host country political will, respect for democracy and human rights, defined cost-sharing, and mechanisms that promote mutual accountability with national and local actors.

Warrant: Their previous interactions with the Court have shown a willingness to do good with the Court.

Klobucista, Claire & Ferragamo, Mariel. “The Role of the ICC.” Council on Foreign Relations, November 22, 2024, <https://www.cfr.org/backgrounder/role-icc>. Accessed January 5, 2025.

To date, the ICC has never issued an arrest warrant for any U.S. official. **Washington has backed ICC efforts on several occasions, however. In 2005, the Bush administration allowed the Security Council to refer the Darfur case, and it later offered to assist the court’s investigation, which legal experts saw as a softening of the U.S. stance.** In 2011, the Barack Obama administration voted in favor of the Security Council referral

for a Libya investigation. It also helped deliver several fugitives to The Hague and offered to pay millions of dollars as rewards for information on individuals accused of atrocities.

Analysis: These three responses are good because they show that the US joining the Court opens up opportunities for the ICC to move further in a good direction. The US already exercises influence over the Court that has proven to be good and has the potential to have an even greater influence by becoming a member. With this response, there is also the potential to run an analytic saying that membership by large nations like the United States will further legitimize the Court.

A/2: The US already handles issues that the ICC would address through internal matters.

Turn: The US is ineffective at handling matters internally. The ICC must step in to promote justice.

Warrant: The US currently fails at prosecuting war crimes.

Corn, Geoffrey & VanLandingham, Rachel. "Strengthening American War Crimes Accountability." *American University Law Review*, 2020,
<https://aulawreview.org/blog/strengthening-american-war-crimes-accountability/>. Accessed January 6, 2025.

Currently the United States utilizes disparate military criminal offenses, as well as different processes, to prosecute different categories of alleged war criminals.

Furthermore, the United States fails to prosecute American service members for actual war crimes, only prosecuting those committed by its enemies. Additionally, the American public, led in the wrong direction by President Trump and others, currently misunderstands how compliance with the laws and customs of war absolutely depends on accountability for its violations—on criminal punishment of our men and women in uniform who commit war crimes.

Warrant: The first cases under the War Crimes act was over 20 years after the act being passed and didn't even involve US nationals.

"The First Prosecution Under the War Crimes Act: Overview and International Legal Context." Congressional Research Service, December 22, 2023,

<https://crsreports.congress.gov/product/pdf/LSB/LSB11091>. Accessed January 6, 2025

On December 6, 2023, the U.S. Department of Justice (DOJ) brought an indictment in the U.S. District Court for the Eastern District of Virginia against four members of the Russian armed forces or allied military units (Defendants) for violations of the War Crimes Act of 1996—the first in the almost three decades of the Act’s existence. DOJ brought the indictment just under a year after Congress enacted the Justice for Victims of War Crimes Act, which amended the War Crimes Act to extend DOJ’s jurisdictional reach, in part in response to Russia’s invasion of Ukraine and allegations of war crimes being committed by its armed forces. More indictments under the Act might be coming. When he announced the indictment, Attorney General Merrick Garland stated that the prosecution is “our first, and you should expect more.” He also suggested that DOJ’s work may not be limited to Ukraine, stating that “Hamas murdered 30 Americans and kidnapped more” and DOJ is “investigating those heinous crimes and will hold those people accountable.” As U.S. prosecutions for war crimes proceed, it will provide Congress with the opportunity to evaluate and potentially respond to DOJ’s implementation of the Act.

Warrant: Almost no action has been taken against war crimes committed in the Middle East post-9/11.

Yesko, Parker. “The War Crimes That the Military Buried.” Pulitzer Center, September 10, 2024, <https://pulitzercenter.org/stories/war-crimes-military-buried>. Accessed January 6, 2025.

War entails unspeakable violence, much of it entirely legal. And yet some 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 systematic 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.

Delink: If the ICC was going to conduct politically motivated attacks on Americans, they would've done it already.

Warrant: The ICC criminal court can issue a warrant for anyone that is connected to a crime occurring in its jurisdiction.

"Understanding the International Criminal Court." International Criminal Court, 2020,
<https://www.icc-cpi.int/sites/default/files/Publications/understanding-the-icc.pdf>. Accessed January 5, 2025.

12. Who can be prosecuted before the ICC? The ICC prosecutes individuals, not groups or States. **Any individual who is alleged to have committed crimes within the jurisdiction of the ICC may be brought before the ICC. In fact, the Office of the Prosecutor's prosecutorial policy is to focus on those who, having regard to the evidence gathered, bear the greatest responsibility for the crimes**, and does not take into account any official position that may be held by the alleged perpetrators. The Prosecutor's policy is to focus on those who bear the greatest responsibility for the crimes. The Office of the Prosecutor does not take into account any official position that may be held by the alleged perpetrators. 13. If those who bear the greatest responsibility hold high political or military office, are they not exempt from prosecution? Can they not be granted immunity or amnesty? **No one is exempt from**

prosecution because of his or her current functions or because of the position he or she held at the time the crimes concerned were committed. Acting as a Head of State or Government, minister or parliamentarian does not exempt anyone from criminal responsibility before the ICC. In some circumstances, a person in a position of authority may even be held responsible for crimes committed by those acting under his or her command or orders. Likewise, amnesty cannot be used as a defence before the ICC. As such, it cannot bar the Court from exercising its jurisdiction.

Warrant: For example, Putin has an arrest warrant out for him for actions in Ukraine despite Russia not being party to the ICC.

Corder, Mike & Casert, Raf. International Court Issues War Crimes Warrant for Putin.”

AP News, March 17, 2023, <https://apnews.com/article/icc-putin-war-crimes-ukraine-9857eb68d827340394960eccf0589253>. Accessed January 7, 2025.

The International Criminal Court said Friday that it has issued an arrest warrant for Russian President Vladimir Putin for war crimes, accusing him of personal responsibility for the abductions of children from Ukraine. It was the first time the global court has issued a warrant against a leader of one of the five permanent members of the U.N. Security Council. The ICC said in a statement that Putin “is allegedly responsible for the war crime of unlawful deportation of (children) and that of unlawful transfer of (children) from occupied areas of Ukraine to the Russian Federation.” The move was immediately dismissed by Moscow — and welcomed by Ukraine as a major breakthrough. **Its practical implications, however, could be limited as the chances of Putin facing trial at the ICC are highly unlikely because Moscow does not recognize the court’s jurisdiction or extradite its nationals.**

Warrant: Most potential crimes committed by the US occur in other countries.

“Q&A: The International Criminal Court and the United States.” Human Rights Watch, September 2, 2020, <https://www.hrw.org/news/2020/09/02/qa-international-criminal-court-and-united-states#2>. Accessed January 6, 2025.

There are limited situations in which the ICC has jurisdiction over the nationals of countries, such as the US, that have not joined the Rome Statute. This includes when a citizen of a non-member country commits war crimes, crimes against humanity, and genocide on the territory of an ICC member country. That's why US citizens may be subject to the court's jurisdiction as it investigates alleged grave crimes that took place in Afghanistan, which is a state party, or in Poland, Lithuania, and Romania, which are also states parties. There is nothing unusual in this. US citizens who commit crimes abroad are already subject to the jurisdiction of foreign courts. This is a basic and well established principle of international law. Countries that ratify the Rome Statute are simply delegating their authority to prosecute certain grave crimes committed on their territory to an international court. By providing accountability for war crimes, the ICC promotes respect for the laws of war, which protect civilians as well as soldiers.

Warrant: No US personnel or office has ever had a warrant for them from the ICC.

Klobucista, Claire & Ferragamo, Mariel. “The Role of the ICC.” Council on Foreign Relations, November 22, 2024, <https://www.cfr.org/backgrounder/role-icc>. Accessed January 5, 2025.

In 2002, Congress passed and President Bush signed the American Service-Members' Protection Act, which required the government to cut off financial assistance to ICC members who would agree to surrender U.S. personnel to the ICC. The law also authorized the president to use all means necessary to free Americans detained by the ICC. The Bush administration struck bilateral agreements with dozens of countries

obliging them not to hand over U.S. personnel. **To date, the ICC has never issued an arrest warrant for any U.S. official.**

Analysis: These responses are good because they turn the argument and then delink the opponent's impact. The first response shows that the US is ineffective at handling these matters internally and that outside pressure is needed in order to correct for war crimes. The second response basically says that any prosecution that happens under the ICC will be legitimate because an illegitimate prosecution would have already happened.

A/2: The ICC has limited oversight.

Delink: The ICC has a lot of oversight when it comes to its decisions, especially from the United States.

Warrant: A Pre-Trial Court has to grant the prosecutor permission to even begin an investigation.

"How the ICC Works." ABA-ICC Project, n.d., <https://how-the-icc-works.ab ICC.org/#proprio-motu-investigations>. Accessed January 7, 2025.

The ICC Prosecutor may start a preliminary examination proprio motu ("on one's own initiative" in Latin), into alleged atrocity crimes that have occurred either: on the territory, or by a national, of any State Party; or on the territory, or by a national, of a non-State Party that has consented to the jurisdiction of the ICC. **The ICC Prosecutor must receive approval from judges to open a formal investigation after completing her preliminary examination.**

Warrant: This permission can be pulled away at any time.

Quadri, Kafayat. "The proprio motu power of the ICC Prosecutor: the reason some states have refused to ratify the Rome Statute." International Journal of Humanities and Management Sciences, 2014, <https://journalsweb.org/siteadmin/upload/P114514.pdf>. Accessed January 7, 2025.

Article 15 clearly shows that the proprio motu power of the prosecutor is highly unlikely the type that can be easily abused by the prosecutor. The reason clearly is that the Pre-Trial Chamber has a right to revoke the prosecutor's proprio motu power

if there is no reasonable basis to proceed with an investigation, and if the case appears not to fall within the jurisdiction of the Court.

Warrant: The UN Security Council, which the US sits on, can also halt an investigation at any time.

Quadri, Kafayat. "The proprio motu power of the ICC Prosecutor: the reason some states have refused to ratify the Rome Statute." *International Journal of Humanities and Management Sciences*, 2014,
<https://journalsweb.org/siteadmin/upload/P114514.pdf>. Accessed January 7, 2025.

Another check on the prosecutor's power to initiate an investigation is the provisions of Article 16, which give the Security Council the right to defer an investigation. Article 16 provides that no investigation or prosecution may be commenced or proceeded with under this Statute for a period of 12 months after the Security Council, in a resolution adopted under Chapter VII of the Charter of the United Nations, has requested the Court to that effect; that request may be renewed by the Council under the same conditions. **From the provisions of Article 16, it can be seen that the Security Council does not require any reason to defer an investigation or prosecution before the ICC.** They can just decide anytime that they want when an investigation or prosecution must be halted.

Delink: If political prosecution was going to happen, it would have already happened.

Warrant: The ICC criminal court can issue a warrant for anyone that is connected to a crime occurring in its jurisdiction.

"Understanding the International Criminal Court." International Criminal Court, 2020,
<https://www.icc-cpi.int/sites/default/files/Publications/understanding-the-icc.pdf>. Accessed January 5, 2025.

12. Who can be prosecuted before the ICC? The ICC prosecutes individuals, not groups or States. **Any individual who is alleged to have committed crimes within the jurisdiction of the ICC may be brought before the ICC. In fact, the Office of the Prosecutor's prosecutorial policy is to focus on those who, having regard to the evidence gathered, bear the greatest responsibility for the crimes**, and does not take into account any official position that may be held by the alleged perpetrators. The Prosecutor's policy is to focus on those who bear the greatest responsibility for the crimes. The Office of the Prosecutor does not take into account any official position that may be held by the alleged perpetrators. 13. If those who bear the greatest responsibility hold high political or military office, are they not exempt from prosecution? Can they not be granted immunity or amnesty? **No one is exempt from prosecution because of his or her current functions or because of the position he or she held at the time the crimes concerned were committed. Acting as a Head of State or Government, minister or parliamentarian does not exempt anyone from criminal responsibility before the ICC.** In some circumstances, a person in a position of authority may even be held responsible for crimes committed by those acting under his or her command or orders. Likewise, amnesty cannot be used as a defence before the ICC. As such, it cannot bar the Court from exercising its jurisdiction.

Warrant: For example, Putin has an arrest warrant out for him for actions in Ukraine despite Russia not being party to the ICC.

Corder, Mike & Casert, Raf. International Court Issues War Crimes Warrant for Putin."
AP News, March 17, 2023, <https://apnews.com/article/icc-putin-war-crimes-ukraine-9857eb68d827340394960eccf0589253>. Accessed January 7, 2025.

The International Criminal Court said Friday that it has issued an arrest warrant for Russian President Vladimir Putin for war crimes, accusing him of personal responsibility for the abductions of children from Ukraine. It was the first time the global court has issued a warrant against a leader of one of the five permanent members of the U.N. Security Council. The ICC said in a statement that Putin “is allegedly responsible for the war crime of unlawful deportation of (children) and that of unlawful transfer of (children) from occupied areas of Ukraine to the Russian Federation.” The move was immediately dismissed by Moscow — and welcomed by Ukraine as a major breakthrough. **Its practical implications, however, could be limited as the chances of Putin facing trial at the ICC are highly unlikely because Moscow does not recognize the court’s jurisdiction or extradite its nationals.**

Warrant: Most potential crimes committed by the US occur in other countries.

“Q&A: The International Criminal Court and the United States.” Human Rights Watch, September 2, 2020, <https://www.hrw.org/news/2020/09/02/qa-international-criminal-court-and-united-states#2>. Accessed January 6, 2025.

There are limited situations in which the ICC has jurisdiction over the nationals of countries, such as the US, that have not joined the Rome Statute. This includes when a citizen of a non-member country commits war crimes, crimes against humanity, and genocide on the territory of an ICC member country. That's why US citizens may be subject to the court's jurisdiction as it investigates alleged grave crimes that took place in Afghanistan, which is a state party, or in Poland, Lithuania, and Romania, which are also states parties. There is nothing unusual in this. US citizens who commit crimes abroad are already subject to the jurisdiction of foreign courts. This is a basic and well established principle of international law. Countries that ratify the Rome Statute are simply delegating their authority to prosecute certain grave crimes committed on their

territory to an international court. By providing accountability for war crimes, the ICC promotes respect for the laws of war, which protect civilians as well as soldiers.

Warrant: No US personnel or office has ever had a warrant for them from the ICC.

Klobucista, Claire & Ferragamo, Mariel. "The Role of the ICC." Council on Foreign Relations, November 22, 2024, <https://www.cfr.org/backgrounder/role-icc>. Accessed January 5, 2025.

In 2002, Congress passed and President Bush signed the American Service-Members' Protection Act, which required the government to cut off financial assistance to ICC members who would agree to surrender U.S. personnel to the ICC. The law also authorized the president to use all means necessary to free Americans detained by the ICC. The Bush administration struck bilateral agreements with dozens of countries obliging them not to hand over U.S. personnel. **To date, the ICC has never issued an arrest warrant for any U.S. official.**

Turn: The United States has the potential to add more protections to the Court.

Warrant: The United States was instrumental in creating the Court.

"International Justice Day and the International Criminal Court." World Without Genocide, n.d., <https://worldwithoutgenocide.org/genocides-and-conflicts/background-and-overview-information/icc>. Accessed January 7, 2025.

The adoption of the Rome Statute creating the ICC was a momentous step towards ending impunity for the perpetrators of the most serious international crimes. The ICC's work enhances a future of peace and security for the global community. To date, 122 countries have ratified the Rome Statute. **The United States was instrumental in the**

drafting of the Rome Statute, the document which created the ICC. The US has not yet ratified the Rome Statute but retains a strong positive relationship with the Court on an ad hoc basis.

Warrant: The US wants to reform international institutions to build a strong multilateral system.

Office of the Spokesperson. "Second G20 Foreign Ministers' Meeting Call to Action on Global Governance Reform." United States Department of State, September 25, 2024, <https://www.state.gov/second-g20-foreign-ministers-meeting-call-to-action-on-global-governance-reform/>. Accessed January 7, 2025.

The challenges the global community faces today can only be addressed through multilateral solutions for a better tomorrow and the strengthening of global governance for both present and future generations. Noting the Pact for the Future and the ongoing reform processes of international institutions and in light of the urgent need to live up to our shared goals in order to deliver on the promises of the United Nations and other relevant international organizations around the world, **the States endorsing the present “Call to Action” pledge to work for a reinvigorated and strengthened multilateral system, rooted in the purposes and principles of the UN Charter and international law**, with renewed institutions and a reformed governance that is more representative, effective, transparent and accountable, reflecting the social, economic and political realities of the 21st century.

Analysis: These three responses are good because they show a thorough dissection of the argument. The first response shows how there is an effective method for having oversight that already exists within the court. You can pair with the third response to show that any current problems could be helped out by America joining the Court. The second response basically takes out your opponent's impacts and shows that there are no risks to the United States that happen when joining.

A/2: The US acceding to the Rome Statute would cause political chaos in the US.

Turn: A leader should be punished for their crimes.

Warrant: Punishing leaders for their crimes is key to protecting democracy.

Maciolek, Ashleigh. "Holding Leaders Accountable Is an Essential Feature of Democracy." Brennan Center for Justice, April 23, 2024
<https://www.brennancenter.org/our-work/analysis-opinion/holding-leaders-accountable-essential-feature-democracy>. Accessed January 7, 2025.

These examples serve as important reminders that prosecuting a former president or prime minister can have significant consequences and should never be pursued lightly. Criminal charges should only be brought based on credible evidence, and investigations and prosecutions must be conducted transparently and free from any political bias. The failure to do so, and even the appearance of political taint, can create grave risks for a democracy, including undermining trust in institutions and widening societal divisions. All of this underscores the need to proceed in such cases with the utmost care and according to the highest professional standards. As the organization Protect Democracy has identified, there are a number of widely recognized criteria for assessing whether criminal proceedings against a high-profile political leader have cleared this bar. These include the quality of publicly available evidence, whether others have been held accountable for similar conduct, the political independence of investigators and prosecutors, and the robustness of other checks and balances, especially whether the courts can be trusted to afford the defendant due process and a fair trial. Sitting leaders should refrain from any behavior, including public statements, that might give even the appearance of involvement in an investigation or prosecution.

Although there is a very real risk to prosecuting leaders, and there is a high burden for meeting the criteria for appropriate criminal proceedings, democracies should still pursue accountability. The alternative — a culture of impunity for those at the top — is antithetical to democracy. Holding former President Trump accountable for criminal activity that is proven through a fair, impartial, and transparent process is essential — something both the former president's supporters and opponents should remember. The stakes are high not only for him, but for American democracy.

Delink: If the US President was going to be indicted, it would have already happened.

Warrant: The ICC criminal court can issue a warrant for anyone that is connected to a crime occurring in its jurisdiction.

"Understanding the International Criminal Court." International Criminal Court, 2020, <https://www.icc-cpi.int/sites/default/files/Publications/understanding-the-icc.pdf>. Accessed January 5, 2025.

12. Who can be prosecuted before the ICC? The ICC prosecutes individuals, not groups or States. **Any individual who is alleged to have committed crimes within the jurisdiction of the ICC may be brought before the ICC. In fact, the Office of the Prosecutor's prosecutorial policy is to focus on those who, having regard to the evidence gathered, bear the greatest responsibility for the crimes,** and does not take into account any official position that may be held by the alleged perpetrators. The Prosecutor's policy is to focus on those who bear the greatest responsibility for the crimes. The Office of the Prosecutor does not take into account any official position that may be held by the alleged perpetrators. 13. If those who bear the greatest responsibility hold high political or military office, are they not exempt from prosecution? Can they not be granted immunity or amnesty? **No one is exempt from prosecution because of his or her current functions or because of the position he or**

she held at the time the crimes concerned were committed. Acting as a Head of State or Government, minister or parliamentarian does not exempt anyone from criminal responsibility before the ICC. In some circumstances, a person in a position of authority may even be held responsible for crimes committed by those acting under his or her command or orders. Likewise, amnesty cannot be used as a defence before the ICC. As such, it cannot bar the Court from exercising its jurisdiction.

Warrant: For example, Putin has an arrest warrant out for him for actions in Ukraine despite Russia not being party to the ICC.

Corder, Mike & Casert, Raf. International Court Issues War Crimes Warrant for Putin."

AP News, March 17, 2023, <https://apnews.com/article/icc-putin-war-crimes-ukraine-9857eb68d827340394960eccf0589253>. Accessed January 7, 2025.

The International Criminal Court said Friday that it has issued an arrest warrant for Russian President Vladimir Putin for war crimes, accusing him of personal responsibility for the abductions of children from Ukraine. It was the first time the global court has issued a warrant against a leader of one of the five permanent members of the U.N. Security Council. The ICC said in a statement that Putin "is allegedly responsible for the war crime of unlawful deportation of (children) and that of unlawful transfer of (children) from occupied areas of Ukraine to the Russian Federation." The move was immediately dismissed by Moscow — and welcomed by Ukraine as a major breakthrough. **Its practical implications, however, could be limited as the chances of Putin facing trial at the ICC are highly unlikely because Moscow does not recognize the court's jurisdiction or extradite its nationals.**

Warrant: Most potential crimes committed by the US occur in other countries.

“Q&A: The International Criminal Court and the United States.” Human Rights Watch, September 2, 2020, <https://www.hrw.org/news/2020/09/02/qa-international-criminal-court-and-united-states#2>. Accessed January 6, 2025.

There are limited situations in which the ICC has jurisdiction over the nationals of countries, such as the US, that have not joined the Rome Statute. This includes when a citizen of a non-member country commits war crimes, crimes against humanity, and genocide on the territory of an ICC member country. That's why US citizens may be subject to the court's jurisdiction as it investigates alleged grave crimes that took place in Afghanistan, which is a state party, or in Poland, Lithuania, and Romania, which are also states parties. There is nothing unusual in this. US citizens who commit crimes abroad are already subject to the jurisdiction of foreign courts. This is a basic and well established principle of international law. Countries that ratify the Rome Statute are simply delegating their authority to prosecute certain grave crimes committed on their territory to an international court. By providing accountability for war crimes, the ICC promotes respect for the laws of war, which protect civilians as well as soldiers.

Warrant: No US personnel or office has ever had a warrant for them from the ICC.

Klobucista, Claire & Ferragamo, Mariel. “The Role of the ICC.” Council on Foreign Relations, November 22, 2024, <https://www.cfr.org/backgrounder/role-icc>. Accessed January 5, 2025.

In 2002, Congress passed and President Bush signed the American Service-Members' Protection Act, which required the government to cut off financial assistance to ICC members who would agree to surrender U.S. personnel to the ICC. The law also authorized the president to use all means necessary to free Americans detained by the ICC. The Bush administration struck bilateral agreements with dozens of countries

obliging them not to hand over U.S. personnel. **To date, the ICC has never issued an arrest warrant for any U.S. official.**

Delink: The ICC can't indict a sitting American President because they are bound by international politics.

Warrant: The ICC is bound by the geopolitical landscape of the world.

Duerr, Benjamin. "Twenty Years On: The ICC and the Politicization of its Mechanisms." IPI Global Observatory, August 7, 2018, <https://theglobalobservatory.org/2018/08/twenty-years-icc-politicization-mechanisms/>. Accessed January 5, 2025.

No matter the way in which the referral mechanism is used, the ICC Prosecutor acts independently and chooses the focus of any investigation. Prosecutors are not bound by the list of crimes a government mentions in a referral. Therefore, they can also decide to investigate additional crimes committed by state authorities, which creates a risk that referrals would backfire. However, since the court is dependent on the cooperation of states, for example when it comes to accessing crime scenes or carrying out arrest warrants, governments still have a lot of power to decide when to cooperate and which side of a conflict they want to see prosecuted. **The various situations demonstrate the fundamental dilemma of the court: that of the difference between its legal mandate and the politicized reality. While the ICC was established as an impartial court, its possibilities to act are in reality limited and shaped by political interests.** The court has navigated this dilemma by carefully balancing the ideal—an apolitical approach merely based on the law—and a more realistic approach, thus, accommodating the interests of the governments involved.

Warrant: Soft power has been especially used when it comes to the ICC.

Mathur-Ashton, Aneeta. "The Complicated Relationship Between the U.S. and the ICC, Explained." U.S. News and World Report, May 23, 2024,
https://www.usnews.com/news/national-news/articles/2024-05-23/the-complicated-relationship-between-the-u-s-and-the-icc-explained?utm_source=chatgpt.com. Accessed January 5, 2025.

Hafetz says the U.S. has “significant” leverage when it comes to the court. “The ICC relies on states to cooperate and to assist its investigations. I think the U.S., given its power, given the size of its military-intelligence apparatus, is important to the ICC’s work.” Aksanova adds that, despite not being a party to the court, there is a “soft power” the U.S. has that can be brought to bear given the current situation. She says the U.S. has some enforcement powers that “can assist in finding and surrendering suspects to the court,” as it did with Ntaganda and Ongwen. **But she notes that the U.S. can also work against the ICC to pressure its allies in Europe not to comply. And the threats of U.S. sanctions stand to have a chilling effect on those who might potentially cooperate with prosecutors.**

Warrant: The Afghanistan investigations empirically prove this soft power influence.

Mathur-Ashton, Aneeta. "The Complicated Relationship Between the U.S. and the ICC, Explained." U.S. News and World Report, May 23, 2024,
https://www.usnews.com/news/national-news/articles/2024-05-23/the-complicated-relationship-between-the-u-s-and-the-icc-explained?utm_source=chatgpt.com. Accessed January 5, 2025.

U.S. relations with the court under the Biden administration improved substantially. The White House soon after inauguration in April 2021 revoked the Trump executive order issuing sanctions. **Khan replaced former ICC chief prosecutor Fatou Bensouda**

and announced he would “deprioritize” the U.S. aspect of the court’s investigation into the war in Afghanistan in favor of offenses committed by the Taliban, an Islamic State group affiliate and others. Aksanova says Khan dropped the cause citing a provision in the Rome Statute that allows for ending investigations “if it’s not in the interest of justice.”

Analysis: The first response basically says that the downsides don’t matter because the downside of a failure to prosecute is a failure of democracy. There is also an opportunity for an analytical response on morality because people who commit war crimes should be punished. Response two basically says that if the president was going to be prosecuted, it would have already happened. Response three basically says that a President will never be prosecuted because America holds too much influence on the political stage. However, response one is mutually exclusive with responses two and three, so be careful when using them.

A/2: The US acceding to the Rome Statute would stall diplomatic progress with Russia.

Delink: The United States is in support of the warrant against Putin.

Warrant: Biden commended the Court when they issued an arrest warrant for Putin

"Biden Welcomes ICC Arrest Warrant for Putin, Says Russian Leader 'Clearly Committed War Crimes'." Radio Free Europe, March 18, 2023,
<https://www.rferl.org/a/biden-welcomes-icc-arrest-warrant-putin-war-crimes/32323944.html>. Accessed January 7, 2025.

U.S. President Joe Biden has said the International Criminal Court (ICC) decision to issue an arrest warrant for Russian President Vladimir Putin for war crimes is "justified." "He's clearly committed war crimes," Biden told reporters on March 17, referring to Putin. His comments in Washington came after the ICC said it had issued a warrant against Putin, accusing the Russian leader of personal responsibility for the abductions of children from Ukraine. The move by the ICC was hailed by Kyiv and rejected by Moscow.

Warrant: The US has opened up evidence sharing channels between the US and Russia.

Savage, Charlie. "Biden Orders U.S. to Share Evidence of Russian War Crimes With Hague Court." The New York Times, July 26, 2023,
<https://www.nytimes.com/2023/07/26/us/politics/biden-russia-war-crimes-hague.html>. Accessed January 7, 2024.

President Biden has quietly ordered the U.S. government to begin sharing evidence of Russian war crimes in Ukraine with the International Criminal Court in The Hague, according to officials familiar with the matter, signaling a major shift in American policy. The decision, made by Mr. Biden in recent days, overrides months of resistance by the Pentagon, which had argued that it could pave the way for the court to prosecute American troops, according to the officials.

Delink: The meeting could just happen in Russia or a third location.

Warrant: Trump and Putin have always met on neutral ground.

Baker, Peter. "Trump and Putin Have Met Five Times. What Was Said Is a Mystery." The New York Times, January 15, 2019, [Timeshttps://www.nytimes.com/2019/01/15/us/politics/trump-putin-meetings.html](https://www.nytimes.com/2019/01/15/us/politics/trump-putin-meetings.html). Accessed January 7, 2025.

The first time they met was in Germany. President Trump took his interpreter's notes afterward and ordered him not to disclose what he heard to anyone. Later that night, at a dinner, Mr. Trump pulled up a seat next to President Vladimir V. Putin to talk without any American witnesses at all. **Their third encounter was in Vietnam** when Mr. Trump seemed to take Mr. Putin's word that he had not interfered in American elections. **A formal summit meeting followed in Helsinki, Finland**, where the two leaders kicked out everyone but the interpreters. Most recently, **they chatted in Buenos Aires after Mr. Trump said they would not meet because of Russian aggression.**

Delink: The US could just ignore the arrest mandate.

Warrant: Mongolia ignored the arrest warrant when Putin visited their country.

"Mongolia ignores an international warrant for Putin's arrest, giving him a red-carpet welcome." AP News, September 4, 2024, <https://apnews.com/article/mongolia-russia-putin-international-criminal-court-warrant-4c79850ecf409287924e3d96218abc78>. Accessed January 7, 2025

Russian President Vladimir Putin received a red-carpet welcome to Mongolia on Tuesday, as the country ignored calls to arrest him on an international warrant for alleged war crimes stemming from Moscow's invasion of Ukraine. The trip, which concluded Tuesday night, was Putin's first to a member nation of the International Criminal Court since it issued the warrant in March 2023. Ahead of his visit, Ukraine urged Mongolia to hand Putin over to the court in The Hague, and the European Union expressed concern that Mongolia might not execute the warrant. **The warrant put the government in a difficult position.** After decades under communism with close ties to the Soviet Union, it transitioned to democracy in the 1990s and built relations with the United States, Japan and other new partners. But the landlocked country remains economically dependent on its two much larger and more powerful neighbors, Russia and China.

Delink: It is unlikely that Trump will be able to negotiate an end to the war.

Warrant: Putin has already rejected Trump's plan.

Shamim, Sarah. "Why has Russia rejected Trump's Ukraine truce plan?" Al Jazeera , December 30, 2024, <https://www.aljazeera.com/news/2024/12/30/why-has-russia-rejected-trumps-ukraine-truce-plan>. Accessed January 7, 2025.

Russia has trashed a plan pitched by US President-elect Donald Trump's team to end the Russia-Ukraine war by deferring Kyiv's NATO membership in exchange for a ceasefire, according to Russian state-owned media. Trump's win in the November

presidential election, his repeated criticism of Ukraine and United States funding for Kyiv, and his promise to end the war within a day, once in power, have prompted concerns among NATO allies about the compromises he might demand of Ukraine.

Delink: Trump's plan would be bad for Ukraine and the world.

Warrant: Trump's plan involves splitting up Ukraine.

Khrushcheva, Nina. "Opinions: Will Trump strike a deal letting Russia Partition Ukraine?"

Los Angeles Times, December 3, 2024,

<https://www.latimes.com/opinion/story/2024-12-03/ukraine-russia-war-trump-negotiated-settlement>. Accessed January 7, 2025.

His victory speech suggests that he is serious about "stopping wars." Trump has long asserted that he would end the Ukraine war within 24 hours of taking office. **There has been much speculation about a negotiated settlement, and the scenarios all have one thing in common: Ukraine's dismemberment. If this has to be the cost of peace, it is worth considering the grim history of territorial partition. Few events create such long-lasting enmity; fewer still have caused more devastating violence.** The three partitions of Poland that took place in the late 18th century are perhaps Europe's closest parallel to what may befall Ukraine. Beginning in 1772, Austria's Habsburg monarchy, the Kingdom of Prussia and the Russian Empire seized and annexed territory, effectively dividing Polish lands among themselves and erasing what had been Europe's largest state by landmass.

Warrant: This partition sets a dangerous precedent for future Russian aggression.

Ermyas, Tinbete, Jordan-Marie Smith, Andrew Limbong, & Mallory Yu. "How Trump can end the war in Ukraine, according to a former ambassador." NPR, January 2,

2025, <https://www.npr.org/2025/01/02/nx-s1-5239975/how-trump-can-end-the-war-in-ukraine-according-to-a-former-ambassador>. Accessed January 7, 2025.

Would giving Vladimir Putin control over land that he seized set a bad precedent - right? Like, what would stop him from invading yet another country to reach a similar deal to what you're proposing? MCFAUL: I agree. I think it's a really bad precedent. It's a very tragic one. **And unlike, say, the division of West Germany and East Germany, I tragically predict that he will Russify those territories that he's occupying so that, you know, over time, they will feel like they're part of Russia and not a separate country like East Germany was. So I think it's a really dangerous precedent.** I just think my proposal is better than all the alternatives.

Analysis: These five responses should allow you to completely shut down your opponents argument; however, a few of them are mutually exclusive. Be wise in choosing the ones that best fit your narrative, and you should be on track to dismantle your opponent's arguments. There's also many analytical responses to the arguments, but these are the ones that you would definitely need evidence for.

A/2: The US acceding to the accords would hurt peacekeeping operations.

Turn: Peacekeeping is bad.

Warrant: UN peacekeeping is filled with corruption.

Schaefer, Andrew. "United Nations Peacekeeping Flaws and Abuses: The U.S. Must Demand Reform." The Heritage Foundation, August 3, 2016,
<https://www.heritage.org/report/united-nations-peacekeeping-flaws-and-abuses-the-us-must-demand-reform>. Accessed January 8, 2025.

Over the years, numerous reports, audits, and investigations have revealed mismanagement, fraud, and procurement corruption in U.N. peacekeeping. For instance, in a 2007 U.N. Office of Internal Oversight Services (OIOS) report, an examination of \$1.4 billion of peacekeeping contracts turned up “significant” corruption schemes that tainted \$619 million (over 40 percent) of the contracts.[20]
An audit of the U.N. mission in Sudan revealed tens of millions of dollars lost to mismanagement and waste and exposed substantial indications of fraud and corruption.[21] According to then-head of OIOS Inga-Britt Ahlenius in 2008, “We can say that we found mismanagement and fraud and corruption to an extent we didn’t really expect.”

Warrant: It usually fails to protect civilians.

Schaefer, Andrew. "United Nations Peacekeeping Flaws and Abuses: The U.S. Must Demand Reform." The Heritage Foundation, August 3, 2016,

<https://www.heritage.org/report/united-nations-peacekeeping-flaws-and-abuses-the-us-must-demand-reform>. Accessed January 8, 2025.

Approving an operation in these instances, however, does not magically make U.N. peacekeepers more capable of acting with force to prevent violence, or more willing to do so. As noted by the High-Level Independent Panel on United Nations Peace Operations, “More than 98 percent of military and police personnel deployed in United Nations peacekeeping missions today have a mandate to protect civilians, as part of integrated mission-wide efforts.”[49] But the panel also notes that “growth in concepts, standards, advocacy and specialized personnel has yet to transform reality on the ground, where it matters.”[50] That is an understatement. **A 2014 study of eight of the nine U.N. peacekeeping operations with a mandate to protect civilians found that of 570 reported instances of violence, peacekeepers “did not report responding to 406 (80 percent) of incidents where civilians were attacked.”**

Warrant: It can also drag along for decades without progress.

Schaefer, Andrew. “United Nations Peacekeeping Flaws and Abuses: The U.S. Must Demand Reform.” The Heritage Foundation, August 3, 2016,
<https://www.heritage.org/report/united-nations-peacekeeping-flaws-and-abuses-the-us-must-demand-reform>. Accessed January 8, 2025.

In sum, the circumstances surrounding most of these situations remain virtually identical to what they were when these peacekeeping operations were established or they drag on after they should have been ended for political reasons. There is an argument to be made that stasis is a positive outcome: After all, most of the situations are not deteriorating. But after two, three, four, five, or six decades of stasis, it is beyond time to re-examine these missions to determine if they can resolve their respective situations. Peacekeeping should not be a permanent operation, but a

temporary endeavor focused on addressing critical problems, bolstering domestic capacity (not substituting for it), and exiting as soon as practical to allow finite resources to be shifted to more urgent or emerging crises.

Warrant: Peacekeeping also stalls development.

Schaefer, Andrew. "United Nations Peacekeeping Flaws and Abuses: The U.S. Must Demand Reform." The Heritage Foundation, August 3, 2016,
<https://www.heritage.org/report/united-nations-peacekeeping-flaws-and-abuses-the-us-must-demand-reform>. Accessed January 8, 2025.

Peacekeeping forces often lumber along for years without clear goals or exit plans, crowding out governments, diverting attention from deeper socioeconomic problems and costing billions of dollars. My first peacekeeping mission was in Cambodia in 1992. We left after less than two years. Now it's a rare exception when a mission lasts fewer than 10. Look at Haiti: **There has been no armed conflict for more than a decade, and yet a United Nations force of more than 4,500 remains. Meanwhile, we are failing at what should be our most important task: assisting in the creation of stable, democratic institutions.** Elections have been postponed amid allegations of fraud, and the interim prime minister has said that "the country is facing serious social and economic difficulties." The military deployment makes no contribution at all to solving these problems.

Warrant: Peacekeepers are responsible for widespread sexual abuse.

Bah, Tamara. "The Worst-Kept Open Secret: Sexual Abuse Crimes Perpetrated by UN Peacekeepers: We need criminal accountability, not guidelines, and blind eyes." HKS Student Policy Review, May 15, 2023,
<https://studentreview.hks.harvard.edu/the-worst-kept-open-secret-sexual->

abuse-crimes-perpetrated-by-un-peacekeepers-we-need-criminal-accountability-not-guidelines-and-blind-eyes/. Accessed January 8, 2025.

We have heard how rape is used as a weapon or tactic of war^[i], but it is time to ask if sexual exploitation and abuse (SEA) is a weapon of the United Nations (UN) peacekeepers? **The UN received approximately 2,000 SEA allegations perpetrated by UN peacekeepers between 2004 and 2014.**^[ii] In 2003, Kofi Annan, former United Nations Secretary-General (UNSG) introduced a zero-tolerance policy on SEA, which includes specific reporting mechanisms.^[iii] Nevertheless, SEA continues with impunity.^[iv] **Only a few accusations against UN peacekeepers have led to prosecution by member states—most resulted in reduced charges or minimal criminal consequences.**^[v] For example, in 2016, a Senegalese soldier found guilty of raping a child in the Ivory Coast was repatriated and has yet to be prosecuted in his home country.^[vi] The lack of criminal accountability poses a problem of equity, morality, hypocrisy, injustice, and just bad practice. The UN has a comparative advantage and the obligation to lead the fight to address this issue.

Non-Unique: Trump is cutting peacekeeping no matter what. It's what he did in his last term.

Warrant: During his first term, Trump moved to cut peacekeeping funding.

"Trump's budget cuts would make UN peacekeeping 'impossible'." BBC News, May 24, 2017, <https://www.bbc.com/news/world-us-canada-40035837>. Accessed January 8, 2025.

The United Nations has warned that President Donald Trump's plans to cut contributions to peacekeeping will make such work "impossible". **The US administration signalled heavy cuts to UN operations, in its budget proposals released on Tuesday. The US foots more than a quarter of the UN's \$7.9bn (£6.1bn) peacekeeping bill.** A

spokesman for UN Secretary General Antonio Guterres said the organisation was willing to discuss how peacekeeping could be made more cost-effective. Mr Trump's budget proposal declares new "attention on the appropriate US share of international spending at the United Nations". **The document does not provide a detailed breakdown, but Reuters news agency reports the drop in funding for the operations could amount to \$1bn. The spokesman said the UN was studying Mr Trump's plan. "The figures presented would simply make it impossible for the UN to continue all of its essential work advancing peace, development, human rights and humanitarian assistance," he said.**

Delink: The agreements that the US has already negotiated guarantees protections no matter what.

Warrant: The Resolution says that investigations can't happen for the first 12 months of an investigation.

Jain, Neha. "A Separate Law for Peacekeepers: The Clash between the Security Council and the International Criminal Court." *The European Journal of International Law*, 2005, <https://ejil.org/pdfs/16/2/294.pdf>. Accessed January 8, 2025.

Resolution 1422, in relevant part, requests the ICC under Article 16, to refrain from commencing or proceeding with investigation or prosecution of any case involving actions related to a United Nations authorized operation for a 12-month period starting 1 July 2002, unless otherwise decided by the Security Council.¹¹ The resolution is renewable under the same conditions for further 12-month periods for as long as may be necessary.¹² Resolution 1487 has identical wording in Operative Paragraphs 1 and 2 of the resolution. Resolution 1497 is worded differently. The exclusion of the ICC's jurisdiction is not in the form of a request under Article 16 of the Rome Statute. Operative Paragraph 7 provides for exclusive jurisdiction of the

contributing states over the acts of their personnel, unless expressly waived by the contributing state. No time period is specified for the operation of the exclusion, or for its renewal.

Analysis: These responses are good because they give you variety in choosing how to respond to the argument; however, they do approach the line of mutually exclusivity. The first response basically says that the NEG argument is true, but that is bad because peacekeeping is bad for the reasons listed. The second response basically says that it doesn't matter whether or not the NEG argument is true because Trump is going to cut peacekeeping funding no matter what. The final response basically says that peacekeepers are protected no matter what the United States does.

A/2: The US acceding to the Rome Statute would increase American distrust towards other international organizations.

Non-Unique: President Trump will pull out of these organizations anyway.

Warrant: Trump is already threatening sanctions on the ICC.

Kahana, Ariel. "Trump Administration Plans Crippling Sanctions on ICC." The Algemeiner, January 5, 2025, <https://www.algemeiner.com/2025/01/05/trump-administration-plans-crippling-sanctions-on-icc/>. Accessed January 8, 2025.

President-elect Donald Trump plans to implement devastating sanctions against the International Criminal Court in The Hague immediately after taking office, sources close to the matter disclosed to Israel Hayom. These executive orders could be unveiled as soon as Jan. 21. The sanctions package will target both individual ICC personnel, including judges and prosecutors, and the institution as a whole. The administration intends to classify the ICC as an organization threatening US interests, employing designation procedures similar to those used by the State Department for terrorist organizations globally. This designation will trigger severe restrictions on anyone involved with the court's operations.

Warrant: Trump is threatening to pull out of WHO without even thinking about the ICC.

Fick, Maggie & Aboulenien, Ahmed. "Trump transition team plans immediate WHO withdrawal, expert says." Reuters, December 24, 2024, <https://www.reuters.com/world/us/trump-transition-team-plans-immediate-who-withdrawal-expert-says-2024-12-23/>. Accessed January 8, 2025.

Members of Donald Trump's presidential transition team are laying the groundwork for the United States to withdraw from the World Health Organization on the first day of his second term, according to a health law expert familiar with the discussions. "I have it on good authority that he plans to withdraw, probably on Day One or very early in his administration," said Lawrence Gostin, professor of global health at Georgetown University in Washington and director of the WHO Collaborating Center on National and Global Health Law.

Warrant: Trump will pull out of the Paris Accords.

Schonhardt, Sara. "Why Trump's 2nd withdrawal from the Paris Agreement will be different." POLITICO, November 10, 2024,
<https://www.politico.com/news/2024/11/10/trump-withdrawal-paris-agreement-different-00188002>. Accessed January 8, 2025.

The world is bracing for President-elect Donald Trump to withdraw the U.S. from the Paris climate agreement for the second time — only this time, he could move faster and with less restraint. Trump's vow to pull out would once again leave the United States as one of the only countries not to be a party to the 2015 pact, in which nearly 200 governments have made non-binding pledges to reduce their planet-warming pollution. His victory in last week's election threatens to overshadow the COP29 climate summit that begins on Monday in Azerbaijan, where the U.S. and other countries will hash out details related to phasing down fossil fuels and providing climate aid to poorer nations.

Warrant: Trump has floated the idea of pulling out of the World Trade Organization in the past.

"Trump threatens to pull US out of World Trade Organization." BBC, August 31, 2018,
<https://www.bbc.com/news/world-us-canada-45364150>. Accessed January 8,
2025.

President Donald Trump has threatened to withdraw the US from the World Trade Organization (WTO), claiming it treats his country unfairly. "If they don't shape up, I would withdraw from the WTO," Mr Trump said in an interview with Bloomberg News. The WTO was established to provide rules for global trade and resolve disputes between countries. Mr Trump says the body too often rules against the US, although he concedes it has won some recent judgments. He claimed on Fox News earlier this year that the WTO was set up "to benefit everybody but us", adding: "We lose the lawsuits, almost all of the lawsuits in the WTO."

Delink: If prosecution of Americans was going to happen, it would have already happened.

Warrant: The ICC criminal court can issue a warrant for anyone that is connected to a crime occurring in its jurisdiction.

"Understanding the International Criminal Court." International Criminal Court, 2020,
<https://www.icc-cpi.int/sites/default/files/Publications/understanding-the-icc.pdf>. Accessed January 5, 2025.

12. Who can be prosecuted before the ICC? The ICC prosecutes individuals, not groups or States. **Any individual who is alleged to have committed crimes within the jurisdiction of the ICC may be brought before the ICC. In fact, the Office of the Prosecutor's prosecutorial policy is to focus on those who, having regard to the evidence gathered, bear the greatest responsibility for the crimes,** and does not take into account any official position that may be held by the alleged perpetrators. The Prosecutor's policy is to focus on those who bear the greatest responsibility for the

crimes. The Office of the Prosecutor does not take into account any official position that may be held by the alleged perpetrators. 13. If those who bear the greatest responsibility hold high political or military office, are they not exempt from prosecution? Can they not be granted immunity or amnesty? **No one is exempt from prosecution because of his or her current functions or because of the position he or she held at the time the crimes concerned were committed. Acting as a Head of State or Government, minister or parliamentarian does not exempt anyone from criminal responsibility before the ICC.** In some circumstances, a person in a position of authority may even be held responsible for crimes committed by those acting under his or her command or orders. Likewise, amnesty cannot be used as a defence before the ICC. As such, it cannot bar the Court from exercising its jurisdiction.

Warrant: For example, Putin has an arrest warrant out for him for actions in Ukraine despite Russia not being party to the ICC.

Corder, Mike & Casert, Raf. International Court Issues War Crimes Warrant for Putin.”

AP News, March 17, 2023, <https://apnews.com/article/icc-putin-war-crimes-ukraine-9857eb68d827340394960eccf0589253>. Accessed January 7, 2025.

The International Criminal Court said Friday that it has issued an arrest warrant for Russian President Vladimir Putin for war crimes, accusing him of personal responsibility for the abductions of children from Ukraine. It was the first time the global court has issued a warrant against a leader of one of the five permanent members of the U.N. Security Council. The ICC said in a statement that Putin “is allegedly responsible for the war crime of unlawful deportation of (children) and that of unlawful transfer of (children) from occupied areas of Ukraine to the Russian Federation.” The move was immediately dismissed by Moscow — and welcomed by Ukraine as a major breakthrough. **Its practical implications, however, could be limited**

as the chances of Putin facing trial at the ICC are highly unlikely because Moscow does not recognize the court's jurisdiction or extradite its nationals.

Warrant: Most potential crimes committed by the US occur in other countries.

"Q&A: The International Criminal Court and the United States." Human Rights Watch, September 2, 2020, <https://www.hrw.org/news/2020/09/02/qa-international-criminal-court-and-united-states#2>. Accessed January 6, 2025.

There are limited situations in which the ICC has jurisdiction over the nationals of countries, such as the US, that have not joined the Rome Statute. This includes when a citizen of a non-member country commits war crimes, crimes against humanity, and genocide on the territory of an ICC member country. That's why US citizens may be subject to the court's jurisdiction as it investigates alleged grave crimes that took place in Afghanistan, which is a state party, or in Poland, Lithuania, and Romania, which are also states parties. There is nothing unusual in this. US citizens who commit crimes abroad are already subject to the jurisdiction of foreign courts. This is a basic and well established principle of international law. Countries that ratify the Rome Statute are simply delegating their authority to prosecute certain grave crimes committed on their territory to an international court. By providing accountability for war crimes, the ICC promotes respect for the laws of war, which protect civilians as well as soldiers.

Warrant: No US personnel or office has ever had a warrant for them from the ICC.

Klobucista, Claire & Ferragamo, Mariel. "The Role of the ICC." Council on Foreign Relations, November 22, 2024, <https://www.cfr.org/backgrounder/role-icc>. Accessed January 5, 2025.

In 2002, Congress passed and President Bush signed the American Service-Members' Protection Act, which required the government to cut off financial assistance to ICC members who would agree to surrender U.S. personnel to the ICC. The law also authorized the president to use all means necessary to free Americans detained by the ICC. The Bush administration struck bilateral agreements with dozens of countries obliging them not to hand over U.S. personnel. **To date, the ICC has never issued an arrest warrant for any U.S. official.**

Turn: These institutions will bow to America and be tools for Trump.

Warrant: Trump can use soft power to get what he wants.

Mathur-Ashton, Aneeta. "The Complicated Relationship Between the U.S. and the ICC, Explained." U.S. News and World Report, May 23, 2024, https://www.usnews.com/news/national-news/articles/2024-05-23/the-complicated-relationship-between-the-u-s-and-the-icc-explained?utm_source=chatgpt.com. Accessed January 5, 2025.

Hafetz says the U.S. has “significant” leverage when it comes to the court. “The ICC relies on states to cooperate and to assist its investigations. I think the U.S., given its power, given the size of its military-intelligence apparatus, is important to the ICC’s work.” Aksanova adds that, despite not being a party to the court, there is a “soft power” the U.S. has that can be brought to bear given the current situation. She says the U.S. has some enforcement powers that “can assist in finding and surrendering suspects to the court,” as it did with Ntaganda and Ongwen. **But she notes that the U.S. can also work against the ICC to pressure its allies in Europe not to comply. And the threats of U.S. sanctions stand to have a chilling effect on those who might potentially cooperate with prosecutors.**

Warrant: This happened with the ICC in Afghanistan.

Mathur-Ashton, Aneeta. "The Complicated Relationship Between the U.S. and the ICC, Explained." U.S. News and World Report, May 23, 2024, https://www.usnews.com/news/national-news/articles/2024-05-23/the-complicated-relationship-between-the-u-s-and-the-icc-explained?utm_source=chatgpt.com. Accessed January 5, 2025.

U.S. relations with the court under the Biden administration improved substantially.

The White House soon after inauguration in April 2021 revoked the Trump executive order issuing sanctions. **Khan replaced former ICC chief prosecutor Fatou Bensouda and announced he would “deprioritize” the U.S. aspect of the court’s investigation into the war in Afghanistan in favor of offenses committed by the Taliban, an Islamic State group affiliate and others.** Aksanova says Khan dropped the cause citing a provision in the Rome Statute that allows for ending investigations “if it's not in the interest of justice.”

Analysis: All three of these responses are pretty damning. The first response is probably the best one because it shows that the ICC is not at the forefront of any decision making by the President. The second response basically says the internal link (a prosecution of an American) won't happen. The final response says that these politicians will actually be able to use these organizations as tools to get what they want.

A/2: Acceding to the Rome Statute Furthers the US's image as a colonial force.

Delink: The ICC can be fixed.

Hendrickse, Melissa. "A chance for Africa to counter the pitfalls of international criminal justice?" Amnesty International, April 22, 2024,
<https://www.amnesty.org/en/latest/news/2024/04/a-chance-for-africa-to-counter-the-pitfalls-of-international-criminal-justice/>. Accessed January 8, 2025.

Since its inception, the project of international criminal justice has been marked by a striking indifference to the long historical record of atrocities perpetrated by the Western world against people of the Global South, and Africa in particular. More recent attempts to construct an ostensibly universal system of criminal justice through the establishment of the International Criminal Court (ICC) have also been marred by the persistence of Western impunity. **A draft treaty on crimes against humanity under discussion at the United Nations could offer an opportunity to address some of the prevailing critiques of the ICC frequently charged by Global South states.** Melissa Hendrickse A draft treaty on crimes against humanity under discussion within the halls of the United Nations at present could offer an opportunity to address some of the prevailing critiques of the ICC frequently charged by Global South states. However, the voices of the Global South — and particularly African states — have been largely ambivalent or absent in the treaty discussions so far.

Delink: Their high number of war crimes can be attributed to the fact that a lot of conflict takes place in Africa, which has a high rate of ICC membership.

Warrant: Africa has a high number of ICC members.

"The States Parties to the Rome Statute." International Criminal Court <https://asp.icc-cpi.int/states-parties>. Accessed January 8, 2025.

125 countries are States Parties to the Rome Statute of the International Criminal Court. Out of them 33 are African States, 19 are Asia-Pacific States, 20 are from Eastern Europe, 28 are from Latin American and Caribbean States, and 25 are from Western European and other States.

Warrant: Africa has been plagued by war since the establishment of the ICC.

"Why Does Africa Have So Many Wars? We Explain." Global Affairs Explained, n.d., <https://globalaffairsexplained.com/why-africa-wars/#:~:text=Wars%20in%20Africa%20are%20caused%20by%20widespread%20poverty%2C,separatist%20movements%20also%20drive%20conflict%20on%20the%20continent>. Accessed January 8, 2025.

The stereotype of Africa is that it is war-torn. Frequent TV images of brutal conflicts, child soldiers and atrocities against civilians have helped form this opinion. **Actually, this stereotype isn't entirely true, with much of the continent being at peace. However, Africa has had a staggering 108 individual conflicts since 1960. There have been more wars in Africa during this period than any other region of the world.** But why is this? Why does Africa actually have so many wars? Wars in Africa are caused by widespread poverty, often a lack of democracy and weak central governments. The legacy of colonialism, ethnic and religious tensions and separatist movements also drive conflict on the continent. Climate change, and the continents young demographic, are further causes of conflicts in Africa.

Warrant: Complementarity also kicks in a lot because justice for war crimes is difficult in Africa.

"Examining War Crimes Trials in Africa: Accountability and Justice." Total Military Insight , July 5, 2024, https://totalmilitaryinsight.com/war-crimes-trials-in-africa/#Challenges_Facing_War_Crimes_Trials_in_Africa. Accessed January 8, 2025.

War Crimes Trials in Africa face numerous challenges that hinder their effectiveness and efficacy. One significant obstacle is the lack of political will from national governments, often reluctant to prosecute their own leaders or military personnel, impeding justice for victims. This reluctance fosters a culture of impunity, undermining the rule of law. **Another challenge is the limited financial and technical resources available for conducting these trials.** Many African nations struggle with inadequate judicial infrastructure, affecting the ability to gather evidence, summon witnesses, and ensure fair trials. Without proper resources, achieving justice remains an uphill battle. **Moreover, geopolitical dynamics often complicate accountability, where international relations can deter action against perpetrators.** In some instances, influential leaders are protected from prosecution, further eroding public trust in the judicial process. The intertwining of local politics with war crimes trials exemplifies the complex landscape of justice in Africa.

Delink: The ICC has started to prosecute leaders in other conflict areas.

Warrant: Putin and other Russian officials have arrest warrants for them.

Doshchatov, Yurii & Dmytriieva, Daria. "Another ICC arrest warrant for Putin: Presidential Office weighs in." MSN, January 7, 2025, <https://www.msn.com/en-us/politics/government/another-icc-arrest-warrant-for-putin-presidential-office-weighs-in/ar-AA1x6bho?ocid=BingNewsSerp>. Accessed January 8, 2025.

"I am aware that further work is underway, and investigations into other war crimes are being conducted. Additional arrest warrants may be issued. There is ongoing work carried out confidentially, the details of which are not known to us," the Deputy Head of the Office of the President stated. Mudra reminded that Ukraine will become a full member of the International Criminal Court on January 1, 2025. "And perhaps we will have more rights to receive information about investigations into crimes related to aggression against Ukraine," she added. **In March 2023, the ICC issued arrest warrants for Vladimir Putin and Maria Lvova-Belova. The warrant pertained to the unlawful deportation of children from Ukraine to Russia.**

Warrant: Key players in the Israel-Palestine conflict have had warrants issued to them.

Gritten, David. "ICC issues arrest warrants for Netanyahu, Gallant and Hamas commander." BBC, November 21, 2024,
<https://www.bbc.com/news/articles/cly2exvx944o>. Accessed January 8, 2025.

Judges at the International Criminal Court (ICC) have issued arrest warrants for Israel's prime minister and former defence minister, as well as the military commander of Hamas. **A statement said a pre-trial chamber had rejected Israel's challenges to the court's jurisdiction and issued warrants for Benjamin Netanyahu and Yoav Gallant. A warrant was also issued for Mohammed Deif of Hamas, although Israel has said he was killed in an air strike in Gaza in July.** The judges said there were "reasonable grounds" the three men bore "criminal responsibility" for alleged war crimes and crimes against humanity during the war between Israel and Hamas. Both Israel and Hamas have rejected the allegations.

Analysis: These three responses should be able to effectively beat back your opponent's argument. The first response shows that there is room to shift away from any colonialist tendencies the Court may have. The second response shows why it makes sense that there are a lot of war crimes prosecutions in Africa. The final response shows that the ICC is willing to look into other regions.

A/2: The ICC is fundamentally flawed and ineffective.

Turn: The ICC is not fundamentally flawed, and the United States joining makes it more effective.

Warrant: The ICC is empirically proven to deter atrocities with the threat of investigation.

Molina, Danilo Angulo. "The Deterrence Effect: An Analysis of Preliminary Examinations by the International Criminal Court on the Severity of Civilian Atrocities." The University of British Columbia. April 18, 2022.
<https://open.library.ubc.ca/media/download/pdf/52966/1.0413716/5>. Accessed January 12, 2025.

Despite preliminary examinations being the first stage of a four-stage intervention by the International Criminal Court ("the Court"), their deterrent effects remain largely unexamined. **In this paper, I argue that, because a preliminary examination involves high-cost operations and comprehensive reports, it serves as a credible commitment signal to perpetrators that the Court is willing to take further and serious actions for the pursuit of justice.** Thus, perpetrators are more likely to scale down the intensity of atrocities in order to avoid the escalation to a formal investigation, avoid being tried at the Court in the Hague, and protect their legitimacy. I test my argument by using time-series cross-section data for a period of 15 years, from 2004 to 2018, from 46 countries, including those with and without preliminary examinations. **The findings support my hypothesis and theory, highlighting that preliminary examinations are significantly sufficient on their own to decrease the severity of civilian atrocities by approximately 15%. This study contributes to the literature on international criminal law and international tribunals by displaying the deterrence effect of preliminary examinations when analyzed independently instead of collectively with the other stages of intervention.**

Warrant: Acceding to the Rome Statute creates strong global norms that strengthen the rule of law.

Begem, Sarah Sarmila. "THE ROLE OF THE INTERNATIONAL CRIMINAL COURT: A LITERATURE REVIEW ON ITS EFFECTIVENESS AND LIMITATIONS." eScience Humanity, Volume 5, Number 1. 2024.
<https://idebahasa.or.id/escience/index.php/home/article/download/224/150>. Accessed January 12, 2025.

In addition to preventing impunity, **the ICC also plays a role in strengthening the rule of law at the international level. By setting binding legal standards for member states, the ICC helps create global norms on accountability (Minkova, 2024). States that are part of the Rome Statute are encouraged to harmonize their national laws with the principles of the ICC, which in turn strengthens the rule of law at the domestic and international levels.** This creates synergy between national and international law in an effort to combat serious crimes.

Warrant: The ICC successfully prevents violence in a large number of ways.

Kalu, Benjamin Okezie, Nabieu Miebaka. "The International Criminal Court: Analyzing Its Efficacy in Combating International Crimes in the 21st Century." Advances in Law, Pedagogy, and Multidisciplinary Humanities, Volume 2, Number 1. 2024.
<http://103.133.36.82/index.php/alpamet/article/download/751/486>. Accessed January 12, 2025.

Opening an ICC investigation in the concerned state has a deterrent effect on rebel groups as a reduction in “rebel-sponsored civilian killings” has been observed in situations where investigations have been initiated. A state which ratifies the Rome

Statute while a conflict is on-going is more likely to end the conflict by way of peaceful negotiations than other states. Conflicts where the ICC intervenes are shorter than their counterparts where the ICC does not intervene. **You will be astonished to know that where the ICC intervenes, a conflict generally lasts for 2.05 years whereas, on the other hand, where the ICC does not intervene, the conflict lasts for 3.41 years.** State-parties to the Rome Statute were less likely to engage in new conflicts in comparison to their counterparts, that is, non-state parties. The ICC does not prolong conflicts. Rather, on the contrary, it helps in reducing violence and the timeframe for which conflicts continue. **The states which ratify the Rome Statute have a significant impact on the reduction of human rights violations in comparison to their non-ratifying counterparts. This naturally reduces violence.**

Impact: The ICC's deterrence effect helps international stability.

Begem, Sarah Sarmila. "THE ROLE OF THE INTERNATIONAL CRIMINAL COURT: A LITERATURE REVIEW ON ITS EFFECTIVENESS AND LIMITATIONS." eScience Humanity, Volume 5, Number 1. 2024.
<https://idebahasa.or.id/escience/index.php/home/article/download/224/150>. Accessed January 12, 2025.

The International Criminal Court (ICC) has great relevance in preventing impunity for perpetrators of serious international crimes, such as genocide, war crimes, and crimes against humanity (Anwary, 2023). In an increasingly globally connected world, serious crimes not only impact immediate victims but also create instability that can extend to different countries. The ICC provides a mechanism to ensure that criminals cannot take refuge behind state boundaries or political power, making it an important symbol in efforts to uphold international justice (Clark, 2011).

Impact: The United States acceding to the Rome Statute as a global hegemon is necessary to make the ICC more effective.

Ehighalua, Isegohohime Daniel. "Re-envisioning the International Criminal Court: Does It Matter If The United States Continues To Remain At The Margins?" American University Washington College of Law. 2022.
https://aura.american.edu/articles/thesis/Re-envisioning_the_International_Criminal_Court_does_it_matter_if_the_United_States_continues_to_remain_at_the_margins_/23860893/1/files/41855853.pdf. Accessed January 12, 2025.

Does it Matter if the United States Continues to Remain at the Margins? The answer to this question is, probably yes. However, the consequences – both for the U.S. and global order - swing several ways. **On the one hand is the possibility that the U.S. remaining at the margins will engender and feed on the “chaos theory”³¹⁶ and its implications, namely, rendering conflicts intractable and unresolvable in the absence of a global hegemon like the U.S. helping to broker peace. On the other hand is the possibility of a long drawn stagnancy or state of inertia unsure of what will come next if the global order is left rule-less, rudderless, and unmanageable.** There is a third way, which is to recalibrate the visions and policies of the Court in realizing the objectives of pursuing perpetrators of atrocious crimes wherever they may be.

Analysis: This response essentially says the opposite of the argument and says that, considering the structural barriers to the ICC's success, they are actually much more effective than might appear at first glance.

A/2: The ICC would not deter the US due to ICC sanctions.

Delink: United States sanctions are not particularly effective

Warrant: The benefits if accession aren't outweighed by sanctions, because previous United States sanctions have made the ICC appear more impartial, further improving its global standing..

Kersten, Mark. "The International Criminal Court's Pursuit of Justice and Legitimacy."

Current History, Volume 124, Issue 858. January 1, 2025.

<https://online.ucpress.edu/currenthistory/article/124/858/15/204210>. Accessed January 12, 2025.

The Trump administration went so far as to issue sanctions in 2020 against then- ICC Chief Prosecutor Fatou Bensouda and some of her staff. During that time, a US State Department employee told me that if the ICC prosecutor called, American diplomats might not pick up the phone. It was a grim period for the court, which nevertheless continued its work and did not kowtow to pressure from Washington. **The Trump administration's hysterics also coincided with improvement in the ICC's global standing. One of the ironies of coercive US diplomacy toward the ICC is the impact it has on other parts of the international community. When US hostility was at its most intense under the Bush and Trump administrations, the ICC's standing in the rest of the world appeared strongest. There were few criticisms of the court for alleged bias during these periods.**

Warrant: Sanctions would be less effective if the United States was a party to the Rome Statute.

Stradner, Ivana, John Yoo. "Should the US Use Sanctions to Influence the ICC?" American Enterprise Institute. January 11, 2021. <https://www.aei.org/oped/should-the-us-use-sanctions-to-influence-the-icc/>. Accessed January 12, 2025.

Instead, **American sanctions had a deterrent role (which is not contrary to international law) to protect its sovereignty, which is the main principle in international law. Speaking at the UN General Assembly, President Trump stated: "As far as America is concerned, the ICC has no jurisdiction, no legitimacy, and no authority"** and he is correct. The ICC has no jurisdiction to investigate the U.S. military for two main reasons. First, the United States is not a state party to the Rome Statute. The ICC lacks jurisdiction over crimes occurring before the Rome Statute entered into force on July 1, 2002 or over crimes occurring before ratification for those member states after that date.

Warrant: Sanctions have the opposite effect, threatening United States leadership.

Buchwald, Todd. "The ICC Arrest Warrants: Even a Strong U.S. Reaction Should Not Include Sanctions." Just Security. May 22, 2024.
<https://www.justsecurity.org/95965/sanctions-international-criminal-court/>. Accessed January 12, 2025.

The sanctions and the accompanying threats fundamentally undermined their confidence in the commitment of the United States to broader issues of human rights and the rule of law. It was widely observed that the sanctions made it more difficult to pursue reforms of the ICC system then under consideration by the Rome Statute parties that would have been in the interests of the United States, and it undermined the willingness and ability of traditional friends and allies to work with the United States as a responsible international partner in other contexts. Simultaneously, the

resort to such brutish tactics created an impression that the United States lacked a reasoned basis for its positions. The imposition of sanctions was seen as aligning the United States with despots keen on undermining justice and rule of law efforts in their own countries. **Amidst global democratic backsliding, belligerently threatening an independent tribunal is not a good look for a country that holds itself up as the leader of the free world**

Impact: The United States would have special bargaining power with the ICC, reducing the need for utilization of the sanctions.

Minkoff, Richard M. "The International Criminal Court and the United States: It's Not a Member. Should it Join Now?" University of California, Berkeley Working Papers. July 12, 2023. <https://escholarship.org/content/qt0tq3h4xv/qt0tq3h4xv.pdf>. Accessed January 12, 2025.

U.S. membership would vastly improve the court's legitimacy and effectiveness. **With its vast resources, international prestige and U.N. Security Council membership, no nation could offer the ICC support like the U.S. The U.S. has the power, as a condition of membership, to seek trade-offs with the ICC. It could insist that the ICC agree not to expressly or implicitly limit legitimate U.S. foreign policy**, including its own efforts to defend human rights.

Impact: Merely acceding to the Rome Statute has major benefits, even without allowing investigations.

Kalu, Benjamin Okezie, Nabieu Miebaka. "The International Criminal Court: Analyzing Its Efficacy in Combating International Crimes in the 21st Century." Advances in Law, Pedagogy, and Multidisciplinary Humanities, Volume 2, Number 1. 2024.

<http://103.133.36.82/index.php/alpamet/article/download/751/486>. Accessed January 12, 2025.

A state which ratifies the Rome Statute while a conflict is on-going is more likely to end the conflict by way of peaceful negotiations than other states. 11. Conflicts where the ICC intervenes are shorter than their counterparts where the ICC does not intervene. You will be astonished to know that where the ICC intervenes, a conflict generally lasts for 2.05 years whereas, on the other hand, where the ICC does not intervene, the conflict lasts for 3.41 years. 12. **State-parties to the Rome Statute were less likely to engage in new conflicts in comparison to their counterparts, that is, non-state parties.** 13. The ICC does not prolong conflicts. Rather, on the contrary, it helps in reducing violence and the timeframe for which conflicts continue. 14. **The states which ratify the Rome Statute have a significant impact on the reduction of human rights violations in comparison to their non-ratifying counterparts. This naturally reduces violence.**

Analysis: This response is good because it presents multiple reasons why sanctions on the ICC might backfire. Most importantly, it provides valuable historical evidence showing that previous attempts by the United States to punish the court did not have any impact on the court's credibility.

A/2: The ICC would not deter the US due to its seat on the Security Council.

Turn: The ICC is more than capable of countering countries on the UNSC

Warrant: Constructive vetoes are used to block deferrals, allowing the ICC to fulfil its goals.

Fremuth, Michael Lysander and Konstantina Stavrou. "The Future We Want?" December 23, 2022. Max Planck Yearbook of United Nations Law Online.

https://brill.com/view/journals/mpyo/25/1/article-p167_9.xml?language=en.

Accessed January 7, 2025.

A veto exercise by each of the UNSC P5 might block both referrals and deferrals, thus, being a double-edged sword for cases whose prosecution before the ICC presents the most appropriate avenue in the interests of international peace and security. In such cases, a veto against a referral resolution might hinder the Court from fulfilling its mandate and policy goals, accordingly being called a 'destructive veto' in this article; **while a veto blocking a deferral resolution might enable the Court to continue its fight against impunity and allow it to fulfil its policy goals, accordingly being understood here as a 'constructive veto'.** This forms a normative guarantee of 'equilibrium' of the veto to ensure that in both cases the decision of UNSC is based on broad consensus.

Warrant: International investigations have the power to remove immunity, regardless of the Security Council.

Khan, Mazhar Ali. "Balancing the Legitimate Interests of States: Exploring the Connection between the Principles of Universal Jurisdiction and Complementarity under the Rome Statute." Review of Human Rights, Volume

10, Number 1. Winter 2024.

<https://www.reviewhumanrights.com/index.php/RHR/article/download/255/10>

6. Accessed January 11, 2025.

In the near past, the International Criminal Tribunals for both Yugoslavia (ICTY) and Rwanda (ICTR) also known as ad hoc tribunals were established by the United Nations Security Council (UNSC). Article 7(2) of the ICTY and 6(2) of the ICTR statutes specifically provides for the removal of head of state immunity in criminal prosecutions. Moreover, article 27 of the ICC's Statute deals with the irrelevancy of official capacity and immunity in criminal prosecution. Generally, International Criminal Law (ICL) removes both substantial and temporal immunity for all public officials. On the contrary, the International Court of Justice (ICJ) in "Congo v. Belgium" (2002) recognized the temporal immunity of the incumbent officials.⁸ This irrelevancy of official immunity is actually the extraneousness of the corporate body of state so that the powerful individuals could face justice as well as to remove the impression that immunities are shield against the universal jurisdiction of national and international courts. In other words, it is intended to pierce the veil of corporate fictions behind which the powerful individual would hide.

Warrant: Merely acceding to the Rome Statute has major benefits, even without allowing investigations.

Kalu, Benjamin Okezie and Nabieu Miebaka. "The International Criminal Court: Analyzing Its Efficacy in Combating International Crimes in the 21st Century." Advances in Law, Pedagogy, and Multidisciplinary Humanities, Volume 2, Number 1. 2024.
<http://103.133.36.82/index.php/alpamet/article/download/751/486>. Accessed January 12, 2025.

12. **State-parties to the Rome Statute were less likely to engage in new conflicts in comparison to their counterparts, that is, non-state parties.** 13. The ICC does not prolong conflicts. Rather, on the contrary, it helps in reducing violence and the timeframe for which conflicts continue. 14. **The states which ratify the Rome Statute have a significant impact on the reduction of human rights violations in comparison to their non-ratifying counterparts. This naturally reduces violence.**

Impact: United States acceding to the Rome Statute would create strong global norms even if the Security Council would veto any potential investigation.

Begem, Sarah Sarmila. "THE ROLE OF THE INTERNATIONAL CRIMINAL COURT: A LITERATURE REVIEW ON ITS EFFECTIVENESS AND LIMITATIONS." eScience Humanity, Volume 5, Number 1. 2024.
<https://idebahasa.or.id/escience/index.php/home/article/download/224/150>. Accessed January 12, 2025.

In addition to preventing impunity, **the ICC also plays a role in strengthening the rule of law at the international level. By setting binding legal standards for member states, the ICC helps create global norms on accountability** (Minkova, 2024). **States that are part of the Rome Statute are encouraged to harmonize their national laws with the principles of the ICC, which in turn strengthens the rule of law at the domestic and international levels.** This creates synergy between national and international law in an effort to combat serious crimes

Impact: Accession to the Rome Statute is crucial even without allowing investigations because staying a non-member diminishes United States leadership.

Minkoff, Richard M. "The International Criminal Court and the United States: It's Not a Member. Should it Join Now?" University of California, Berkeley Working Papers.

July 12, 2023. <https://escholarship.org/content/qt0tq3h4xv/qt0tq3h4xv.pdf>.

Accessed January 12, 2025.

The U.S. remains a member of a group of major nations who refuse to join or materially aid or cooperate with the ICC. That group includes Iran, North Korea, Cuba and Syria, all designated as state sponsors of terrorism by the U.S. The group also includes the Russian Federation, China, India, Sudan, Libya, Turkey, Iraq, Saudi Arabia and Israel. The Philippines withdrew in 2019 when the ICC investigated President Duterte for Crimes Against Humanity. This puts the U.S. in the embarrassing company of a “rogue’s gallery” of non-member states, including dictatorships. It diminishes U.S. international prestige and engagement with countries, especially those who currently oppose certain U.S foreign policy tactics.

Analysis: This response is good because it presents multiple reasons why the ICC could take action against members of the Security Council. Most importantly, it provides valuable historical evidence showing that previous attempts by the United States to punish the court did not have any impact on the court’s credibility.

A/2: The ICC would not deter the US due to the ASPA.

Delink: There's no risk of military force being used under the ASPA

Warrant: Limitations of the American Service-Members' Protection Act are loose, allowing United States action in many cases.

Ireland, Kiel, Julian Bava. "The American Servicemembers' Protection Act: Pathways to, and Constraints on, U.S. Cooperation with the International Criminal Court." Stanford Law School: Law and Policy Lab. June 1, 2016. <https://law.stanford.edu/publications/the-american-servicemembers-protection-act-pathways-to-and-constraints-on-u-s-cooperation-with-the-international-criminal-court/>. Accessed January 11, 2025.

These limitations are not absolute, however. First, the statute explicitly states that the restrictions described above in § 7423 and § 7425 do not apply to any action that the president takes with respect to a particular matter “involving the International Criminal Court” in exercising the commander-in-chief power found in Article II, Section 2 of the U.S. Constitution, or the general executive power found in Article II, Section 1, if the president notifies Congress of his intent to abrogate § 7423 or § 7425. **Second,** 22 U.S.C. § 7433 states that **nothing in ASPA “shall prohibit the United States from rendering assistance to international efforts to bring to justice Saddam Hussein, Slobodan Milosovic, Osama bin Laden, other members of Al Queda, leaders of Islamic Jihad, and other foreign nationals accused of genocide, war crimes or crimes against humanity.”**

Warrant: The American Service-Members' Protection Act has provisions that allow the United States to cooperate with crucial ICC actions.

Dodd, Christopher J., John B. Bellinger. "How the U.S. can support a war crimes investigation into Russia." The Washington Post. April 5, 2022.
<https://www.washingtonpost.com/opinions/2022/04/05/us-international-criminal-court-russia-war-crimes-putin-ukraine/>. Accessed January 11, 2025.

One provision of the ASPA, drafted by one of us and known as the Dodd Amendment, specifically permits the United States to assist international efforts to bring to justice "foreign nationals" who commit war crimes and crimes against humanity. Another provision, added when the other of us was a White House lawyer, provides that the ASPA does not interfere with the president's constitutional authority to take actions to help the Court in specific cases. **These exceptions would clearly allow the United States to share intelligence information about Russian offenses, to allow expert investigators and prosecutors to assist, and to provide law enforcement and diplomatic support to the Court.**

Warrant: The United States government is allowed to assist the ICC.

Ireland, Kiel, and Julian Bava. "The American Servicemembers' Protection Act: Pathways to, and Constraints on, U.S. Cooperation with the International Criminal Court." Stanford Law School: Law and Policy Lab. June 1, 2016.
<https://law.stanford.edu/publications/the-american-servicemembers-protection-act-pathways-to-and-constraints-on-u-s-cooperation-with-the-international-criminal-court/>. Accessed January 11, 2025.

Since its passage in 2002, **it has generally been assumed by academics and policymakers alike that ASPA poses an insurmountable challenge to any potential U.S. cooperation with the ICC.** Thus, the academic literature on this subject has primarily focused on ASPA's implications for U.S. foreign policy and the functioning of the Court itself. Rather than adopt such a defeatist approach, this article will engage in a critical

analysis of the ASPA's text and legislative history in order to determine the true limits to, as well as avenues for, U.S.-ICC cooperation. **A careful review of the substance and context of ASPA reveals that from a legal standpoint, the U.S. government is permitted to assist the ICC in a variety of ways that range from logistical aid to financial support.** This is qualified, however, by fundamental restrictions as provided by law.

Impact: The United States would have special bargaining power with the ICC, reducing the need for utilization of the American Service-Members' Protection Act.

Minkoff, Richard M. "The International Criminal Court and the United States: It's Not a Member. Should it Join Now?" University of California, Berkeley Working Papers. July 12, 2023. <https://escholarship.org/content/qt0tq3h4xv/qt0tq3h4xv.pdf>. Accessed January 12, 2025.

U.S. membership would vastly improve the court's legitimacy and effectiveness. **With its vast resources, international prestige and U.N. Security Council membership, no nation could offer the ICC support like the U.S. The U.S. has the power, as a condition of membership, to seek trade-offs with the ICC. It could insist that the ICC agree not to expressly or implicitly limit legitimate U.S. foreign policy**, including its own efforts to defend human rights.

Impact: Merely acceding to the Rome Statute has major benefits, even without allowing investigations.

Kalu, Benjamin Okezie and Nabieu Miebaka. "The International Criminal Court: Analyzing Its Efficacy in Combating International Crimes in the 21st Century." Advances in Law, Pedagogy, and Multidisciplinary Humanities, Volume 2, Number 1. 2024.

<http://103.133.36.82/index.php/alpamet/article/download/751/486>. Accessed January 12, 2025

12. State-parties to the Rome Statute were less likely to engage in new conflicts in comparison to their counterparts, that is, non-state parties. 13. The ICC does not prolong conflicts. Rather, on the contrary, it helps in reducing violence and the timeframe for which conflicts continue. 14. The states which ratify the Rome Statute have a significant impact on the reduction of human rights violations in comparison to their non-ratifying counterparts. This naturally reduces violence.

Analysis: This response is pretty much the exact opposite of the argument, providing both reasons why the US could take action despite existing laws and noting that ratifying the Rome Statute would likely take precedent over existing law.

A/2: There are alternatives to the ICC that better strengthen international law.

Non-Unique: The ICC already has universal jurisdiction under its own terms

Warrant: The ICC already has universal jurisdiction.

Khan, Mazhar Ali. "Balancing the Legitimate Interests of States: Exploring the Connection between the Principles of Universal Jurisdiction and Complementarity under the Rome Statute." *Review of Human Rights*, Volume 10, Number 1. Winter 2024.
<https://www.reviewhumanrights.com/index.php/RHR/article/download/255/10>
6. Accessed January 11, 2025.

Since the Nuremberg and Tokyo trials, UJ has been recognized as an important means to address serious international crimes. The creation of the ICTY and ICTR, as well as the ICC, has intensified scrutiny over war crimes, crimes against humanity, and genocide. **However, UJ typically refers to national jurisdiction over international crimes, rather than jurisdiction by international courts, unless specifically established.** In this way, UJ allows states to prosecute serious international crimes irrespective of where they occurred or the nationality of the perpetrators. **The ICC's jurisdiction over certain crimes, as outlined in the Rome Statute, complements state jurisdiction.** These crimes are recognized as *jus cogens* in both treaty and customary international law, enabling states to exercise UJ over them. Thus, crimes defined by the ICC and other legal instruments due to their heinous elements and invoking contents are eligible for UJ. Some scholars argue that the ICC can exercise UJ over crimes of a *jus cogens* nature listed in its Statute, even for individuals from non-party states.

Warrant: Many states already acknowledge the ICC's universal jurisdiction.

Burk, Hunter. "The Need to Clarify Universal Jurisdiction Amid a Resurgence." SSRN.

March 11, 2023. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4381575.

Accessed January 12, 2025.

Similarly, **the Rome Statute's preamble, which established the International Criminal Court, affirms a global commitment to not letting “the most serious crimes... go unpunishment and that their effective prosecution must be ensured... at the national level.”** It also reminds states party that it is “the duty of every State to exercise its criminal jurisdiction over those responsible for international crimes.” While this preamble carries no legal obligation, it serves as an important reminder of states party's commitment to the international criminal law order, including universal jurisdiction. **This widespread commitment to an international legal order (confirmed in the various treaties articulated above) confirms states acknowledgement of universal jurisdiction as a legitimate legal practice.**

Warrant: Universal jurisdiction is impractical and would overburden the court, making it ineffective.

Ryngaert, Cedric. "The International Criminal Court and Universal Jurisdiction: A Fraught Relationship?" New Criminal Law Review, Volume 12, Number 4. 2009.
<https://online.ucpress.edu/nclr/article/12/4/498/68662/The-International-Criminal-Court-and-Universal>. Accessed January 12, 2025.

There are equally strong arguments against a grant of universal jurisdiction, however. The strongest arguments contra are probably of a practical nature. For one thing, arguably, **the ICC has currently more than a full-time job addressing the situations that have been referred to it, in particular the self-referrals by states (which were never**

seriously contemplated by the drafters of the Rome Statute). An extension of the Court's jurisdictional basis ratione territorii so as to include the universality principle would only serve to overburden the Court, or to raise expectations that it can never fully meet.

Impact: Universal jurisdiction would be ineffective without state cooperation.

Ryngaert, Cedric. "The International Criminal Court and Universal Jurisdiction: A Fraught Relationship?" *New Criminal Law Review*, Volume 12, Number 4. 2009.
<https://online.ucpress.edu/nclr/article/12/4/498/68662/The-International-Criminal-Court-and-Universal>. Accessed January 12, 2025.

An extension of the Court's jurisdictional basis ratione territorii so as to include the universality principle would only serve to overburden the Court, or to raise expectations that it can never fully meet. For another, **no ICC investigation can be successful without the cooperation of the territorial state, where normally most evidence and the suspect are located; the ICC Prosecutor will have to negotiate access to local evidentiary sources with the state (non-party) that is the target of the investigation, and request that state to effectuate the arrests of the sought persons. If the investigation has been initiated on the basis of the universality principle, one may assume that it has been triggered by the proprio motu powers of the Prosecutor, and not by self-referral.** As the target state will not have given its consent for such an investigation in the first place, it may be very optimistic to expect that cooperation will be forthcoming.

Impact: Universal jurisdiction would discourage widespread adoption of the Rome Statute.

Ryngaert, Cedric. "The International Criminal Court and Universal Jurisdiction: A Fraught Relationship?" *New Criminal Law Review*, Volume 12, Number 4. 2009.

<https://online.ucpress.edu/nclr/article/12/4/498/68662/The-International-Criminal-Court-and-Universal>. Accessed January 12, 2025.

Indeed, many of the worst crimes may precisely have been committed in states that have chosen not to become a party to the Statute. The Prosecutor then risks becoming overstretched and not being able to deliver on any of the situations that call for his attention. **In addition, the inclusion of universal jurisdiction in the Rome Statute risks discouraging states from becoming parties to the Rome Statute. Indeed, if the ICC is entitled to exercise universal jurisdiction, it would not make much sense for states to become parties: situations occurring on their territory would fall within the (universal) jurisdiction of the Court anyway, irrespective of the status of the state, as a party to the Statute or not. In the interest of having the Rome Statute as widely ratified as possible, and thus of universalizing the scope of the Statute, any amendment that might dissuade states from ratifying the Statute** (either because the amendment renders the obligations of states parties more burdensome or because the amendment does not actually change the position of states compared to their staying outside of the ICC regime) should be avoided.

Analysis: This response provides two possible pathways to victory. First, teams can argue that the ICC already has de facto universal jurisdiction, meaning that the alternative doesn't work. Second, teams can argue that universal jurisdiction would create too much work for the court and create an unmanageable situation.

A/2: US involvement delegitimizes the ICC

Answer: U.S. involvement in the ICC can be perceived as undermining the court's legitimacy, especially when the U.S. selectively supports or opposes the ICC's actions based on its geopolitical interests. This selective engagement may lead to accusations of double standards, thereby weakening the court's impartiality and credibility.

Warrant: U.S. policy influencing the ICC can disrupt international standards.

"The unravelling of the international legal order." *Financial Times*, 10 Nov.

2024, <https://www.ft.com/content/4b8d2b1a-a68b-4505-992f-743fae37e84d>.
Accessed 14 Dec. 2024.

The recent issuance of arrest warrants by the International Criminal Court (ICC) for Israeli Prime Minister Benjamin Netanyahu and several Hamas leaders has sparked controversy and highlighted perceived double standards in international law application. While US President Joe Biden supported the ICC's warrant for Russian President Vladimir Putin over war crimes in Ukraine, he rejected the warrant for Netanyahu, citing Israel's right to self-defense. **This discrepancy underscores Washington's inconsistent stance and threatens to undermine the international legal framework the US helped establish.**

Warrant: The U.S. has historically taken actions that challenge the ICC's authority, such as imposing sanctions on its officials or passing legislation to counteract its decisions. These actions can be seen as attempts to delegitimize the court, thereby diminishing its effectiveness in upholding international justice.

Zengerle, Patricia. "US House votes to sanction International Criminal Court over Israel." *Reuters*, 9 Jan. 2025, <https://www.reuters.com/world/us-house-votes->

sanction-international-criminal-court-over-israel-2025-01-09/. Accessed 14 Dec. 2024.

"The US House of Representatives approved the 'Illegitimate Court Counteraction Act' by a vote of 243 to 140, in response to the International Criminal Court's arrest warrants for Israeli Prime Minister Benjamin Netanyahu and former defense minister Yoav Gallant over actions in Gaza. The bill sanctions any foreigner who investigates, arrests, detains, or prosecutes U.S. citizens or those of allied nations like Israel who are not ICC members. The House vote showcased strong bipartisan support for Israel, with 45 Democrats joining 198 Republicans in backing the bill."

Warrant: Critics argue that U.S. involvement in the ICC, particularly when accompanied by threats or punitive measures against the court, can erode the institution's independence and deter it from pursuing justice impartially. Such actions may lead to a perception that the ICC is susceptible to political pressure from powerful nations, thereby undermining its legitimacy.

"The International Criminal Court's chief lashes out at threats from Russia and a US senator." *Associated Press*, 5 Dec. 2024, <https://apnews.com/article/d2b42db2919a4be879bd3df771a4113f>. Accessed 14 Dec. 2024.

"The president of the International Criminal Court (ICC), Judge Tomoko Akane, criticised Russia for issuing arrest warrants against ICC officials, including prosecutor Karim Khan, in response to their investigation of Russian President Vladimir Putin for war crimes in Ukraine. Akane also condemned US Senator Lindsey Graham's threats of sanctions against the ICC following arrest warrants for Israeli PM Benjamin Netanyahu and former Defense Minister Yoav Gallant. The ICC's annual meeting of its 124 member countries aimed to elect committee members and approve the budget amidst these disputes."

Warrant: The U.S.'s selective recognition of the ICC's jurisdiction—supporting the court's actions against adversaries while opposing those against allies—can be perceived as politicizing international justice. This approach may lead to a loss of confidence in the ICC's impartiality and undermine its role as an independent judicial body.

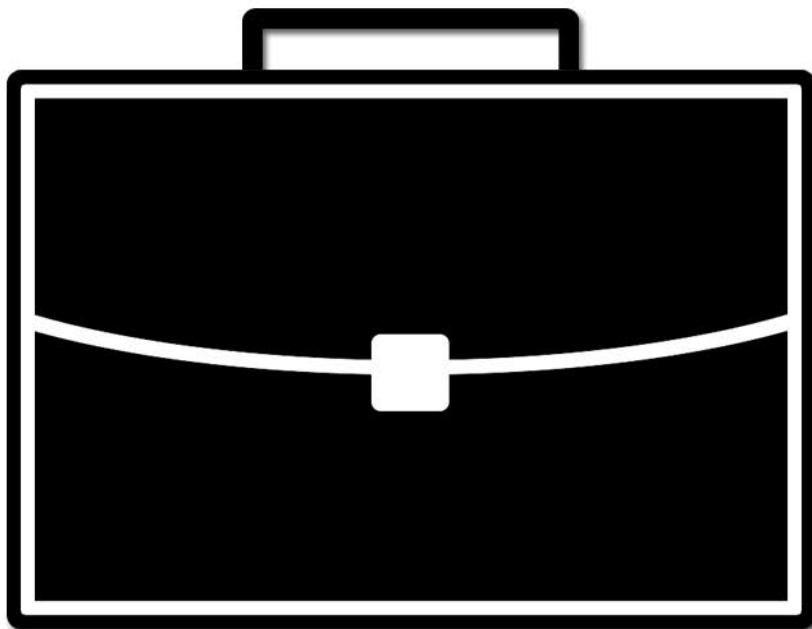
"US officials slam ICC arrest warrant against Netanyahu, Gallant as 'outrageous, unlawful, dangerous'." New York Post, 21 Nov. 2024,
<https://nypost.com/2024/11/21/us-news/us-officials-slam-icc-arrest-warrant-for-netanyahu-gallant-outrageous-unlawful-dangerous/>. Accessed 14 Dec. 2024.

"US officials criticized the International Criminal Court's (ICC) arrest warrant against Israeli Prime Minister Netanyahu and former defense chief Yoav Gallant, calling it 'outrageous, unlawful, and dangerous.' US officials maintained that Israel has the right to defend itself, and argued that the ICC's actions support terrorists. The ICC, established in 2002, prosecutes severe international crimes and has 124 member states; however, neither Israel nor the US are members. The arrest warrants relate to accusations of war crimes and crimes against humanity during Israel's military actions in Gaza since October 8."

Champion Briefs

February 2025

Public Forum Brief



Con Arguments

CON: The US could be politically targeted by the ICC.

Argument: The International Criminal Court has seen its fair share of political prosecutions.

Acceding to the ICC could jeopardize US troops and political leaders from this type of prosecution.

Warrant: The ICC is bound by political realities.

Duerr, Benjamin. "Twenty Years On: The ICC and the Politicization of its Mechanisms." IPI Global Observatory, August 7, 2018, <https://theglobalobservatory.org/2018/08/twenty-years-icc-politicization-mechanisms/>. Accessed January 5, 2025.

However, since the court is dependent on the cooperation of states, for example when it comes to accessing crime scenes or carrying out arrest warrants, governments still have a lot of power to decide when to cooperate and which side of a conflict they want to see prosecuted. **The various situations demonstrate the fundamental dilemma of the court: that of the difference between its legal mandate and the politicized reality. While the ICC was established as an impartial court, its possibilities to act are in reality limited and shaped by political interests.** The court has navigated this dilemma by carefully balancing the ideal—an apolitical approach merely based on the law—and a more realistic approach, thus, accommodating the interests of the governments involved.

Warrant: Even the head prosecutor of the Court recognizes its politicization.

Dan, Zhu. "Who Politicizes the International Criminal Court?" Torkel Opsahl Academic EPublisher, 2014, <https://www.toaep.org/pbs-pdf/28-zhu>. Accessed January 5, 2025.

There have been increasing accusations from states, scholars, and non-governmental organisations ('NGOs') that political interests external to the Court have biased its judicial activities.¹ Even the ICC Prosecutor raised the concern that "we are a judicial institution but there have been several attempts to politicize the court and that is wrong. It sends the wrong signals to people that the court is political".² While the Office of the Prosecutor's prosecutorial strategy and general performance is not free from criticisms, much unease about the ICC boils down to one issue: whether the Court can operate in a manner that is independent of the political interests of outside actors.

Warrant: This has kept the United States out from the start.

Klobucista, Claire & Ferragamo, Mariel. "The Role of the ICC." Council on Foreign Relations, November 22, 2024, <https://www.cfr.org/backgrounder/role-icc>. Accessed January 5, 2025.

Washington has been supportive at times and hostile at others. U.S. policymakers originally supported the concept of an international criminal court, and the Bill Clinton administration participated intensively in the UN negotiations over the Rome Statute. However, at the Rome Conference in 1998, it opposed the final draft of the treaty over concerns the prosecutor would have unchecked power and could subject U.S. soldiers and officials to politicized prosecutions, and that the treaty would not permit reservations. President Clinton later authorized U.S. Ambassador at Large for War Crimes Issues David Scheffer to sign the Rome Statute, but he recommended that it not be sent to the Senate for ratification until U.S. concerns were addressed. President George W. Bush withdrew the U.S. signature in 2002.

Warrant: Specifically, referrals can be used as a punitive tool.

Refaat, Mahmoud. "Obstacles To The Application of International Justice Rules of Referral to the International Criminal Court and Political Considerations of the Security Council." Wisconsin International Law Journal, August, 2023, https://wilj.law.wisc.edu/wp-content/uploads/sites/1270/2023/08/391-422-Refaat_Proof_Final-1.pdf. Accessed January 5, 2025.

In most cases, self-referrals have been a political weapon for state parties to advance their own agenda.²⁷ The potential for manipulation when a state initiates a voluntary referral to the ICC derives from the government's motive to bring an opposition group before the court. In reality, states use the ICC for political and military reasons, namely to pursue their enemies, rather than to provide justice.²⁸ The unfortunate reality is that the Rome Statute leaves plenty of space for the states to do so. As Article 14(2) provides, the state when referring a situation to the court shall specify the relevant circumstances and present supporting documents.²⁹ This gives states the freedom to specify the circumstances of a situation, like the actual events, the actors involved and the crimes committed, according to their political intentions. However, this also allows states to draw a veil over their involvement in the alleged crimes or, on the contrary, their inaction to such atrocities. That is why after a state-referral the Prosecutor still holds the power to decide to investigate the case.

Warrant: The Ivory Coast is an example of this politicization.

Duerr, Benjamin. "Twenty Years On: The ICC and the Politicization of its Mechanisms." IPI Global Observatory, August 7, 2018, <https://theglobalobservatory.org/2018/08/twenty-years-icc-politicization-mechanisms/>. Accessed January 5, 2025.

The court has navigated this dilemma by carefully balancing the ideal—an apolitical approach merely based on the law—and a more realistic approach, thus,

accommodating the interests of the governments involved. In Ivory Coast, for example, the ICC started with issuing indictments against members of the opposition and later moved to also investigate crimes allegedly committed by persons linked to the sitting government. The expansion of the investigation has not yet resulted in new indictments. Thus, so far there has been no situation where the ICC was given the ability to function completely independently and which led to concrete results. In cases where the prosecution tried to emancipate itself from the interests of those in power—like in Sudan and Kenya—it failed.

Warrant: The appointment of the Prosecutor also leads to political issues.

Refaat, Mahmoud. "Obstacles To The Application of International Justice Rules of Referral to the International Criminal Court and Political Considerations of the Security Council." Wisconsin International Law Journal, August, 2023, https://wilj.law.wisc.edu/wp-content/uploads/sites/1270/2023/08/391-422-Refaat_Proof_Final-1.pdf. Accessed January 5, 2025.

Unlike other independent counsels, the Prosecutor, as well the ICC, is heavily dependent on the member states for funds and resources.⁵⁸ The Prosecutor's "independence" can often be in jeopardy as he answers directly to the ICC judiciary and directly to member states.⁵⁹ There has been much criticism regarding the election of the Office of the Prosecutor as concerns over circumventing the vetting procedure arose in the 2021 elections.⁶⁰ This failure on the part of the Assemblies of State Parties points to undue influence on the selection of the Prosecutor striking at the very foundation of the Office, i.e. independence.⁶¹ This also further aggravates the shocking findings in the ICC Independent Expert Review regarding hostile work environment at the International Criminal Court (ICC) and accounts of bullying.⁶² Pursuant to Article 42(3) of the Rome Statute, the high moral character requirement of the Prosecutor was the center focus of the 2021 elections.⁶³ **Proceeding without a proper vetting**

mechanism has been cited as a violation of due process.⁶⁴ This is extremely perilous as any proprio motu investigations by the Prosecutor will be targeted for the failure to vet and discrepancies during the elections period. When member states vote, it is impossible to put aside personal agendas and political motives.

Warrant: The US being part of the Court would lead to political prosecution.

Michel, Martin & Bellinger III, John. "The U.S. does not recognize the jurisdiction of the International Criminal Court." NPR, April 16, 2022,
<https://www.npr.org/2022/04/16/1093212495/the-u-s-does-not-recognize-the-jurisdiction-of-the-international-criminal-court>. Accessed January 5, 2025.

Well, that's right, Michel. The U.S. has had a real roller coaster relationship with the ICC from the beginning with, unfortunately, more downs than ups. The real answer to your question is that **the U.S. has been concerned from the very beginning that the prosecutor for the court would be given too much power unchecked, and he or she could conduct politically-motivated prosecutions of U.S. soldiers.**

Impact: Angering the US through political prosecutions would even further delegitimize the Court.

Mathur-Ashton, Aneeta. "The Complicated Relationship Between the U.S. and the ICC, Explained." U.S. News and World Report, May 23, 2024,
https://www.usnews.com/news/national-news/articles/2024-05-23/the-complicated-relationship-between-the-u-s-and-the-icc-explained?utm_source=chatgpt.com. Accessed January 5, 2025.

Hafetz says the U.S. has “significant” leverage when it comes to the court. “The ICC relies on states to cooperate and to assist its investigations. I think the U.S., given its

power, given the size of its military-intelligence apparatus, is important to the ICC's work." Aksanova adds that, despite not being a party to the court, there is a "soft power" the U.S. has that can be brought to bear given the current situation. **She says the U.S. has some enforcement powers that "can assist in finding and surrendering suspects to the court," as it did with Ntaganda and Ongwen.** But she notes that the U.S. can also work against the ICC to pressure its allies in Europe not to comply. And the threats of U.S. sanctions stand to have a chilling effect on those who might potentially cooperate with prosecutors.

Analysis: This argument is good because it shows how the US could be a target if it decided to join the Court. This argument works well on its own or has the potential to be developed into a larger argument questioning the Court's legitimacy by being paired with other arguments. Basically, as long as you can prove that the US joining the court leads to the US being more vulnerable and therefore more likely to attack the court, you should be able to win this argument.

CON: The US acceding to the Rome Statute would further politicize the ICC.

Argument: The ICC is already a highly politicized body even though it is supposed to be apolitical. The US would further politicize the Court.

Warrant: The ICC is bound by political realities.

Duerr, Benjamin. "Twenty Years On: The ICC and the Politicization of its Mechanisms." IPI Global Observatory, August 7, 2018, <https://theglobalobservatory.org/2018/08/twenty-years-icc-politicization-mechanisms/>. Accessed January 5, 2025.

No matter the way in which the referral mechanism is used, the ICC Prosecutor acts independently and chooses the focus of any investigation. Prosecutors are not bound by the list of crimes a government mentions in a referral. Therefore, they can also decide to investigate additional crimes committed by state authorities, which creates a risk that referrals would backfire. However, since the court is dependent on the cooperation of states, for example when it comes to accessing crime scenes or carrying out arrest warrants, governments still have a lot of power to decide when to cooperate and which side of a conflict they want to see prosecuted. **The various situations demonstrate the fundamental dilemma of the court: that of the difference between its legal mandate and the politicized reality. While the ICC was established as an impartial court, its possibilities to act are in reality limited and shaped by political interests.** The court has navigated this dilemma by carefully balancing the ideal—an apolitical approach merely based on the law—and a more realistic approach, thus, accommodating the interests of the governments involved.

Warrant: Even the head prosecutor of the Court recognizes its politicization.

Dan, Zhu. "Who Politicizes the International Criminal Court?" Torkel Opsahl Academic EPublisher, 2014, <https://www.toaep.org/pbs-pdf/28-zhu>. Accessed January 5, 2025.

There have been increasing accusations from states, scholars, and non-governmental organisations ('NGOs') that political interests external to the Court have biased its judicial activities.¹ Even the ICC Prosecutor raised the concern that "we are a judicial institution but there have been several attempts to politicize the court and that is wrong. It sends the wrong signals to people that the court is political".² While the Office of the Prosecutor's prosecutorial strategy and general performance is not free from criticisms, much unease about the ICC boils down to one issue: whether the Court can operate in a manner that is independent of the political interests of outside actors.

Warrant: The appointment of the Prosecutor is an especially politicized issue.

Refaat, Mahmoud. "Obstacles To The Application of International Justice Rules of Referral to the International Criminal Court and Political Considerations of the Security Council." Wisconsin International Law Journal, August, 2023, https://wilj.law.wisc.edu/wp-content/uploads/sites/1270/2023/08/391-422-Refaat_Proof_Final-1.pdf. Accessed January 5, 2025.

Unlike other independent counsels, the Prosecutor, as well the ICC, is heavily dependent on the member states for funds and resources.⁵⁸ The Prosecutor's "independence" can often be in jeopardy as he answers directly to the ICC judiciary and directly to member states.⁵⁹ There has been much criticism regarding the election of the Office of the Prosecutor as concerns over circumventing the vetting procedure arose in the 2021 elections.⁶⁰ This failure on the part of the Assemblies of State Parties

points to undue influence on the selection of the Prosecutor striking at the very foundation of the Office, i.e. independence.⁶¹ This also further aggravates the shocking findings in the ICC Independent Expert Review regarding hostile work environment at the International Criminal Court (ICC) and accounts of bullying.⁶² Pursuant to Article 42(3) of the Rome Statute, the high moral character requirement of the Prosecutor was the center focus of the 2021 elections.⁶³ **Proceeding without a proper vetting mechanism has been cited as a violation of due process.**⁶⁴ This is extremely perilous as any proprio motu investigations by the Prosecutor will be targeted for the failure to vet and discrepancies during the elections period. When member states vote, it is impossible to put aside personal agendas and political motives.

Warrant: The US would now be giving more influence.

Sewall, Sarah & Kaysen, Carl. "The US and the International Criminal Court: The Choices Ahead." American Academy of Arts and Sciences, January, 1999,
<https://www.amacad.org/publication/us-and-international-criminal-court-choices-ahead>. Accessed January 6, 2025.

As a purely pragmatic matter, there are stronger arguments for joining the Court in order to shape it from the inside, as the United States has done in the case of other major international institutions. If the United States joined the ICC, it could help nominate, select and dismiss ICC Judges and Prosecutors, helping ensure the competence of those who will carry out ICC responsibilities. Becoming a State Party also would allow the United States to participate in efforts to define the crime of aggression, or any potential new crime of ICC jurisdiction. **And while the United States could not control the Assembly of States Parties, America's influence certainly would be stronger if it supported the institution.** Even ICC skeptics should be able to see that practical American interests are better served by engaging, not fighting, the Court.

Warrant: The US already pushes for selective prosecuting in the Court.

Mitrovica, Andrew. "An ICC warrant against Putin is good – and hypocritical." Al Jazeera, March 20, 2023, <https://www.aljazeera.com/opinions/2023/3/20/an-icc-warrant-against-putin-is-good-its-also>. Accessed January 6, 2025.

"The United States firmly opposes and is deeply disappointed by this decision," Blinken howled. "The ICC has no jurisdiction over this matter. Israel is not a party to the ICC and has not consented to the Court's jurisdiction, and we have serious concerns about the ICC's attempts to exercise its jurisdiction over Israeli personnel." Well, well, well. **The US applauds the ICC when it charges Russia with war crimes and excoriates the same body when it starts looking into whether America committed war crimes in Afghanistan and Israel against besieged Palestinians.** The Pentagon has compounded the president's hypocrisy by reportedly refusing to share with the ICC evidence gathered by US intelligence services of Russian atrocities in Ukraine for fear that providing the court with such incriminating information may set "a precedent that might help pave the way for it to prosecute Americans".

Impact: This selective prosecution will allow countries to be "above-the-law."

Christiano, Thomas. "The Problem of Selective Prosecution and the Legitimacy of the ICC." Berkeley Law, March 14, 2015, https://www.law.berkeley.edu/files/TChristiano_The_Problem_of_Selective_Prosecution_and_the_Legitimacy_of_the_ICC_2.pdf. Accessed January 6, 2025.

Here I want to give two arguments for the defective legitimacy of the ICC. First, the nature of the problem of selective prosecution has to do with the exercise of authority itself. **With the discrimination involved in the current situation, the suggestion is that some are in a sense above the authority while others are subject to it. In the case of**

political authority, this is an extremely problematic position to maintain because of the fundamental commitment in the modern world to equality of persons. The kinds of situation in which we accept asymmetric authority without much question (though within limits) are in the parental relationship and in the relation of guardian to ward as in the cases of severely handicapped persons. In the case of a political authority this is sometimes described as one person being above the law. Though there are some important ways in which this can involve a kind of unequal concern for the interests of the different parties, the basic phenomenon suggests a basic inequality of political status.

Impact: Countries who are allied with the US will be less deterred by the ICC.

Christiano, Thomas. "The Problem of Selective Prosecution and the Legitimacy of the ICC." Berkeley Law, March 14, 2015,
https://www.law.berkeley.edu/files/TChristiano_The_Problem_of_Selective_Prosecution_and_the_Legitimacy_of_the_ICC_2.pdf. Accessed January 6, 2025.

The second legitimacy worry is connected with the expressive or symbolic character of investigation, trial and punishment. The ICC seems to be saying something like, crimes committed by those who are not friends of the most powerful states are serious and it is condemning them, those committed by the major powers and their allies and friends are not so serious and it does not condemn them. This is an important dimension of the issue of legitimacy because part of the basic point of a court such as the ICC is expressive. It is to condemn certain outrages against persons in the name of the whole of international society and to express solidarity with the victims. It is the international society's condemnation of the behavior and it is a condemnation in terms of the laws of that international society.²⁰ Of course, part of the purpose of a court is to bring about punishment for offenders that has the effect of deterring them and others from committing the same crime.²¹ But it is also essential to a court that it engages in

condemnation of certain behaviors of agents and the punishment that it inflicts on those agents is meant to communicate to them and to others the gravity of the crime they have committed and the extent of the condemnation of that crime from the international community.

Analysis: This argument is good because it focuses on the ICC rather than the United States. By adding the US to the Court, the political nature of the Court will undoubtedly become even more pronounced than it already is. This will further delegitimize an already delegitimized institution. As long as you can convince your judge of the fact that the US is unique to further delegitimization, you can have a clear path to the ballot.

CON: The US already handles issues that the ICC would address through internal matters.

Argument: The United States already has a system for prosecuting people who commit war crimes. The ICC would not do much and just open up the US to the risk of political prosecution.

Warrant: The ICC only steps in when the country of jurisdiction refuses to take action.

Wex Definitions Team. “Complementarity.” Cornell Law School, October, 2022,
<https://www.law.cornell.edu/wex/complementarity>. Accessed January 6, 2025.

The principle of complementarity is the basis of the relationship between the International Criminal Court (ICC) and national courts in relation to the application of international criminal law. The principle of complementarity is implemented by the ICC through Articles 17 and 53 of the Rome Statute, it provides that a case is inadmissible before the ICC if it is currently under investigation by a state with jurisdiction over it. The concept of complementarity, however, allows for ICC jurisdiction in situations when the state is unable or unwilling to proceed with an investigation or where the state investigation is conducted in bad faith such as when it is used to shield the person from criminal responsibility. **In other words, States have the primary competence and authority to investigate and prosecute international crimes, and the ICC has secondary jurisdiction.** Given that complementarity is assessed on a case-by-case basis, the ICC and states must together ensure that all atrocities in each situation are addressed.

Warrant: The United States has laws in place preventing these crimes from going unpunished.

“War Crimes: A Primer.” Congressional Research Service, February 2, 2024,
<https://crsreports.congress.gov/product/pdf/LSB/LSB10709>. Accessed January 6, 2025.

The War Crimes Act (18 U.S.C. § 2441) sets forth conduct the United States punishes as war crimes. Previously, only when U.S. nationals were involved as either perpetrator or victim would the conduct potentially fall under these provisions. Congress amended the provision in January 2023 to provide courts' jurisdiction over foreign nationals who are found in the United States and suspected of having committed war crimes anywhere. Such a prosecution requires the Attorney General or the Deputy Attorney General to certify that “a prosecution by the United States is in the public interest and necessary to secure substantial justice,” taking into consideration, among other things, whether it is possible to remove the offender to another jurisdiction for prosecution as well as “potential adverse consequences for nationals, servicemembers, or employees of the United States.” In December 2023, the United States for the first time indicted several persons for violating the act and, according to the Attorney General, may be considering more prosecutions. For more information, see CRS Legal Sidebar LSB 11091: The First Prosecution Under the War Crimes Act: Overview and International Legal Context. **The act implements the United States' obligation under treaties and international law to hold perpetrators of war crimes accountable. A war crime under the act includes conduct “defined as a grave breach” in the Geneva Conventions of 1949 or prohibited by certain provisions of the Annex to the Hague Convention IV, Respecting the Laws and Customs of War on Land of 1907.** The act further proscribes the willful killing of or causing serious injuries to civilians contrary to the provisions of the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices. It also proscribes certain violations defined as “a grave breach of common Article 3” of the Geneva Conventions.

Warrant: The US also sets up international tribunals to combat war crimes.

Schabas, William. "International War Crimes Tribunals and the United States." Oxford Academic, September 28, 2011, <https://academic.oup.com/dh/article-abstract/35/5/769/376758?redirectedFrom=fulltext>. Accessed January 6, 2025.

More than any other country, the United States of America has been a keen participant in the establishment of international criminal tribunals. But Washington's position has been a complex one, and it has changed from one of hostility to keen support in a seemingly cyclical manner. When an international tribunal was first proposed, at the Paris Peace Conference, the United States was opposed as a matter of principle. **But Washington supported the post–Second World War prosecutions, by the international military tribunals at Nuremberg and Tokyo and, later, through a series of subsequent proceedings. When international justice revived, in the early 1990s, no other nation showed such enthusiasm for the ad hoc tribunals for the former Yugoslavia, Rwanda, and Sierra Leone. The United States also participated very actively in the establishment of the International Criminal Court (or ICC or Court).** Then, when the vagaries of international negotiations resulted in an institution that was not entirely to Washington's liking, it took its distance from the permanent tribunal and, under the Bush administration, became openly hostile for a few years. By 2005, the United States had returned to a more benign attitude toward the International Criminal Court and, by 2010, it was a strong supporter.

Warrant: Even if the ICC thought the US was doing something wrong, they could investigate without US membership in the ICC.

"Q&A: The International Criminal Court and the United States." Human Rights Watch, September 2, 2020, <https://www.hrw.org/news/2020/09/02/qa-international-criminal-court-and-united-states#2>. Accessed January 6, 2025.

There are limited situations in which the ICC has jurisdiction over the nationals of countries, such as the US, that have not joined the Rome Statute. This includes when a citizen of a non-member country commits war crimes, crimes against humanity, and genocide on the territory of an ICC member country. That's why US citizens may be subject to the court's jurisdiction as it investigates alleged grave crimes that took place in Afghanistan, which is a state party, or in Poland, Lithuania, and Romania, which are also states parties. There is nothing unusual in this. US citizens who commit crimes abroad are already subject to the jurisdiction of foreign courts. This is a basic and well established principle of international law. Countries that ratify the Rome Statute are simply delegating their authority to prosecute certain grave crimes committed on their territory to an international court. By providing accountability for war crimes, the ICC promotes respect for the laws of war, which protect civilians as well as soldiers.

Warrant: However, because of the US's successes with handling these matters internally, the US has never had any warrants for its citizens from the ICC.

Klobucista, Claire & Ferragamo, Mariel. "The Role of the ICC." Council on Foreign Relations, November 22, 2024, <https://www.cfr.org/backgrounder/role-icc>. Accessed January 5, 2025.

In 2002, Congress passed and President Bush signed the American Service-Members' Protection Act, which required the government to cut off financial assistance to ICC members who would agree to surrender U.S. personnel to the ICC. The law also authorized the president to use all means necessary to free Americans detained by the ICC. The Bush administration struck bilateral agreements with dozens of countries obliging them not to hand over U.S. personnel. **To date, the ICC has never issued an arrest warrant for any U.S. official.**

Impact: Joining the ICC could open up Americans to the risk of prosecution.

Synovitz, Ron. "Explainer: Why Does The U.S. Have It Out For The International Criminal Court?" Radio Free Europe, September 11, 2018,
<https://www.rferl.org/a/explainer-why-does-u-s-have-it-out-for-international-criminal-court-/29484529.html>. Accessed January 6, 2025.

The United States never joined the ICC and has consistently opposed the empowerment of an international court that could try U.S. military and political leaders under international law. That's largely because of concerns that U.S. soldiers and civilian leaders might be put on trial, without U.S. constitutional protections, by an anti-American prosecutor in a court with non-American judges. Instead, war crimes and crimes against humanity are prosecuted in U.S. courts under the War Crimes Act of 1996 -- a law that applies if either a victim or the perpetrator of an alleged war crime is a U.S. citizen or a member of the U.S. military. During the 1990s, before the ICC was established, negotiators from U.S. President Bill Clinton's administration sought to give the UN Security Council the power to screen ICC cases. Such a safeguard in the Rome Statute would have given the United States and other permanent Security Council members the ability to veto cases they opposed.

Analysis: This argument is good because it shows that the United States doesn't need the ICC in order to prosecute those who have committed crimes. Use empirics to prove to your judge that these systems are effective. If you can prove the effectiveness of the United States handling these matters internally, you can win this argument.

CON: The ICC has limited oversight.

Argument: The ICC has very limited oversight when it comes to its decision making. These limits will make it harder to make sure the Court is being fair.

Warrant: Oversight is only mentioned once in the entirety of the Rome Statute, and this section only talks about economic efficiency, not judicial review.

"Rome Statute of the International Criminal Court." International Criminal Court, n.d.,
<https://www.icc-cpi.int/sites/default/files/2024-05/Rome-Statute-eng.pdf>.
Accessed January 7, 2025.

The Assembly may establish such subsidiary bodies as may be necessary, including an independent oversight mechanism for inspection, evaluation and investigation of the Court, in order to enhance its efficiency and economy. The President of the Court, the Prosecutor and the Registrar or their representatives may participate, as appropriate, in meetings of the Assembly and of the Bureau.

Warrant: The only place to challenge a Court decision is within the Court itself.

"Rome Statute of the International Criminal Court." International Criminal Court, n.d.,
<https://www.icc-cpi.int/sites/default/files/2024-05/Rome-Statute-eng.pdf>.
Accessed January 7, 2025.

Any dispute concerning the judicial functions of the Court shall be settled by the decision of the Court. Any other dispute between two or more States Parties relating to the interpretation or application of this Statute which is not settled through negotiations within three months of their commencement shall be referred to the Assembly of States Parties. The Assembly may itself seek to settle the dispute or may

make recommendations on further means of settlement of the dispute, including referral to the International Court of Justice in conformity with the Statute of that Court.

Warrant: The Prosecutor basically has the power to initiate investigations on their own without referral.

Quadri, Kafayat. "The proprio motu power of the ICC Prosecutor: the reason some states have refused to ratify the Rome Statute." *International Journal of Humanities and Management Sciences*, 2014,
<https://journalsweb.org/siteadmin/upload/P114514.pdf>. Accessed January 7, 2025.

The proprio motu power of the prosecutor is one of the most controversial in the discourse of the states that have refused to ratify the Rome Statute. It can be found in Article 15 of the Rome Statute. It has six paragraphs each related to the other and it discusses how the prosecutor can initiate investigations. **Article 15(1) provides that the Prosecutor may initiate investigations proprio motu on the basis of information on crimes within the jurisdiction of the Court. Article 15(2) relates to the process of the preliminary examinations and the means of getting more information.** Article 15(3) provides that if the Prosecutor concludes that there is a reasonable basis to proceed with an investigation, he or she shall submit to the Pre-Trial Chamber a request for authorization of an investigation, together with any supporting material collected. The fourth paragraph provides that if the Pre-Trial Chamber, upon examination of the prosecutor's request and the supporting material, considers that there is a reasonable basis to proceed with an investigation, and that the case appears to fall within the jurisdiction of the Court, it shall authorize the commencement of the investigation, without prejudice to subsequent determinations by the Court with regard to the jurisdiction and admissibility of a case.

Warrant: Prosecutors have been political with this power and have really only targeted African nations.

Sjostrom, Marcus. "The Initiation of an Investigation Proprio Motu by the Prosecutor of the ICC - A Reasonable Basis to Proceed" Uppsala University, 2014,
<https://www.diva-portal.org/smash/get/diva2:721739/FULLTEXT01.pdf>.
Accessed January 7, 2025.

In September 2013, a motion was put forward in the Parliament of Kenya, which proposed that Kenya should withdraw its membership of the International Criminal Court (ICC).**1 In October 2013, The Assembly of the African Union (AU) declared that the AU is concerned about the “politicization and misuse of indictments against African leaders by the ICC”.****2 Another form of criticism is that the ICC is biased and only focuses its attention on the African continent, when there are other situations all over the world that merit investigations.****3** In the preamble of the Rome Statute of the International Criminal Court**4 (ICCSt)** it is stated that the “most serious crimes of concern to the international community must not go unpunished”.**5** The ICCSt has been in force for almost 12 years, and all situations in which the ICC has opened an investigation concern African States. **Especially the statement by the AU assembly shows that the Prosecutor is not free from accusations of politically motivated decisions. The debate on the risk of a politically motivated Prosecutor of the ICC is not new.** The role of the Prosecutor in the ICC was intensively debated during the negotiations of the ICCSt; particularly whether the Prosecutor should have the power to initiate investigations proprio motu, i.e. on her own motion. The proponents of a proprio motu power for the Prosecutor argued that any prosecution in the ICC would depend on the political consideration of States or the UN Security Council (UNSC).

Warrant: Joining the Court would open the US to this prosecutorial jurisdiction.

"Understanding the International Criminal Court." International Criminal Court, 2020,
<https://www.icc-cpi.int/sites/default/files/Publications/understanding-the-icc.pdf>. Accessed January 7, 2025.

12. Who can be prosecuted before the ICC? **The ICC prosecutes individuals, not groups or States. Any individual who is alleged to have committed crimes within the jurisdiction of the ICC may be brought before the ICC.** In fact, the Office of the Prosecutor's prosecutorial policy is to focus on those who, having regard to the evidence gathered, bear the greatest responsibility for the crimes, and does not take into account any official position that may be held by the alleged perpetrators. The Prosecutor's policy is to focus on those who bear the greatest responsibility for the crimes. The Office of the Prosecutor does not take into account any official position that may be held by the alleged perpetrators. 13. If those who bear the greatest responsibility hold high political or military office, are they not exempt from prosecution? Can they not be granted immunity or amnesty? **No one is exempt from prosecution because of his or her current functions or because of the position he or she held at the time the crimes concerned were committed. Acting as a Head of State or Government, minister or parliamentarian does not exempt anyone from criminal responsibility before the ICC. In some circumstances, a person in a position of authority may even be held responsible for crimes committed by those acting under his or her command or orders. Likewise, amnesty cannot be used as a defence before the ICC.** As such, it cannot bar the Court from exercising its jurisdiction.

Impact: This could allow for the political prosecution of Americans.

Synovitz, Ron. "Explainer: Why Does The U.S. Have It Out For The International Criminal Court?" Radio Free Europe, September 11, 2018,
<https://www.rferl.org/a/explainer-why-does-u-s-have-it-out-for-international-criminal-court-/29484529.html>. Accessed January 6, 2025.

The United States never joined the ICC and has consistently opposed the empowerment of an international court that could try U.S. military and political leaders under international law. That's largely because of concerns that U.S. soldiers and civilian leaders might be put on trial, without U.S. constitutional protections, by an anti-American prosecutor in a court with non-American judges. Instead, war crimes and crimes against humanity are prosecuted in U.S. courts under the War Crimes Act of 1996 -- a law that applies if either a victim or the perpetrator of an alleged war crime is a U.S. citizen or a member of the U.S. military. During the 1990s, before the ICC was established, negotiators from U.S. President Bill Clinton's administration sought to give the UN Security Council the power to screen ICC cases. Such a safeguard in the Rome Statute would have given the United States and other permanent Security Council members the ability to veto cases they opposed.

Analysis: This argument is good because it focuses on the structural flaws of the Court which are independent of the United States. This means that you are not forced to defend the bad actions of the United States; rather, you're forcing your opponent to defend a corrupt ICC. This argument is rather defensive, so it could be used as a block or as a stand alone argument, which gives it some versatility.

CON: The US acceding to the Rome Statute would cause political and economic chaos in the US.

Argument: Acceding to the Rome Statute would open up US leaders to the whims of the ICC. This has the potential to cause chaos in the United States.

Warrant: Acceding to the Rome Statute would give the ICC jurisdiction over America.

"Understanding the International Criminal Court." International Criminal Court, 2020,
<https://www.icc-cpi.int/sites/default/files/Publications/understanding-the-icc.pdf>. Accessed January 7, 2025.

When a State becomes a party to the Rome Statute, it agrees to submit itself to the jurisdiction of the ICC with respect to the crimes enumerated in the Statute. **The Court may exercise its jurisdiction in situations where the alleged perpetrator is a national of a State Party or where the crime was committed in the territory of a State Party. Also, a State not party to the Statute may decide to accept the jurisdiction of the ICC.** These conditions do not apply when the Security Council, acting under Chapter VII of the United Nations Charter, refers a situation to the Office of the Prosecutor.

Warrant: Specifically, American leaders could be targeted.

"Understanding the International Criminal Court." International Criminal Court, 2020,
<https://www.icc-cpi.int/sites/default/files/Publications/understanding-the-icc.pdf>. Accessed January 7, 2025.

The ICC prosecutes individuals, not groups or States. **Any individual who is alleged to have committed crimes within the jurisdiction of the ICC may be brought before the**

ICC. In fact, the Office of the Prosecutor's prosecutorial policy is to focus on those who, having regard to the evidence gathered, bear the greatest responsibility for the crimes, and does not take into account any official position that may be held by the alleged perpetrators

Warrant: American leaders have come close to committing war crimes.

Pierce, Charles. "War Criminals Among Us: Bush, Cheney, and the Eyes of the World." Esquire, June 1, 2015, <https://www.esquire.com/news-politics/politics/news/a35397/bush-cheney-war-crimes/>. Accessed January 7, 2025.

"I think things that they authorized probably fall within the area of war crimes.
Whether that would be productive or not, I think, is a discussion we could all have. But we have established procedures now with the International Criminal Court in The Hague, where people who take actions as serving presidents or prime ministers of countries have been indicted and have been tried. So the precedent is there to do that sort of thing. And I think we need to ask ourselves whether or not it would be useful to do that in the case of members of the Bush administration. **It's clear that things that the Bush administration did — in my mind, at least, it's clear that some of the things they did were war crimes."**

Warrant: The ICC targeting a sitting President would go against conventional norms and cause political chaos.

Wex Definitions Team. "Indictment of Presidents." Cornell Law School, March, 2023, https://www.law.cornell.edu/wex/indictment_of_presidents. Accessed January 7, 2025.

Indictment of a Sitting President Arguments Against Indictment **The Department of Justice (DOJ) has a continuing policy since the 1970s that sitting presidents cannot be indicted as it would unconstitutionally prevent them from performing their duties as the head of the executive branch (see this Attorney General Memo).** Essentially, if a president became indicted, this position holds that the entire Executive would be compromised from fulfilling its obligations given the unique powers of the president. This privilege does not extend to any other person, including the vice president. This line of reasoning has been supported by Supreme Court Justice Joseph Story in a treatise and strongly argued for by Justice Samuel Alito in a dissent in *Trump v. Vance*, 140 S. Ct. 2412. Further, the executive branch has complete prosecutorial discretion, which in theory gives the president authority over whether to indict themselves. Other arguments against indictment focus on the text and other balances of power found in the Constitution. First, the Constitution states that, while the Senate can only remove a president from office and prevent their further election, presidents “convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law” (See Const. Art. I, Sec. 3). Thus, some interpret this clause to require the Senate to remove the president from office before being subject to courts. **Second, many argue that allowing a sitting president to be imprisoned would essentially be an impeachment as the president could not perform their duties in jail, and thus, the judiciary could unconstitutionally usurp the power of Congress.** Another related argument is that members of Congress naturally have immunities given their embodiment of one branch of government, and thus, the Constitution limits the immunities of members of Congress in Const. Art. I Sec. 6 instead of granting them.

Warrant: When uncertainty about the President is high, the stock market takes big hits.

Shapiro, Robert. “How the economy can shape a president’s impeachment.” The Hill, October 25, 2019, <https://thehill.com/opinion/finance/467447-how-the-economy-can-shape-a-presidents-impeachment/>. Accessed January 7, 2025.

The intersection of economic conditions and impeachment also may have a feedback loop, whereby the path of a president's impeachment affects the economy. Many studies have found that political and economic uncertainty dampen business investment, consumer spending and growth, especially if the economy is already weak. So, we wouldn't expect to see evidence of economic impact from Clinton's impeachment, since the outcome was never in doubt and the economy was strong. By contrast, the economy went into recession just as Nixon's impeachment battle got going in November 1973. His fate turned uncertain as the legal struggle over his tapes moved to the Supreme Court in June 1974. And some residual uncertainty persisted after he resigned, since Gerald Ford had become vice president barely eight months earlier, and most Americans had little sense of his goals and values. **Many factors drove the 1973-1974 recession. But its path was consistent with the proposition that impeachment-related uncertainty didn't help.** At a minimum, the third quarter of 1974, covering the Supreme Court's order to release the tapes and Nixon's resignation, was the worst quarter since the recession began more than a half-year earlier. In fact, business investment cratered in the third quarter of 1974 and continued to decline sharply for another six months.

Impact: Stock market declines hurt Americans.

Amadeo, Kimberly. "How Stock Investing Affects the U.S. Economy." The Balance, March 26, 2022, <https://www.thebalancemoney.com/how-do-stocks-and-stock-investing-affect-the-u-s-economy-3306179#toc-3-ways-that-stock-markets-affect-the-economy>. Accessed January 7, 2025.

Stock prices rise in the expansion phase of the business cycle.² Since the stock market is a vote of confidence, a crash can devastate economic growth. **Lower stock prices mean less wealth for businesses, pension funds, and individual investors. Companies can't**

get as much funding for operations and expansion. Note When retirement fund values fall, it reduces consumer spending. A stock market crash will adversely affect the nation's gross domestic product as personal consumption and business investment are some of the major components of GDP. **If stock prices stay depressed long enough, new businesses can't get funds to grow. Companies that had invested their cash in stocks won't have enough to pay employees, or fund pension plans.** Older workers may find that they don't have enough money to retire.

Analysis: This argument is good because it shows a realistic potential for a problem with the US joining the ICC. The ICC has been known to prosecute world leaders; however, prosecuting the leader of the United States comes with grave and serious consequences. You must show your judge how dangerous such a situation could be, especially for the economy. If you can do that, you should be on your way to winning a clean ballot.

CON: The US acceding to the Rome Statute would stall diplomatic progress with Russia.

Argument: President Trump promises to bring a new wave of good relations between the US and Russia that have the potential to end the war in Ukraine. The US joining the ICC could chill these relations.

Warrant: Russia is very dismissive of the ICC.

Faulconbridge, Guy. "Russia dismisses ICC warrants as meaningless provocation."

Reuters, March 6, 2024, <https://www.reuters.com/world/russia-dismisses-icc-warrants-meaningless-provocation-2024-03-06/>. Accessed January 7, 2025.

Moscow on Wednesday dismissed the issuance of International Criminal Court (ICC) arrest warrants against two top Russian commanders as a spurious provocation that had no legal significance for Russia. The ICC said on Tuesday it had issued arrest warrants for Sergei Kobylash and Viktor Sokolov for missile strikes against Ukrainian electricity infrastructure. Kremlin spokesperson Dmitry Peskov said that as Russia was not a party to the Rome Statute, which established the ICC, Moscow did not recognise the warrants.

Warrant: President Putin has a warrant for his arrest from the Court.

Corder, Mike & Casert, Raf. International Court Issues War Crimes Warrant for Putin."

AP News, March 17, 2023, <https://apnews.com/article/icc-putin-war-crimes-ukraine-9857eb68d827340394960eccf0589253>. Accessed January 7, 2025.

The International Criminal Court said Friday that it has issued an arrest warrant for Russian President Vladimir Putin for war crimes, accusing him of personal responsibility for the abductions of children from Ukraine. It was the first time the global court has issued a warrant against a leader of one of the five permanent members of the U.N. Security Council. The ICC said in a statement that Putin “is allegedly responsible for the war crime of unlawful deportation of (children) and that of unlawful transfer of (children) from occupied areas of Ukraine to the Russian Federation.” The move was immediately dismissed by Moscow — and welcomed by Ukraine as a major breakthrough.

Warrant: President Donald Trump has promised to work with Putin to end the war in Ukraine.

“Trump Says Ukraine Peace Talks Could Begin Soon After Taking Office.” Radio Free Europe, January 7, 2025, <https://www.rferl.org/a/ukraine-russia-war-trump-negotiations/33266557.html>. Accessed January 7, 2025.

U.S. President-elect Donald Trump has said again that he is eager to see negotiations with Russia on ending the war in Ukraine begin soon after he returns to the White House but gave no specifics on when they would take place. Trump said he wants to see negotiations soon because “Russia is losing a lot of young people and so is Ukraine.” Trump, who spoke with reporters at a news conference at his Mar-a-Lago estate in Florida, didn’t say whether or how soon he would meet with Russian President Vladimir Putin but said such a meeting would not be appropriate until after he is inaugurated on January 20.

Warrant: Putin has said he is ready to meet with President Trump.

Soldatkin, Vladimir & Osborn, Andrew. “Putin says Russia is ready to compromise with Trump on Ukraine war.” Reuters, December 19, 2024,

<https://www.reuters.com/world/europe/putin-says-russia-is-getting-closer-achieving-primary-goals-ukraine-2024-12-19/>. Accessed January 7, 2025.

Putin, fielding questions on state TV during his annual question and answer session with Russians, told a reporter for a U.S. news channel that he was ready to meet Trump, whom he said he had not spoken to for years. Asked what he might be able to offer Trump, Putin dismissed an assertion that Russia was in a weak position, saying that Russia had got much stronger since he ordered troops into Ukraine in 2022. "**We have always said that we are ready for negotiations and compromises," Putin said, after saying that Russian forces, advancing across the entire front, were moving towards achieving their primary goals in Ukraine.** "Soon, those Ukrainians who want to fight will run out, in my opinion, soon there will be no one left who wants to fight. We are ready, but the other side needs to be ready for both negotiations and compromises."

Warrant: If the US joins the ICC, this meeting would face difficulties because Putin could come to the US without getting arrested.

Dobkin, Rachel. "List of Countries Putin Can Visit Without Fear Just Got Smaller." Newsweek, October 14, 2023, <https://www.newsweek.com/list-countries-putin-can-visit-without-fear-just-got-smaller-1834778>. Accessed January 7, 2025.

Over 100 countries have joined the ICC, since its creation over 20 years ago. **Armenia, along with the other countries that have signed and ratified the Rome Statute, are expected to arrest Putin upon entry after the Russian leader was charged with war crimes in Ukraine in March.** The ICC alleges that Putin is responsible for the unlawful deportation of children from Ukraine to Russia during his invasion of the Eastern European country that began in February 2022. Moscow, however, has denied the ICC's allegations and called the warrant for the Russian leader's arrest "outrageous." Investigators in The Hague had gathered evidence against Putin over the past year, but

an ICC prosecution remains a challenging task since the Kremlin does not recognize the court or its jurisdiction. **Other countries where Putin is not welcome includes every member of the European Union (EU), most African states, all Latin and South American states, besides Cuba and Nicaragua, and even Russian ally Tajikistan, according to the Center for European Policy Analysis (CEPA).**

Impact: The breakdown of past peace talks have just led to even more violence.

Skidelsky, Robert. "Why Peace Negotiations Between Russia and Ukraine Failed." The Wire, February 14, 2024, <https://thewire.in/world/why-peace-negotiations-between-russia-and-ukraine FAILED>. Accessed January 7, 2024.

Since the breakdown of the peace talks in April 2022, the military situation has scarcely changed: Russia is no nearer defeating a Ukraine supplied by NATO, and Ukraine is no nearer defeating its stronger neighbour. Time is on the side of Russia with its far greater resources of manpower, artillery, and airpower. In these circumstances, there will be a strong temptation on the Ukrainian/NATO side to break the stalemate by scaling up the warfare. **The danger of escalation should certainly not be discounted.** Nor have economic sanctions decisively affected Russia's ability to continue the war. The military stalemate prevents not just the resumption of 'normality' within Ukraine and in Ukraine-Russian relations but stability in the world as a whole, unless we are willing to accept as 'normal' the permanent division of the world into two antagonistic military and economic blocs.

Impact: Ukrainian Civilians die every day that the war goes on.

Grainger, Matt & Aly, Nesrine. "UKRAINE: 42 civilian causalities every day in two years of war." Oxfam International, February 22, 2024, <https://www.oxfam.org/en/press->

releases/ukraine-42-civilian-causalities-every-day-two-years-war. Accessed January 7, 2025.

Two years since the escalation of the war in Ukraine, more than 10,500 civilians have been killed, including 587 children, as constant bombardments, mines, and drone attacks have left a generation traumatized, displaced, and fearful for their lives, said Oxfam together with 50 other humanitarian agencies, today. **With an average of 42 civilians killed and wounded every day, and recent months being particularly deadly, the group - made up of 51 local and international organizations working in the country - is calling for the immediate protection of civilians**, and reminds member states of promises made to tackle dire humanitarian needs of people in Ukraine.

Impact: Russian and Ukrainian military have been taking heavy death tolls for every day the war goes on.

Atlamazoglou, Stavros. "Ukraine War at 1,000 Days: 700,000 Dead or Wounded for Russia." The National Interest, November 19, 2024,
<https://nationalinterest.org/blog/buzz/ukraine-war-1000-days-700000-dead-or-wounded-russia-213791>. Accessed January 7, 2025.

To begin with, a lot of people have died and been wounded far more on the Russian side rather than the Ukrainian. **The latest estimates put the number of Russian military losses to approximately 725,000 killed and wounded. This figure averages 725 casualties per day, or around an infantry battalion lost every day of fighting. And the average will only go up given the fact that the Russian forces have been currently losing over 1,500 men per day, sometimes as close as 2,000 per day.** At this rate, the Russian forces will close the year with almost 800,000 casualties. Russia's losses aren't limited to just human flesh. The Russian military has lost tens of thousands of heavy weapon systems, including main battle tanks, a guided-missile cruiser, a submarine,

fighter jets, and nuclear-capable strategic bombers. The Russian forces have lost so much heavy weaponry that they had to unearth obsolete tanks, infantry fighting vehicles, and artillery guns designed and built more than sixty years ago. In many ways, in the fighting in Ukraine, the Russian military has lost most of its modern warfare capabilities, especially ground and special operations capabilities, and it will take years and billions of dollars to rebuild them. **To be sure, Ukraine has been taking heavy losses as well. Kyiv has been much more guarded about its casualties. Nevertheless, it is safe to assume that the Ukrainian forces have lost around 300,000 to 400,000 men in the fighting, or about half the losses of the Russians.**

Analysis: This argument is good because it shows the far reaching geopolitical consequences that could occur by America joining the ICC. Even if a meeting could theoretically still happen between the two parties, it would still be overshadowed by the fact that America intentionally joined an anti-Putin organization making progress more difficult. You can use this as a second line of defense on the argument even if the internal link on the meeting not happening fails.

CON: The US acceding to the accords would hurt peacekeeping operations.

Argument: The US has a history of sending troops to peacekeeping with the guarantee that they would be free from ICC prosecution. Without this guarantee, they will stop sending troops.

Warrant: The US has made great efforts to protect its peacekeepers from the ICC.

Jain, Neha. "A Separate Law for Peacekeepers: The Clash between the Security Council and the International Criminal Court." *The European Journal of International Law*, 2005, <https://ejil.org/pdfs/16/2/294.pdf>. Accessed January 8, 2025.

Security Council Resolutions 1422, 1487 and 1497 excluding the jurisdiction of the ICC are a result of concerted opposition by the United States to the jurisdictional regime of the ICC.⁵ They represent a compromise to persistent US demands to prevent the ICC from exercising jurisdiction over its peacekeepers. Initially, the US request to the Security Council pertained to the grant of immunity to US soldiers in Bosnia and Herzegovina from the ICC's jurisdiction for a period of one year.

Warrant: Specifically, it wants to protect non-party states from prosecution.

"U.S. Interactions with the ICC in the United Nations." ASIL ICC Task Force Report, n.d., <https://www.asil-us-icc-task-force.org/report/04-us-engagement-with-the-icc/us-interactions-with-the-icc-in-the-united-nations/#:~:text=The%20ICC%20can%20interface%20with%20UN%20peacekeeping%20missions,non-party%20states%20from%20the%20jurisdiction%20of%20the%20ICC>. Accessed January 8, 2025.

The ICC can interface with UN peacekeeping missions in a range of ways. **One of the earliest interactions involved the United States' attempt to seek language in resolutions authorizing peacekeeping missions that would exempt the nationals of sending non-party states from the jurisdiction of the ICC.** These efforts proved controversial and produced mixed results. (See Text Box - ICC and UN Peacekeeping Mandates (2002-04)). In addition, the ICC also has jurisdiction over attacks on peacekeepers as a war crime.⁶⁹ However, the most frequent interaction between UN peacekeeping missions and the ICC arises from the fact that many such missions are, or have been, operating in ICC situation countries—notably in the eastern DRC (MONUC and MONUSCO), but also in CAR (MINURCAT and MINUSCA), Darfur (UNAMID), Côte d'Ivoire (UNOCI), and Mali (MINUSMA).⁷⁰ Such missions will almost inevitably have (or have access to) information and evidence that would be relevant to ICC investigations. They may also interact with persons the ICC is investigating or for whom it has issued arrest warrants, or may be in a position to assist with security or logistics for ICC investigators or witnesses.

Warrant: Joining the ICC would give it jurisdiction over US nationals.

"Understanding the International Criminal Court." International Criminal Court, 2020,
<https://www.icc-cpi.int/sites/default/files/Publications/understanding-the-icc.pdf>. Accessed January 7, 2025.

10. Under what conditions does the ICC exercise its jurisdiction? When a State becomes a party to the Rome Statute, it agrees to submit itself to the jurisdiction of the ICC with respect to the crimes enumerated in the Statute. **The Court may exercise its jurisdiction in situations where the alleged perpetrator is a national of a State Party or where the crime was committed in the territory of a State Party. Also, a State not party to the Statute may decide to accept the jurisdiction of the ICC.** These conditions do not apply

when the Security Council, acting under Chapter VII of the United Nations Charter, refers a situation to the Office of the Prosecutor

Warrant: In the past, the US has threatened to block peacekeeping missions in the Security Council because US soldiers were vulnerable.

Jain, Neha. "A Separate Law for Peacekeepers: The Clash between the Security Council and the International Criminal Court." *The European Journal of International Law*, 2005, <https://ejil.org/pdfs/16/2/294.pdf>. Accessed January 8, 2025.

Security Council Resolutions 1422, 1487 and 1497 excluding the jurisdiction of the ICC are a result of concerted opposition by the United States to the jurisdictional regime of the ICC.⁵ They represent a compromise to persistent US demands to prevent the ICC from exercising jurisdiction over its peacekeepers. **Initially, the US request to the Security Council pertained to the grant of immunity to US soldiers in Bosnia and Herzegovina from the ICC's jurisdiction for a period of one year.**⁶ The US threatened to use its veto power to stop the renewal of the Council mission in Bosnia and Herzegovina, which was to expire on 15 July 2002, if the Council declined its proposal.⁷ Finally, as a compromise, Resolution 1422 was adopted, excluding the jurisdiction of the ICC over personnel from non-party states, amidst protests from several states.⁸ This scenario repeated itself in Resolution 1487 (renewing Resolution 1427), from which France, Germany and Syria abstained.

Warrant: This type of dramatic and misguided move is even more likely under President Trump, who greatly dislikes the ICC.

Burke-White, William. "The danger of Trump's new sanctions on the International Criminal Court and human rights defenders." *The Brookings Institute*, June 11, 2020, <https://www.brookings.edu/articles/the-danger-of-trumps-new-sanctions->

on-the-international-criminal-court-and-human-rights-defenders/. Accessed January 8, 2025.

In March, the Appeal's Chamber of the International Criminal Court (ICC) authorized an investigation of potential war crimes alleged to have occurred more than a decade ago in Afghanistan, including those by the United States. While the U.S. military under President Obama did conduct investigations of its activities in Afghanistan, there remain concerns that those investigations did not go far enough up the chain of command and did not adequately include conduct by the U.S. intelligence community. In a post on this blog just after the decision, I argued that the Trump administration's threats to prevent such a case may have actually pushed the court toward such an investigation. **Today, the Trump administration issued unprecedented sanctions against the ICC, as well as the international lawyers and human rights investigators involved in the case. This sanctions regime is fundamentally misguided.** It will do little to stop the ICC's investigation, erodes the U.S. longstanding commitment to human rights and the rule of law, and may undermine one of the most powerful tools in the U.S. foreign policy arsenal — economic sanctions.

Warrant: Trump has specifically been known to target peacekeeping funding.

CFR.org editors. "Funding the United Nations: How Much Does the U.S. Pay?" Council on Foreign Relations, February 29, 2024, <https://www.cfr.org/article/funding-united-nations-what-impact-do-us-contributions-have-un-agencies-and-programs>. Accessed January 8, 2025.

Overall U.S. contributions to the United Nations have remained steady in recent years, but the Trump administration sought to pare down or completely eliminate voluntary contributions to many UN programs, targeting peacekeeping operations and several specialized agencies. Trump rejected the globalism of the United Nations and viewed

certain programs as contradictory to his administration's agenda on Israel, abortion, and other policy areas.

Impact: The US funds a great amount of peacekeeping which could be vulnerable if the US became anti-peacekeeping.

"United Nations Issues: U.S. Funding of U.N. Peacekeeping." Congressional Research Service, April 9, 2024, <https://crsreports.congress.gov/product/pdf/IF/IF10597>. Accessed January 8, 2025.

The United States is the single largest financial contributor to United Nations (U.N.) peacekeeping activities. Congress authorizes and appropriates U.S. contributions, and it has an ongoing interest in ensuring such funding is used as efficiently and effectively as possible. The United States, as a permanent member of the U.N. Security Council, plays a key role in establishing, renewing, and funding U.N. peacekeeping operations. **For 2024, the United Nations assessed the U.S. share of U.N. peacekeeping at 26.94%; however, since 1994 Congress has capped the U.S. payment at 25% due to concerns that U.S. assessments are too high. Congress appropriated \$1.37 billion to most U.N. peacekeeping activities for FY2024 (up to the 25% cap).** Due to the gap between the U.N. assessment and the 25% cap, the United States has accumulated over \$1.1 billion in arrears since FY2017. President Biden's FY2025 budget request would fund the U.N. peacekeeping operations up to the 25% cap.

Impact: Peacekeeping missions are very important because they save lives.

"Does UN Peacekeeping work? Here's what the data says." UN News, December 10, 2022, <https://news.un.org/en/story/2022/12/1131552>. Accessed December 8, 2025

"That's not to say that in all of those cases, everything is perfect in the countries. But it is to say that they're no longer at war." "**Peacekeepers reduce the likelihood that civil wars will recur,**" she continues. "**They also help to achieve peace agreements.** Where there's a promise of peacekeepers, we are more likely to see a peace agreement and peace agreements that stick." Millions of lives saved **Above all, UN peacekeepers save lives:** Professor Howard says that millions of lives have been spared since the creation of peacekeeping in 1948. The concept of using soldiers, not to fight wars, but to help keep the peace, was born during negotiations in the Middle East in 1948, when the newly-founded state of Israel was in conflict with its neighbours.

Analysis: This argument is good because it shows the wide reaching impacts of a potential US entrance into the ICC. In order to win this argument, you need to show that the US would be fearful of peacekeeping if its peacekeepers were not protected from the ICC. If you can win this internal link, it's almost certain that you have a strong path to victory.

CON: The US acceding to the Rome Statute would increase American distrust towards other international organizations.

Argument: America is currently trending towards distrust of international organizations.

Prosecution of an American in the ICC could make this problem even worse and lead to withdrawal from other international organizations like the WHO.

Warrant: The majority of Americans think the government should shift to focusing on internal issues.

Silver, Laura. "Americans divided on U.S. role globally and whether international engagement can solve problems." Pew Research Center. June 10, 2022, <https://www.pewresearch.org/short-reads/2022/06/10/americans-are-divided-over-u-s-role-globally-and-whether-international-engagement-can-solve-problems/>. Accessed January 8, 2025.

Americans are divided over the role the United States should play internationally, according to the results of two new Pew Research Center surveys. **Around half of U.S. adults (51%) say the U.S. should pay less attention to problems overseas and concentrate on problems at home**, while nearly as many (48%) say it's best for the future of the country to be active in world affairs.

Warrant: President Trump is also an isolationist with skepticism about international institutions.

"Mike Pence Warns Donald Trump Is Embracing Isolationism Over American Leadership." C-SPAN.org, September 18, 2023, <https://www.c-span.org/video/?/1000-1/mike-pence-warns-donald-trump-is-embracing-isolationism-over-american-leadership/>

span.org/clip/campaign-2024/mike-pence-warns-donald-trump-is-embracing-isolationism-over-american-leadership/5084549. Accessed January 8, 2025.

Former Vice President Mike Pence in a foreign policy speech at the Hudson Institute in Washington, D.C. says that some Republicans, including **former President Donald Trump**, are "abandoning the traditional conservative position of American leadership on the world stage and embracing a new and dangerous form of isolationism." He goes on to say that "isolationism is just another word for appeasement" and that "appeasement never works." He warns that the new "appeasement Republicans" want America to turn inward away from its traditional leadership role on the world stage and focus on domestic concerns. He rejects that view, saying that America can do both.

Warrant: Joining the ICC would give the Court the potential to go after Americans.

Synovitz, Ron. "Explainer: Why Does The U.S. Have It Out For The International Criminal Court?" Radio Free Europe, September 11, 2018,
<https://www.rferl.org/a/explainer-why-does-u-s-have-it-out-for-international-criminal-court-/29484529.html>. Accessed January 6, 2025.

The United States never joined the ICC and has consistently opposed the empowerment of an international court that could try U.S. military and political leaders under international law. **That's largely because of concerns that U.S. soldiers and civilian leaders might be put on trial, without U.S. constitutional protections, by an anti-American prosecutor in a court with non-American judges.** Instead, war crimes and crimes against humanity are prosecuted in U.S. courts under the War Crimes Act of 1996 -- a law that applies if either a victim or the perpetrator of an alleged war crime is a U.S. citizen or a member of the U.S. military.

Warrant: Trump has been clear that he views the Court as antagonism from globalists.

Mathur-Ashton, Aneeta. "The Complicated Relationship Between the U.S. and the ICC, Explained." U.S. News and World Report, May 23, 2024, https://www.usnews.com/news/national-news/articles/2024-05-23/the-complicated-relationship-between-the-u-s-and-the-icc-explained?utm_source=chatgpt.com. Accessed January 5, 2025.

"We will let the ICC die on its own. After all, for all intents and purposes, the ICC is already dead to us," he said. Trump himself echoed the message to the United Nations personally just weeks later. **"As far as America is concerned, the ICC has no jurisdiction, no legitimacy, and no authority. The ICC claims near-universal jurisdiction over the citizens of every country, violating all principles of justice, fairness, and due process. We will never surrender America's sovereignty to an unelected, unaccountable, global bureaucracy,"** he said. And, unlike his departure from the Bush administration, Bolton's exit from Trump's Cabinet in 2019 would not refine the administration's approach to the court.

Warrant: Trump uses events like this to further his agenda against globalization.

Cobb, Kurt. "Donald Trump and the impossible destination of Globalism (revisited)." Resilience, November 10, 2024, <https://www.resilience.org/stories/2024-11-10/donald-trump-and-the-impossible-destination-of-globalism-revisited/>. Accessed January 8, 2025.

Back in 2016 a month before Donald Trump was elected for the first time, I wrote a piece that I'm revisiting here. So much of what I said then still applies that I encourage you to read that piece. My thinking was heavily informed by a lecture by the now late French philosopher Bruno Latour entitled "Why Gaia is not the Globe." **Latour made the case that Trump's perplexing popularity could be traced to his ability to give voice to**

the anger and fear generated by the effects of Globalism. In fact, Latour noticed that the anger and fear were actually widespread and reflected in Great Britain's exit from European Union and the many right-wing movements in European countries that now are all too familiar eight years later. I am capitalizing Globalism because it really is an ideology and not the “inevitable” reality that so many of us think it is. In fact, as Latour explains, it is an impossible destination.

Warrant: Trump uses anger from these things to promote policies like pulling out of the World Health Organization.

Fick, Maggie & Aboulenien, Ahmed. "Trump transition team plans immediate WHO withdrawal, expert says." Reuters, December 24, 2024,
<https://www.reuters.com/world/us/trump-transition-team-plans-immediate-who-withdrawal-expert-says-2024-12-23/>. Accessed January 8, 2025.

Members of Donald Trump's presidential transition team are laying the groundwork for the United States to withdraw from the World Health Organization on the first day of his second term, according to a health law expert familiar with the discussions. "I have it on good authority that he plans to withdraw, probably on Day One or very early in his administration," said Lawrence Gostin, professor of global health at Georgetown University in Washington and director of the WHO Collaborating Center on National and Global Health Law.

Impact: The US provides funding that is essential to the World Health Organization's mission.

"United States of America: Partner in Global Health." World Health Organization, December 23, 2024, <https://www.who.int/about/funding/contributors/usa>. Accessed January 8, 2025.

The United States of America is the top donor and partner to WHO, contributing through assessed contributions and voluntary funding. The United States contributed US\$ 1.284 billion during the 2022–2023 biennium, enabling work by WHO, the United States and other countries and partners to identify and respond to emergencies, stop disease threats from spreading across borders and advance other key global health priorities. Contributions help keep the United States and the world safe from threats while supporting better health and well-being for populations around the world, with a focus on the most vulnerable.

Impact: Vaccination campaigns from the World Health Organization have saved millions of lives.

"Global immunization efforts have saved at least 154 million lives over the past 50 years." World Health Organization, April 24, 2024,
<https://www.who.int/news/item/24-04-2024-global-immunization-efforts-have-saved-at-least-154-million-lives-over-the-past-50-years/>. Accessed January 8, 2025.

A major landmark study to be published by The Lancet reveals that global immunization efforts have saved an estimated 154 million lives – or the equivalent of 6 lives every minute of every year – over the past 50 years. The vast majority of lives saved – 101 million – were those of infants. The study, led by the World Health Organization (WHO), shows that immunization is the single greatest contribution of any health intervention to ensuring babies not only see their first birthdays but continue leading healthy lives into adulthood. Of the vaccines included in the study, the measles vaccination had the most significant impact on reducing infant mortality, accounting for 60% of the lives saved due to immunization. This vaccine will likely remain the top contributor to preventing deaths in the future.

Analysis: This argument is good because it shows how the psychological effects of joining the ICC could translate into real world impact. In order to win this argument, you need to really defend the internal link that joining the ICC will give Trump the political capital to pull out of other international organizations like the World Health Organization. If you can do that, you should be able to win this argument.

CON: Acceding to the Rome Statute furthers the US's image as a colonial force.

Argument: The ICC basically solely prosecutes on the African continent and has become a de facto extension of colonialism. America joining in on this would show complicity in the matter.

Warrant: The ICC comes out of a need to maintain a colonialist structure.

Benyera, Evristo. "How colonialism's legacy continues to plague the International Criminal Court." The Conversation, July 9, 2020,
<https://theconversation.com/how-colonialisms-legacy-continues-to-plague-the-international-criminal-court-142063>. Accessed January 8, 2025.

The international system which led to the formation of the International Criminal Court has therefore been characterised by Puerto Rican sociologist Ramón Grosfoguel as hierarchical, capitalist, Christian centric, patriarchal, colonial, modern, Western and Eurocentric. To withstand the onslaught of decolonisation, this system employs several tactics such as the creation of new orders. For orders to be carried out, institutions must be created to legally fulfil that mandate. Hence, the creation of UN specialised agencies to “police” specific aspects of human life, such as health by the World Health Organisation, as well as international justice by the criminal court and the International Court of Justice. The International Criminal Court, as part of the international criminal justice system, was formed to create and maintain a certain level of impartiality, especially in case selection, thereby ensuring that the most heinous human rights violations would never again go unpunished. The Rome Statue's preamble is unequivocal in its intentions, jurisdiction and vision to: put an end to impunity for the perpetrators of these crimes and thus to contribute to the prevention of such crimes. By concentrating on prosecuting Africans, I argue in my paper, the court has simply gone

down a neo-colonial path. In a world awash with cases that fall within the court's jurisdiction, it is hard to argue why Africa is almost the exclusive "customer" of the court.

Warrant: It is colonialist in a few distinct ways.

Maria, Khansa. "Is the International Criminal Court a Colonial Institution?" Center for International and Regional Studies, February 28, 2018,
<https://cirs.qatar.georgetown.edu/event/international-criminal-court-colonial-institution/>. Accessed January 8, 2025.

The ICC is fundamentally colonial in two ways: in its design and in its funding, Swart argued. Its relationship to the Security Council allows it a measure of decision-making power, and this influence can be obstructive, as in the cases of Syria and the Al Bashir debacle, she said. In terms of funding, whereas the ad hoc committees are funded by UN, the ICC is funded by a variety of states. The top funders are all from Europe (and Japan), giving them considerable ability to "pull strings in all kinds of ways." **This is an under-acknowledged way in which Western states plays a role in influencing the situations**, Swart said. Additionally, the ICC prosecutor is acutely aware of the interests of these states, she said, "so she will never threaten the interests of United States and Japan, for example." **Selectivity is another critical factor, Swart said. "In a world full of international crimes where a lot of international crimes are being committed, the ICC is fairly arbitrary."** **The ICC does not choose a country, it chooses a situation**, she explained. For example, they will not choose Sudan or Congo, but will select a particular situation within a country. All of the issues that the ICC focuses on make a statement about how it views its role in the world, so how it chooses these situations is extremely meaningful. **"Selectivity is the Achilles' heel of international criminal justice; the aspect that gives it a dubious legitimacy,"** she said.

Warrant: This colonial bias can be seen by the fact that nearly all ICC warrants are issued for African leaders.

Hendrickse, Melissa. "A chance for Africa to counter the pitfalls of international criminal justice?" Amnesty International, April 22, 2024,
<https://www.amnesty.org/en/latest/news/2024/04/a-chance-for-africa-to-counter-the-pitfalls-of-international-criminal-justice/>. Accessed January 8, 2025.

Much of the blame for this is laid at the feet of the ICC, which has “focused its prosecutorial lens” almost exclusively on Africa since it began operating in 2002. Out of the 54 individuals indicted by the ICC to date, 47 are African — giving rise to the charge by the continent’s leaders that the ICC is a colonial white person’s court preoccupied with “hunting Africans”. Although many of these claims have been rebutted as self-serving machinations by African elites seeking to evade accountability, the fact remains that no Western leader or military personnel has been investigated or charged by the ICC since it opened its doors 22 years ago. This is certainly not for a lack of international crimes committed by Western leaders and military personnel but rather purportedly due to what the Office of the Prosecutor of the ICC has termed “viability and budgetary constraints” affecting the court.

Warrant: The US is complicit in imperialism.

Paik, Naomi. "U.S. Imperialism and Rights." Modern American History, May 9, 2023,
<https://www.cambridge.org/core/journals/modern-american-history/article/us-imperialism-and-rights/D726F90A9636E91775C9F893177676F5>. Accessed January 8, 2025.

The United States is an imperial nation. From its origins as a settler colony to its status today as a dominant economic and political power armed with the largest military

force on earth, it has established and extended its power over others—taking land, extracting resources, exploiting labor, and ensuring unequal relationships that benefit its interests. Despite its founding declaration, the U.S. has never recognized the self-evident equality of all men, and its conceptions of rights have never been universal or inalienable. As its history shows, the United States has continually created categories of nonhuman and not-quite-human subjects disqualified from the inalienable rights that could shield them from its exercises of imperial power. Put differently, the extension of U.S. imperial power has required denying rights to those swept under its influence and control. **The United States is at once a self-pronounced paragon of rights, among other liberal democratic values, and a violator of rights, especially for those who most need to draw on its protections. This paradox is fundamental to the United States,** regardless of its proclamations to be a defender of rights at home and across the world.

Warrant: The complicity still persists today as pointed out by a member of the House of Representatives during the speakership election.

Delgado, Nick. "Speaker vote interrupted after U.S. Virgin Islands delegate speaks out." Kuam News, January 6, 2025, <https://www.kuam.com/story/52116364/speaker-vote-interrupted-after-us-virgin-islands-delegate-speaks-out>. Accessed January 8, 2025.

Each member of Congress was called for the vote inside chambers but U.S. Virgin Islands representative Stacey Plaskett interrupted the vote when she and other territories like Guam and the CNMI were not called on to participate. "I note that the names of the representatives from American Samoa, Guam, Northern Marianas, Puerto Rico, the Virgin Islands, and the District of Colombia were not called, representing collectively four million Americans...Mr. Speaker, collectively the largest per capita of veterans in this country...I ask why they were not called from the parliamentarian please," asked Plaskett. "Delegates-elect and Commissioner-elect are not qualified to

vote. Representatives elected are the only individuals qualified to vote in the election of a speaker as provided in section 36 of House Rules and Manuel,” responded Johnson.

“Thank you, Mr. Speaker. **This body and this nation has a territory and a colonies problem. What was supposed to be temporary has now effectively become permanent. We must do something about this problem so that these four million...,”** said Plaskett. Her microphone was muted as she continued to speak out exclaiming **she has a voice.**

Impact: It's vitally important to echo her language and continue a push towards decolonization.

“Decolonization Importance: Why It Matters Today More Than Ever.” Toxigon, January 5, 2025, <https://toxigon.com/the-importance-of-decolonization>. Accessed January 8, 2025.

How Can We Contribute to Decolonization? So, how can we contribute to decolonization? First, we need to educate ourselves. We need to learn about the history of colonialism, about its effects, about the ways it's still with us today. We need to listen to the voices of those who've been marginalized, to amplify their stories, to support their struggles. **We also need to challenge our own assumptions, our own biases. We need to question the systems and structures around us, to ask who they benefit, who they harm. We need to push for change, in our communities, our workplaces, our governments.** And we need to support each other. Decolonization isn't easy. It's not comfortable. It means challenging power, challenging privilege. But it's necessary. And it's worth it. Conclusion: **Let's Make Decolonization a Priority Decolonization matters. It matters because the effects of colonialism are still with us. It matters because those effects are harmful, because they perpetuate inequality, because they stifle diversity, because they limit freedom.** But decolonization isn't just about tearing down; it's about building up. It's about creating cultures that value diversity, economies that empower everyone, political systems that are inclusive and representative, education systems

that value local knowledge, daily lives that are free from colonial assumptions and biases. It's not easy. It's not comfortable. But it's necessary. And it's worth it. **So let's make decolonization a priority. Let's educate ourselves, let's challenge our assumptions, let's push for change.** Let's support each other. Because together, we can make a difference.

Analysis: This argument is probably one of the most important arguments on the topic because it gets to a very complex and difficult issue that underlies the whole topic. Addressing colonization is a very important issue. You can pair these cards with some other ones that can be found online to really create a moral imperative argument against joining the Court. There is a lot of literature on the ICC and colonialism that you can easily make an argument that fits your style of debate.

CON: The ICC is fundamentally flawed and ineffective

Argument: The Rome Statute and ICC are fundamentally flawed and ineffective because the process can be easily gamed and abused.

Warrant: The Rome Statute allows for abuse of the system for political or military gains.

Refaat, Mahmoud. "OBSTACLES TO THE APPLICATION OF INTERNATIONAL JUSTICE: RULES OF REFERRAL TO THE INTERNATIONAL CRIMINAL COURT AND POLITICAL CONSIDERATIONS OF THE SECURITY COUNCIL." Wisconsin International Law Journal. 2023. <https://wilj.law.wisc.edu/wp-content/uploads/sites/1270/2023/11/Obstacles-to-the-Application-of-International-Justice.pdf>. Accessed January 7, 2025

States may have political, geostrategic, and domestic considerations in mind when referring a case to the ICC but never to fight impunity. To date, the cases brought before the ICC are characterized by a complete absence of national proceedings, and this has led to arguments that admissibility is trumped due to inaction, not unwillingness and inability. **The ICC itself, rather than supporting states to deal with their cases nationally and carry out their duties, encourages them to exercise the practice of self-referrals. In most cases, self-referrals have been a political weapon for state parties to advance their own agenda. The potential for manipulation when a state initiates a voluntary referral to the ICC derives from the government's motive to bring an opposition group before the court. In reality, states use the ICC for political and military reasons, namely to pursue their enemies, rather than to provide justice. The unfortunate reality is that the Rome Statute leaves plenty of space for the states to do so.** As Article 14(2) provides, the state when referring a situation to the court shall specify the relevant circumstances and present supporting documents.

Warrant: States can use ICC prosecution as a strategy to achieve military success in conflicts.

Christiano, Thomas. "The problem of selective prosecution and the legitimacy of the International Criminal Court." *Journal of Social Philosophy*. September 20, 2021. <https://onlinelibrary.wiley.com/doi/pdf/10.1111/josp.12448>. Accessed January 7, 2025.

Often, the prosecution enters into a conflict and must prosecute one side in a conflict that is brutal on both sides. If it tries to be even handed it risks undermining the investigation altogether. No one will cooperate. Now, suppose that the International Criminal Court has a deterrent effect on those who could come under its jurisdiction. **If the International Criminal Court can only investigate and try the parties on one side of the conflict, this works essentially to the advantage of the other party.** I do not mean to say that any party has legitimate interests in perpetrating crimes against humanity or war crimes. It is nevertheless the case that they may be advancing legitimate interests in the conflict such as the protection of a certain minority from majority oppression, or a better distribution of resources among the various groups. **Selective prosecution of the leaders of one party may translate into military success on the ground for the other party. It may translate into increased bargaining power over the final negotiated settlement for one of the groups. This differential impact on military power or bargaining power may translate into very different political capacities to achieve legitimate interests.**

Warrant: The ICC permits crimes and atrocities without adjudication.

Isakoff, Mickey. "Remodeling the Fruitless Link Between the Security Council and the International Criminal Court: Why Amending the UN Charter Could be the Greatest Tribute International Politics Has Ever Paid to International Law." *Cleveland State Law Review*. April 6, 2024.

<https://engagedscholarship.csuohio.edu/cgi/viewcontent.cgi?article=1024&context=etcetera>. Accessed January 7, 2025.

Established in 2002, the International Criminal Court (“ICC”) has become a symbolic cornerstone of international criminal jurisprudence—prosecuting and convicting individuals for the commission of genocide, crimes against humanity, war crimes, and crimes of aggression—collectively referred to as atrocity crimes. One way the ICC can lawfully exercise jurisdiction is by referral—in the form of a resolution—from the UN Security Council. **The language of Charter of the United Nations and the Rome Statute collaborate to provide an avenue for the Security Council to grant the ICC jurisdiction over atrocity crime situations.** Such resolutions grant the ICC full jurisdiction over the suspected criminal individual(s), regardless of whether the party has per se accepted ICC jurisdiction. But, there is a problem. **The ICC has been accused to be “all bark, no bite” by some, and as being “a giant without limbs” by others because of its scant conviction record.** This has induced calls to amend or abolish the ICC. **Even more troublesome is the ICC’s less-than-fruitful association with the Permanent Five members of the Security Council: China, France, Russia, the United Kingdom, and the United States. The incessant disagreement among the Permanent Five has, in effect, tied the jurisdictional hands of the ICC, permitting dozens of perpetrators of atrocity crimes to go without proper adjudication by the ICC.**

Impact: The geographic location of the ICC makes investigations ineffective.

Jalil, Mavra. “CRITICAL EVALUATION OF PART II OF THE ROME STATUTE 1998.” International Islamic University Islamabad. November 2023.
<http://theses.iiu.edu.pk:8002/greenstone/collect/electron/index/assoc/HASH01b5/9b5efed6.dir/doc.pdf>. Accessed January 7, 2025.

This chapter has also discussed various hurdles being faced by ICC. This discussion showed that while states might desire to remove impunity, sometimes they are reluctant to cooperate with ICC when confronted with questions of sovereignty or domestic political considerations. Moreover, USA has been actively engaged in undermining any action taken by ICC against its military personnel or officials. Fluctuation in attitude of UNSC towards ICC in accordance with its political interests has not bode well for credibility of ICC. **There are also some hurdles which are inherent in the structure of the court such as geographical distance between its seat in Hague and the situations under investigation. This makes evidence-gathering and investigation an arduous process.**

Impact: The ICC does not deter crimes.

"The ICC at 20: Double standards have no place in international justice." Amnesty

International. July 1, 2022.

<https://www.amnesty.org/en/latest/news/2022/07/the-icc-at-20-double-standards-have-no-place-in-international-justice/>. Accessed January 7, 2025.

Meanwhile, **the ICC has recently begun accepting voluntary funding** and seconded personnel clearly 'earmarked' for the Ukraine situation. Without exceptional caution and sufficient transparency, **this approach risks allowing states parties to support only those situations which align with their interests. This exacerbates the risk of selective justice and leaves the court vulnerable to manipulation by powerful states.** Amnesty International is also concerned that the court and its principals have largely remained silent on the situation in Palestine and other investigations, in contrast to the publicity they have given to the Ukraine situation. **This silence may have weakened the court's deterrent effect, and has left a void which has been filled with political attacks on the court's work,** as well as attacks on human rights defenders. It is vital for the court's credibility that its messaging does not appear politicized.

Analysis: This argument points out a lot of issues that the ICC and Rome Statute have, regardless of the United States choosing to accede to it. Teams can use these as links to other impacts, or as broad reasons not to affirm the resolution. If the ICC doesn't even function properly, it lacks benefits that outweigh the risk of the harms associated with it.

CON: The ICC would not deter the US due to ICC sanctions.

Argument: Acceding to the Rome Statute wouldn't deter the United States because sanctions prevent ICC action.

Warrant: Trump has sanctioned the ICC to prevent investigations in the past.

"US Sanctions on the International Criminal Court." Human Rights Watch. December 14, 2020. <https://www.hrw.org/news/2020/12/14/us-sanctions-international-criminal-court>. Accessed January 7, 2025.

On September 2, 2020, the United States government imposed sanctions on the International Criminal Court (ICC) prosecutor, Fatou Bensouda, and another senior prosecution official, Phakiso Mochochoko. In addition, US Secretary of State Michael Pompeo announced that the United States had restricted the issuance of visas for certain unnamed individuals "involved in the ICC's efforts to investigate US personnel." The sanctions on Bensouda and Mochochoko implemented a sweeping executive order issued on June 11, 2020 by President Donald Trump. This order declared a national emergency and authorized asset freezes and family entry bans against ICC officials who were identified as being involved in certain activities. **Earlier, the Trump administration had repeatedly threatened action to thwart ICC investigations in Afghanistan and Palestine. In a precursor step, in 2019, the Trump administration revoked the prosecutor's US visa.**

Warrant: Trump plans to sanction the ICC immediately upon taking office.

Kahana, Ariel. "Trump administration plans crippling sanctions on ICC." Jewish News Syndicate. January 5, 2025. <https://www.jns.org/trump-administration-plans-crippling-sanctions-on-icc/>. Accessed January 7, 2025.

President-elect Donald Trump plans to implement devastating sanctions against the International Criminal Court in The Hague immediately after taking office, sources close to the matter disclosed to Israel Hayom. **These executive orders could be unveiled as soon as Jan. 21. The sanctions package will target both individual ICC personnel, including judges and prosecutors, and the institution as a whole.** The administration intends to classify the ICC as an organization threatening U.S. interests, employing designation procedures similar to those used by the State Department for terrorist organizations globally. This designation will trigger severe restrictions on anyone involved with the court's operations.

Warrant: Congress is passing legislation to sanction the ICC, jeopardizing its operations.

Zengerle, Patricia. "US House votes to sanction International Criminal Court over Israel." Reuters. January 10, 2025. <https://www.reuters.com/world/us-house-votes-sanction-international-criminal-court-over-israel-2025-01-09/>. Accessed January 11, 2025.

ICC watchers said the new sanctions would make it possible to target individuals assisting the work of the court. "The bill is also broad because anyone who provides support to the court on any case exposes themselves to sanctions," Milena Sterio, international law expert at Cleveland State University, told Reuters. In December, the court's president, judge Tomoko Akane, told the ICC's 125 member nations that "these measures would rapidly undermine the Court's operations in all situations and cases and jeopardize its very existence". **Trump will be sworn in on Jan. 20 for a second term as president. The Senate's newly appointed Republican majority leader, John Thune, has promised swift consideration of the sanctions act in his chamber so that Trump can sign it into law shortly after taking office.**

Impact: United States sanctions prevent investigations into United States or allied actions, including Israel.

Kelly, Laura and Brad Dress. "House passes ICC sanctions bill; GOP Senate leader promises to bring it to floor." The Hill. January 9, 2025.

<https://thehill.com/policy/international/5076598-house-legislation-icc-sanctions/>. Accessed January 11, 2025.

The bill, called the Illegitimate Court Counteraction Act, calls for sanctions on any officials with the court, or entities supporting the court, over attempts “to investigate, arrest, detain, or prosecute” a U.S. citizen or citizen of an allied country that is not a signatory to the Rome Statute, the treaty establishing the court and the countries over which it holds jurisdiction. The bill, which would take effect 60 days after enactment, applies to the 32-member Western security alliance NATO and 19 major non-NATO countries, including allies such as Israel.

Impact: United States sanctions on the ICC undermine justice

"US: Rights experts urge Senate to reject bill sanctioning the International Criminal Court." United Nations News. January 10, 2025.

<https://news.un.org/en/story/2025/01/1158896>. Accessed January 11, 2025.

They said the bill, titled the 'Illegitimate Court Counteraction Act', would take effect 60 days after enactment. It would sanction any individual working to investigate, arrest, detain or prosecute American citizens or an official from an allied US country, including Israel. Any US funds designated for the ICC would also be rescinded, and any future money for the Court would be prohibited. **The experts said imposing sanctions on justice personnel for fulfilling their professional responsibilities is “a blatant violation of human rights” that strikes at the core of judicial independence and the rule of law.**

"The passage of a bill that creates a blind spot for justice regarding certain countries not only legalises double standards and impunity but irreparably undermines the spirit of universality that the international justice system is built upon," they said. "Such actions erode public trust in the impartiality and integrity of justice and set a dangerous precedent, politicising judicial functions and weakening the global commitment to accountability and fairness," they added.

Analysis: This argument, like others, effectively shows that accession to the Rome Statute does not ensure compliance with it. Teams can use this argument to show that regardless of the United States' accession to the Rome Statute, it will not allow investigations and will undermine the ICC's actions.

CON: The ICC would not deter the US due to its seat on the Security Council

Argument: The United States permanent seat on the United Nations Security Council prevents any actions from the International Criminal Court.

Warrant: The United States uses Security Council resolutions and political pressures to ensure legal immunity.

Kharfia, Saadna. "US Strategy To Immunize Its Citizens Before The International Criminal Court – Afghanistan Case." *Journal of Legal and Political Thought*, Volume 7, Number 1. May 15, 2023. No URL. Accessed January 11, 2025.

The United States was not satisfied with the resolutions of the United Nations Security Council, which granted immunity to its soldiers and citizens, but also searched for other legal solutions, where it used Article 98(2) of the Statute of the International Criminal Court very badly. **Since the article stipulates that the Court may not compel a State party to violate its obligations or laws by extraditing persons enjoying immunity, the United States of America has concluded bilateral agreements between it and some countries that include non-extradition of American citizens, relying on financial, sometimes military and political pressures.**

Warrant: The United States will use its Security Council power in response to ICC investigations.

"Trump Administration Expresses Strong Disapproval of the International Criminal Court." Cambridge University Press. *The American Journal of International Law*, volume 113, Number 1. January 2019.
<https://www.jstor.org/stable/pdf/26569025.pdf>. Accessed January 11, 2025.

We will respond against the ICC and its personnel to the extent permitted by U.S. law.

We will ban its judges and prosecutors from entering the United States. We will sanction their funds in the U.S. financial system, and, we will prosecute them in the U.S. criminal system. We will do the same for any company or state that assists an ICC investigation of Americans. - We will take note if any countries cooperate with ICC investigations of the United States and its allies, and we will remember that cooperation when setting U.S. foreign assistance, military assistance, and intelligence sharing levels. - **We will consider taking steps in the UN Security Council to constrain the Court's sweeping powers, including ensuring that the ICC does not exercise jurisdiction over Americans and the nationals of our allies that have not ratified the Rome Statute.**

Warrant: Veto power allows members of the Security Council to halt or defer investigations and prosecutions at nearly any point.

Fremuth, Michael Lysander and Konstantina Stavrou. "The Future We Want?" December 23, 2022. Max Planck Yearbook of United Nations Law Online.

https://brill.com/view/journals/mpyo/25/1/article-p167_9.xml?language=en.

Accessed January 7, 2025.

The UNSC can, therefore, defer a situation altogether, as well as proceedings against specific individual defendants. The term 'prosecution', falling under the scope of the article, refers to 'the totality of actions undertaken by the Prosecutor to secure the conviction of a person against whom charges have been confirmed in accordance with Article 61'. The reference to investigations and prosecutions is necessary in defining the first parameter for the UNSC deferral powers, namely the specific proceedings it can interfere with. In accordance with Art. 15 of the Rome Statute, steps undertaken by the Prosecutor prior to the authorisation by the Pre-Trial Chamber of an investigation constitute only a 'preliminary examination'. As a result, 'preliminary examinations' are

excluded from the scope of Article 16. Second, the phrase ‘commenced or proceeded with’ draws another parameter of a UNSC intervention in the ICC investigations and prosecutions. The commencement of the investigations is clearly defined at the stage when the Prosecutor determines that there is ‘reasonable basis to proceed’ with an investigation. While an explicit mention regarding the notification of the UNSC on the commencement of an investigation is not included in the Rome Statute, Article 18(1) stipulates that States Parties and parties that would normally exercise jurisdiction over the crimes concerned shall be notified by the Prosecutor. **Moreover, the UNSC can halt an investigation or prosecution which is ongoing. The article, hence, clearly suggests that the UNSC can intervene only either at the commencement of or during investigations and prosecutions, and not prior, which is among the reasons why Resolutions 1422 and 1487 were heavily criticised for their pre-emptive character.**

Impact: Permanent members of the Security Council, like the US, veto any referrals to the ICC.

Darcy, Shane. “Aggression by P5 Security Council Members: Time for ICC Referrals by the General Assembly.” Just Security. March 16, 2022.

<https://www.justsecurity.org/80686/aggression-by-p5-security-council-members-time-for-icc-referrals-by-the-general-assembly/>. Accessed January 7, 2025.

A Security Council referral to the ICC is inconceivable in the context of Ukraine, owing to the Russian veto – as would be the case in any current or future situation involving aggression by one of the five permanent members of the Council and perhaps even their close allies. A proposal has been made by a number of eminent scholars and practitioners for the creation of a Special Tribunal to prosecute the crime of aggression in Ukraine, given the absence of jurisdiction for the ICC.

Impact: The ICC being unable to try United Nations Security Council members or their allies undermines its legitimacy and effectiveness.

Dorothy, Chidimma, Vivian Chinelo Arinze, Chidimma Anuli Ewelukwa. "THE INTERNATIONAL CRIMINAL COURT AND ITS MAJOR ACTORS: AN ANALYSIS OF THEIR ROLE TOWARDS ATTAINING CRIMINAL JUSTICE." African Customary and Religious Law Review. 2023.

Ayeni and Olong argue that the veto power of the big five is a potential impediment to the UNSC's referrals to the Court thereby affecting the latter's legitimacy. It is not surprising that the UNSC was quick to refer the situation in Libya but has stalled to refer the Yemeni, Bahraini and Syrian situations. **The big five exercise this veto power depending on their political affiliations and interests thereby undermining the ICC's mandate. The Syrian situation is a typical example where two of these permanent members (China and Russia) vetoed the UNSC's resolution that would have referred the situation in Syria to the Court.** It is quite unfortunate that some permanent members of the UNSC will stop a referral involving one of the gravest serious crime situations. Aloisi argues that the presence of Russia and China among the big five has further made it difficult for the Court to get the needed UNSC's support following the latter's referral of the Sudan situation. These two countries have always affirmed their position of non-interference in the affairs bordering other nations partly on the basis of State sovereignty and their concerns over possible external interference in their affairs. **This presents a serious cause for concern as there will be a possibility of these two nations or even any of the big five stopping a UNSC resolution that is seeking to provide State cooperation to the Court. Furthermore, the UNSC's relationship with the ICC is fundamentally problematic because three of its five permanent members are not parties to the Rome Statute but can still intervene in issues concerning the Court.**

Analysis: This argument can be used to show that due to the United States' role in the Security Council, it has the power to deny any ICC investigations into it or its allies. From here, teams can show that accession does not guarantee compliance with the Rome Statute, and use this reason as a benefit to an alternative method of strengthening international justice.

CON: The ICC would not deter the US due to the ASPA.

Argument: Acceding to the Rome Statute would not deter United States action because the American Service-Members' Protection Act prohibits ICC investigations.

Warrant: The United States can use the American Service-Members' Protection Act to circumvent ICC action against United States or allied personnel.

Wilkins, Brett. "80+ Groups Urge Congress, Trump to Reconsider Sanctions on ICC."

Common Dreams. January 6, 2025. <https://www.commondreams.org/news/icc-open-letter>. Accessed January 7, 2025.

The U.S. has a decadeslong history of antagonism toward the ICC. **Under the American Service Members' Protection Act—Bush administration-era legislation also known as the Hague Invasion Act—the president is authorized to use "all means necessary and appropriate" including military intervention** to secure the release of American or allied personnel held by or on behalf of the ICC.

Warrant: The American Service-Members' Protection Act prohibits ICC action and any cooperation with the court.

Kharfia, Saadna. "US Strategy To Immunize Its Citizens Before The International Criminal Court – Afghanistan Case." *Journal of Legal and Political Thought*, Volume 7, Number 1. May 15, 2023. No URL. Accessed January 11, 2025.

During the campaign led by the United States of America to fight terrorism in the world resulted in the invasion of Afghanistan as a first ground where crimes were committed required accountability before the International Criminal Court. **The first steps in its policy of opposition to the Court at the internal level and the official manifestation of**

its position were Americans Soldier Protection Act abroad. (1) Among the most important provisions contained in this law and its perspective are the following: (a) Prohibit all forms of US cooperation with the International Criminal Court, including: • **Prohibit cooperation by not providing any financial assistance to the Court or assisting it in the investigation, arrest, or exchange of any US person or foreign person permanently resident in the United States of America.** • **Prevent any further action by the Court on US.**

Warrant: The American Service-Members' Protection Act prohibits government cooperation of prosecution of US citizens.

Ireland, Kiel, Julian Bava. "The American Servicemembers' Protection Act: Pathways to, and Constraints on, U.S. Cooperation with the International Criminal Court." Stanford Law School: Law and Policy Lab. June 1, 2016.
<https://law.stanford.edu/publications/the-american-servicemembers-protection-act-pathways-to-and-constraints-on-u-s-cooperation-with-the-international-criminal-court/>. Accessed January 11, 2025.

Congress feared that the ICC could be used to harass and detain American soldiers on foreign soil for purely political reasons. ASPA therefore sharply limited the U.S. government's ability to cooperate with the ICC in cases that are contrary to the national interest. ASPA built on an earlier statute, 22 U.S.C. §7401 ("the FRAA"), which prohibited "obligat[ing]" funds "for use by, or support of, the International Criminal Court." Nevertheless, ASPA was not intended to prevent all U.S. cooperation with the ICC and should not be construed as such. The final section of ASPA, 22 U.S.C. §7433, clarifies that nothing in ASPA "shall prohibit the United States from rendering assistance to international efforts to bring to justice . . . foreign nationals accused of genocide, war crimes and crimes against humanity." This so-called Dodd Amendment establishes a safe harbor that frees the government from ASPA's prohibitions if five requirements are

met: The United States must be “rendering assistance,” The assistance must be provided to “international efforts,” These international efforts must be aimed at “bring[ing] to justice” certain individuals, The target of the international efforts must a “foreign national[],” and The foreign national must be accused of “genocide, war crimes or crimes against humanity.” **The Dodd Amendment thus ensures that the government cannot support the kinds of cases Congress feared—for example, prosecutions of U.S. nationals or prosecutions for the crime of aggression.**

Impact: The United States will use the American Service-Members’ Protection Act in response to ICC investigations of it and its allies.

“Trump Administration Expresses Strong Disapproval of the International Criminal Court.” Cambridge University Press. The American Journal of International Law, volume 113, Number 1. January 2019.

<https://www.jstor.org/stable/pdf/26569025.pdf>. Accessed January 11, 2025.

At the close of his remarks, Bolton identified potential responses by the United States to the ICC: If the Court comes after us, Israel or other U.S. allies, we will not sit quietly. We will take the following steps, among others, in accordance with the American Servicemembers’ Protection Act and our other legal authorities: - We will negotiate even more binding, bilateral agreements to prohibit nations from surrendering U.S. persons to the ICC. And we will ensure that those we have already entered are honored by our counterpart governments. - We will respond against the ICC and its personnel to the extent permitted by U.S. law. We will ban its judges and prosecutors from entering the United States. We will sanction their funds in the U.S. financial system, and, we will prosecute them in the U.S. criminal system. We will do the same for any company or state that assists an ICC investigation of Americans. - We will take note if any countries cooperate with ICC investigations of the United States and its allies, and we will remember that cooperation when setting U.S. foreign assistance, military

assistance, and intelligence sharing levels. - We will consider taking steps in the UN Security Council to constrain the Court's sweeping powers, including ensuring that the ICC does not exercise jurisdiction over Americans and the nationals of our allies that have not ratified the Rome Statute.

Impact: The American Service-Members' Protection Act could spark a military invasion of the ICC.

Dalal, Darshan. "What is 'The Hague Invasion Act' and is the US planning to use it?"

Alarabiya News. June 10, 2024.

<https://english.alarabiya.net/News/2024/06/10/what-is-the-hague-invasion-act-and-is-the-us-planning-to-use-it>. Accessed January 11, 2025.

Will the US invoke ASPA if Netanyahu is arrested? **The White House has so far refrained from commenting on whether the Biden administration will invoke the extraordinary measures of 'The Hague Invasion Act' if Netanyahu is arrested. However, such a move is unlikely under the Biden administration**, according to Senior Policy Fellow at the European Council on Foreign Relations, Anthony Dworkin, who told Al Arabiya English that a Donald Trump-led future US administration is more likely to do it. "**The current policy of the US administration is to deny the legitimacy of the Court's action rather than take direct action against it**," Dworkin said. "**That could of course change – and probably would change – if Trump is elected in November**," he added.

Analysis: This argument can be used to show that the United States will never comply with the Rome Statute, even if it accedes to it. The argument can stop there as a reason the Pro side doesn't have solvency, or teams can take it further with the evidence about United States utilization of the ASPA to invade the ICC in response to investigations.

CON: There are alternatives to the ICC that better strengthen international law.

Argument: Alternatives exist that better strengthen international law and deliver justice.

Warrant: Universal justice being granted to the ICC would best help achieve the purposes of the Rome Statute.

Ryngaert, Cedric. "The International Criminal Court and Universal Jurisdiction: A Fraught Relationship?" *New Criminal Law Review*, Volume 12, Number 4. 2009.
<https://online.ucpress.edu/nclr/article/12/4/498/68662/The-International-Criminal-Court-and-Universal>. Accessed January 12, 2025.

If the Court had truly universal jurisdiction, it would be able to deal with crimes that are committed in any part of the world, irrespective of whether the territorial state or the state of nationality of the offender has ratified the Statute, or whether the Security Council has referred the situation to the Court. Under the Rome Statute, the Court does not have such jurisdiction. Proposals by Germany and South Korea in this respect failed. Accordingly, absent a Security Council resolution, the Court does not have jurisdiction over all international crimes. This obviously runs counter to the stated purpose of the Rome Statute: putting an end to impunity for international crimes. **It would therefore make sense to expand the jurisdictional basis of the Rome Statute so as to include the universality principle.**

Warrant: Giving the ICC universal jurisdiction gives it the ability to pursue justice regardless of Security Council action or state signatories.

Adumu, Awa Njoworia Valerie. "The Relevance of the International Criminal Court and Its Possible Deterrent Effects of International Crimes" American Journal of Law. 2023. <https://ajpojournals.org/journals/index.php/AJL/article/view/1554/1681>. Accessed January 7, 2025.

According Cedric Ryngaert, in his article titled "The International Criminal Court and Universal Jurisdiction", **universal jurisdiction is understood as the exercise of jurisdiction over a crime by either the ICC or a state in the absence of a territorial, personal, or other nexus to the crime. It is jurisdiction that is based on the heinous nature of the crime.** As is known, the ICC does not have universal jurisdiction at least not in the strict sense of the word. Stating that the ICC does not have universal jurisdiction is stating that the ICC cannot exercise jurisdiction over whoever committed the crimes, or wherever the crimes may have been committed. **If the court had truly jurisdiction, it would be able to deal with crimes that are committed in any part of the world, irrespective of whether the territorial state or the state of nationality of the offender has ratified the statute, or whether the SC has referred the situation to the court. Under the Rome statute, the court does not have such jurisdiction over international crimes**

Warrant: Universal jurisdiction has a strong legal foundation internationally.

Burk, Hunter. "The Need to Clarify Universal Jurisdiction Amid a Resurgence." SSRN. March 11, 2023. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4381575. Accessed January 12, 2025.

Universal jurisdiction provides an important failsafe in prosecuting crimes of "international concern." Through universal jurisdiction, a state may legally prosecute an individual accused of serious crimes despite a lack of connection to the location of the crime or nationality of the accused or victims. Recent criminal prosecutions in Europe of

former Syrian intelligence officers and the use of universal jurisdiction as the basis for involvement with war crimes investigations in the Ukraine–Russia conflict by several countries has brought renewed attention to the practice. **While universality is not without controversy, the principle has a strong legal foundation in international criminal law through treaty law, national legislation, and state practice.** This Note argues that, despite scholarly criticisms, some form of universal jurisdiction is established as customary international law. Thus, it surveys the main challenges that states must address to preserve universal jurisdiction as a legitimate practice. Lastly, it briefly offers four potential changes to the practice that should be considered in these reform efforts: (1) regional criminal courts, (2) establishing a clear resolution of competing national jurisdiction, (3) “principled” immunities, and (4) acknowledge head of state immunities.

Impact: Universal jurisdiction could help bring justice for the Russia-Ukraine conflict.

Burk, Hunter. “The Need to Clarify Universal Jurisdiction Amid a Resurgence.” SSRN. March 11, 2023. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4381575. Accessed January 12, 2025.

Universal jurisdiction provides an important failsafe in prosecuting crimes of “international concern.” Through universal jurisdiction, a state may legally prosecute an individual accused of serious crimes despite a lack of connection to the location of the crime or nationality of the accused or victims. Recent criminal prosecutions in Europe of former Syrian intelligence officers and the use of universal jurisdiction as the basis for involvement with war crimes investigations in the Ukraine–Russia conflict by several countries has brought renewed attention to the practice. While universality is not without controversy, the principle has a strong legal foundation in international criminal law through treaty law, national legislation, and state practice.

Impact: Without universal jurisdiction, the ICC's investigations into Russia are at a halt due to Ukraine's new laws not aligning with the Rome Statute.

Gorbunova, Yulia. "New Ukrainian Draft Laws on International Crimes Spark Concern."

Human Rights Watch. January 9, 2025.

<https://www.hrw.org/news/2025/01/09/new-ukrainian-draft-laws-international-crimes-spark-concern>. Accessed January 12, 2025.

In October, after years of consultations with and input from Ukrainian civil society and legal experts, **Ukraine's parliament adopted a law to bring Ukraine's criminal and criminal procedure codes in line with the ICC statute.** The law included crucial provisions, including on crimes against humanity and command responsibility. While more reforms are needed to complete the process, experts agreed that **this was a step in the right direction to help give Ukraine the necessary tools to effectively prosecute international crimes domestically. However, on December 5, Ukraine's parliament hastily moved to consider two draft laws that, in essence, create an entirely different approach to aligning the country's legislation with the ICC treaty. One of Ukraine's leading international lawyers told me that these draft laws not only contradict the October amendments, but also risk bringing existing investigations into war-related abuses to a halt.** Civil society groups raised the alarm, calling the proposed bills "unjustified," and saying they failed to take "into account the position of judges, prosecutors, and investigators, as well as civil society." Civil society groups warned that, if adopted, the bills will "nullify many effective justice processes."

Analysis: This argument allows teams to advocate for the status quo by presenting an alternative that strengthens international justice better than United States accession would. A lot of affirmative teams will rely on having access to all of the international justice arguments, but this allows teams to have those on the negative side. Pairing this with a reason United States accession would be bad creates a strong case not to affirm.

CON: US involvement delegitimizes the ICC

Argument: The U.S. providing too much influence has the ability to destabilize international organizations, even if the U.S. was a major proponent of the international system being set up.

Warrant: The US is a non-signatory of other important pieces of international law

The Advocates For Human Rights. "US Should Seek To Reform Its Own Ambivalence Toward International Human Rights Law." The Advocates for Human Rights.

March 23, 2021. Web. December 10, 2024.

<<https://www.theadvocatesforhumanrights.org/News/A/Index?id=18>>.

Human Rights Treaty Ratification **The US was instrumental in the founding of the UN, but is not yet a party to several of its core human rights treaties.** In its Human Rights Council presentation, the US discussed several UPR recommendations it received urging it to ratify a number of international human rights treaties. It explained that while the Biden administration supports ratification of additional human rights treaties (specifically naming the Convention on the Elimination of Discrimination Against Women, The Convention on the Rights of Persons with Disabilities, and the Convention on the Rights of the Child), ratification requires the affirmative vote of 2/3 of the US Senate. Past US Presidents signed these treaties long ago, but the Senate has failed for decades to ratify them. Assistant Secretary Peterson's remarks noted that the administration "will continue to review how we can approach ratification of these treaties." **Not mentioned in the US presentation were rejected UPR recommendations concerning other treaties, such as the International Covenant on Economic, Social and Cultural Rights, which was also signed but never ratified, and the International Convention on the Rights of Migrant Workers or the Second Optional Protocol to the ICCPR (regarding abolition of the death penalty), which have not ever been signed.** The Biden administration apparently has no plans to take action on these treaties.

Warrant: Some experts argue that the US lack of intention to accede to the Rome Statute is beneficial to international law

Groves, Steven. "The U.S. Should Not Join The International Criminal Court." Heritage Foundation. August 18, 2009. Web. December 10, 2024.
[<https://www.heritage.org/report/the-us-should-not-join-the-international-criminalcourt>](https://www.heritage.org/report/the-us-should-not-join-the-international-criminalcourt).

Possible Legal Obligations from Signing the Rome Statute. Under Article 18 of the Vienna Convention on the Law of Treaties,[41] the Bush Administration determined that its efforts to protect U.S. persons from the ICC could be construed as "acts which would defeat the object and purpose of a treaty."^[42] To resolve this potential conflict, **the U.S. sent a letter to U.N. Secretary-General Kofi Annan, the depositor for the Rome Statute, stating that it did not intend to become a party to the Rome Statute and declaring that "the United States has no legal obligations arising from its signature" of the Rome Statute. This act has been described as "unsigning" the Rome Statute.**^[43] As John Bellinger, former Legal Advisor to Secretary of State Condoleezza Rice, made clear in a 2008 speech, "the central motivation was to resolve any confusion whether, as a matter of treaty law, the United States had residual legal obligations arising from its signature of the Rome Statute."^[44] While critics may disagree with the decision, **the Bush Administration's action complied with international law.**^[45] In fact, the critics' mischaracterization of the un-signing as proof of the Administration's intransigence and defiance of international law exposes their political leanings in favor of U.S. ratification more than it supports their contention that the Bush Administration was trying to "kill the ICC."^[46] **The very act of un-signing demonstrated U.S. concern about observing its obligations under international law.**

Warrant: Cooperation is possible without acceding to the Rome Statute

Groves, Steven. "The U.S. Should Not Join The International Criminal Court." Heritage Foundation. August 18, 2009. Web. December 10, 2024.
<https://www.heritage.org/report/the-us-should-not-join-the-international-criminalcourt>.

U.S. Cooperation with the ICC Many of the flaws in the Rome Statute identified by the Clinton and Bush Administrations remain unaddressed. **Although the U.S. has reserved the option of cooperating with the ICC in certain circumstances, it has repeatedly stated that fundamental changes to the Rome Statute are needed before the U.S. could ratify the treaty. The U.S. has taken legislative and diplomatic steps to protect U.S. citizens, officials, and military personnel from the ICC's jurisdiction, which the U.S. considers illegitimate. These steps in no way violate international law. On the contrary, they bolster international law by complying with international legal norms and rules as they have been traditionally understood.** Moreover, these actions do not preclude the U.S. from supporting an ICC investigation when it is deemed important to U.S. interests. The most pertinent example is the Bush Administration's decision not to block U.N. Security Council Resolution 1593, which referred the situation in Darfur to the ICC. The U.S. abstention acknowledged that the existence of the court and many states' support for the ICC would not be changed by the U.S. vetoing every Security Council resolution that references the ICC. It demonstrated a pragmatic approach of weighing the costs and benefits of U.S. policy toward the ICC against other interests and echoed President Bush's use of his waiver authority under ASPA and the Nethercutt Amendment when those restrictions undermined other U.S. interests. However, it did not change the U.S. effort to protect its nationals from the ICC's illegitimate jurisdictional claims.

Warrant: The Rome Statute violates international law

Groves, Steven. "The U.S. Should Not Join The International Criminal Court." Heritage Foundation. August 18, 2009. Web. December 10, 2024.
<https://www.heritage.org/report/the-us-should-not-join-the-international-criminalcourt>.

A Threat to National Sovereignty. **A bedrock principle of the international system is that treaties and the judgments and decisions of treaty organizations cannot be imposed on states without their consent. In certain circumstances, the ICC claims the authority to detain and try U.S. military personnel, U.S. officials, and other U.S. nationals even though the U.S. has not ratified the Rome Statute and has declared that it does not consider itself bound by its signature on the treaty.** As Grossman noted, "While sovereign nations have the authority to try non-citizens who have committed crimes against their citizens or in their territory, the United States has never recognized the right of an international organization to do so absent consent or a U.N. Security Council mandate."^[61] As such, **the Rome Statute violates international law as it has been traditionally understood by empowering the ICC to prosecute and punish the nationals of countries that are not party to it.** In fact, Article 34 of the Vienna Convention on the Law of Treaties unequivocally states: "A treaty does not create either obligations or rights for a third State without its consent."^[62] Protestations by ICC proponents that the court would seek such prosecutions only if a country is unwilling or unable to prosecute those accused of crimes within the court's jurisdiction--the principle of complementarity--are insufficient to alleviate sovereignty concerns.

Impact: Respect for national sovereignty is key to cultural diversity, human rights, and preventing wars and the Rome Statute violates respect for national sovereignty

Saaida, Mohammed. "The Striking Delicate Balance Between Sovereignty And Interventionism." Preprints.org. January 03, 2024. Web. December 11, 2024.
[doi: 10.20944/preprints202401.1657.v1](https://doi.org/10.20944/preprints202401.1657.v1).

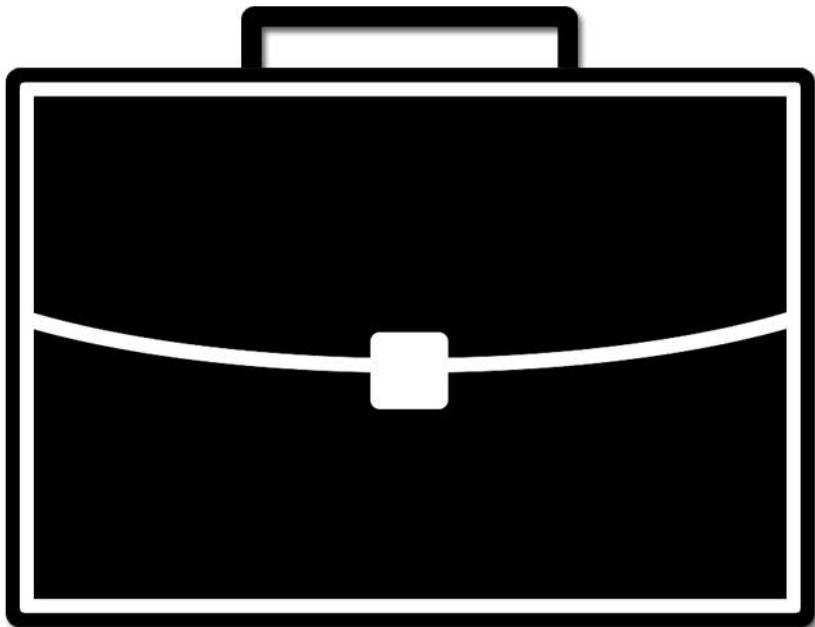
Importance of National Sovereignty **National sovereignty remains a cornerstone of the modern international system, enabling states to govern independently and free from external interference. Its crucial role is evident in shaping cultural identity, self-determination, and domestic autonomy while fostering peaceful relations and preserving territorial integrity. Upholding sovereignty safeguards the international order, preventing unwarranted meddling in independent nations' affairs (Ikenberry, 2020).** One of the primary reasons why national sovereignty is important lies in its ability to preserve cultural identity. Each nation possesses unique customs, traditions, and values that shape their identity. For example, the Maasai people in Kenya and Tanzania are grappling with the unauthorized commercial use of their traditional symbols, attire, and designs by corporations without proper acknowledgment or compensation (Were & Okoth, 2023). This raises questions about the need for legal frameworks and international cooperation to protect indigenous cultural rights. Another example is the South China Sea dispute, which involves territorial claims by China, Vietnam, and the Philippines over the Paracel and Spratly Islands. China's claims and artificial islands have raised tensions and concerns about military confrontations, highlighting the complexity of geopolitical issues (Kausar, 2023).

Analysis: Ultimately, this argument is persuasive in that international law is threatened by the US accession to the Rome Statute. The result of the US acceding to the Rome Statute would be a violation of individual states' national sovereignty, and the very idea of the US "un-signing" the Rome Statute falls directly in line with this idea. It would make international law seem illegitimate, making it seem like the US is flip flopping on its own policy, questioning its own legitimacy and also that of the international law.

Champion Briefs

February 2025

Public Forum Brief



Con Responses to Pro Arguments

A/2: Acceding to the Rome Statute will help enforce international norms.

Delink: The ICC is incapable of setting international norms

Warrant: The ICC can only target individuals, not states.

Priya Pillai. "The need for a convention on crimes against humanity." Lowy Institute, April 30, 2024, <https://www.lowyinstitute.org/the-interpreter/need-convention-crimes-against-humanity>. Accessed January 2, 2025.

At present, the only multilateral treaty that does in fact address crimes against humanity – but only for the purposes of holding individuals criminally responsible before an international court – is the 1998 Rome Statute. **This is a very specific treaty, negotiated to establish the International Criminal Court in the Hague that has jurisdiction to prosecute these crimes in specific instances, usually when a state is unable or unwilling to prosecute these offences itself, and based on whether a state has consented to the jurisdiction of this international court by ratifying this treaty.** **This is very different for instance from the Genocide Convention, which is a treaty that establishes the responsibility of states to undertake particular actions, and is not solely about the responsibility of an individual.**

Warrant: Holding individuals accountable isn't enough.

Priya Pillai. "The need for a convention on crimes against humanity." Lowy Institute, April 30, 2024, <https://www.lowyinstitute.org/the-interpreter/need-convention-crimes-against-humanity>. Accessed January 2, 2025.

The protection of civilians and the fact that these crimes are not just committed in armed conflict, but may be committed in times of peace, is a significant component of crimes against humanity. **It is not sufficient to only be able to hold some individuals to account from states that have ratified the Rome Statute establishing the International Criminal Court.** State responsibility is also crucial, and is missing in the legal lexicon for crimes against humanity. This will also provide a legal pathway for redress, due to incorporation into domestic law, before national courts, as well as in international courts.

Warrant: The ICC has attempted, and failed, to norm-set in the past – Africa proves.

Yigzaw, Destaw. "The International Criminal Court in a World Retreating From International Rule of Law." Syracuse University, 2022, <https://jilc.syr.edu/wp-content/uploads/2024/10/501-A-World-Retreating-from-Intn-Law.pdf>. Accessed January 2, 2025.

The only exception is the case of a rebel leader turned politician, Jean- Pierre Bemba, who was arrested in Brussels while serving as a Senator in the Democratic Republic of the Congo (his conviction has since been overturned on appeal). **So, the Court that was built on a grandiose promise that “no ruler, no State, no junta and no army anywhere can abuse human rights with impunity,” has only managed to convict a handful of African rebels. If the ICC’s dismal conviction record is not enough, its conviction rate has sharply declined in recent years—just two convictions since 2016 is hardly a success story.**

Impact: International law is a failure – domestic human rights protections are better

Brunk, Ingrid. "Does International Law Have a "Broken Windows" Problem?" LawFare, April 10, 2017, <https://www.lawfaremedia.org/article/does-international-law-have-broken-windows-problem>. Accessed January 12, 2025.

Yet creating a truly effective international human rights enforcement system seems unlikely. A more complicated possibility is to find ways to promote and protect human rights that do not depend upon binding norms of international law, including regional human rights courts and tribunals, domestic statutes and constitutions, capacity building and iterative interactions with review bodies, the enforcement of soft obligations, and so on. Thanks to the successes of the international human rights movement, there are a wide variety of tools designed to improve global human rights practices. While we have yet to see whether those mechanisms will work if they are decoupled from binding international legal commitments, it is clear that we should understand international human rights law as part of a broader international legal system. The debate around international law and human rights should be re-framed to consider not just potential benefits to human rights but also the potential costs to international law as a whole.

Impact: Focusing on country's adherence to norms encourages policy paralysis.

Spektor, Matias. "The Upside of Western Hypocrisy." Foreign Affairs, July 21, 2023, <https://www.foreignaffairs.com/united-states/upside-western-hypocrisy-global-south-america>. Accessed January 12, 2025.

Finally, countries in the global South should recognize that too much criticism of hypocrisy can endanger international cooperation by breeding cynicism and political paralysis. Hypocrisy can sometimes be useful. It provides governments a pragmatic way out in situations when valuable principles are in conflict. Take the case of the Inflation Reduction Act introduced by the Biden administration. The law provides

subsidies for industries to transition to low carbon energy sources and thereby reflects a commitment to mitigating climate change for the entire planet. But the IRA also violates the norms of free trade that the United States so forcefully applies to others. **Hypocrisy in this case allows the White House to proclaim the value of both protecting the planet and maintaining free trade, even if the administration is not able to reconcile the two.**

Analysis: This rebuttal works by saying that the ICC is ineffective at enforcing international norms. Teams should lean heavily on the ICC's light prosecution history as additional evidence for this rebuttal.

A/2: Acceding to the Rome Statute removes the perception of US hypocrisy.

Delink: Countries do not care about US hypocrisy – It's not a factor in their decision making

Warrant: One sentence establishing the claim of this evidence.

Polansky, David. "Hypocrisy Is Not a Real Problem in World Politics." War on the Rocks, June 21, 2024, <https://warontherocks.com/2024/06/hypocrisy-is-not-a-real-problem-in-world-politics/>. Accessed January 12, 2025.

Trita Parsi and Branko Marcetic provide an exhaustive rundown of instances in which the perceived hypocrisy of the United States is mooted as a reason to abstain from joining its support of Ukraine's defense against Russia. **But beyond highly public rhetoric, there is little evidence that anger over U.S. hypocrisy was a decisive factor in their calculations, or why it would override any consideration of material interests at stake. One is left pondering the rather implausible counterfactual of a perfectly sincere great power whose commitment to principle commands loyalty among distant states irrespective of their own several interests.**

Warrant: Governments cannot be hypocritical because priorities change.

Lipson, Michael. "Dilemmas of Global Governance: Organized Hypocrisy and International Organization." Canadian Political Science Association, 2006, <https://www.cpsa-acsp.ca/papers-2006/Lipson.pdf>. Accessed January 12, 2025.

In Brunsson's formulation, organized hypocrisy is fundamentally about organizations. **Organizations, not rulers, face competing logics of consequences and action. These**

organizations, in turn, are not unitary actors but collectivities constituted and endowed with social agency by their social environments (Meyer and Jepperson, 2000). Thus, Brunsson's perspective falls within the "open systems" approach to organization theory, which regards organizations as possessing porous boundaries, and as constituted by and reproduced through their interactions with their environment (Katz and Kahn, 1966; Ansell and Weber, 1999; Scott, 2003).

Warrant: There is no getting around Western hypocrisy – It will always exist.

Lehne, Stefan. "The Rules-Based Order vs. the Defense of Democracy." Carnegie Endowment for International Peace, September 18, 2024,
<https://carnegieendowment.org/research/2024/09/rules-based-order-vs-the-defense-of-democracy>. Accessed January 12, 2025.

Another problem that limits the attractiveness of the concept for countries in the Global South is the West's severely damaged reputation. **The legacy of the colonial period remains a heavy burden, but it is now combined with accusations of double standards and hypocrisy. For example, the initial reluctance of Western governments to share COVID-19 vaccines triggered a wave of criticism in Africa. Southern governments also contrast the West's engagement for Ukraine with its neglect of conflicts and challenges in the South. Most recently, Western support for Israel in the Gaza war has further sharpened this resentment.** The problem is compounded by persistent economic inequality. From a Southern point of view, Western states continue to impose unfavorable trade and investment rules on the South while turning increasingly to protectionist strategies.

Impact: International law is a failure – domestic human rights protections are better

Brunk, Ingrid. "Does International Law Have a "Broken Windows" Problem?" LawFare, April 10, 2017, <https://www.lawfaremedia.org/article/does-international-law-have-broken-windows-problem>. Accessed January 12, 2025.

Yet creating a truly effective international human rights enforcement system seems unlikely. A more complicated possibility is to find ways to promote and protect human rights that do not depend upon binding norms of international law, including regional human rights courts and tribunals, domestic statutes and constitutions, capacity building and iterative interactions with review bodies, the enforcement of soft obligations, and so on. Thanks to the successes of the international human rights movement, there are a wide variety of tools designed to improve global human rights practices. While we have yet to see whether those mechanisms will work if they are decoupled from binding international legal commitments, it is clear that we should understand international human rights law as part of a broader international legal system. The debate around international law and human rights should be re-framed to consider not just potential benefits to human rights but also the potential costs to international law as a whole.

Impact: Focusing on country's adherence to norms encourages policy paralysis.

Spektor, Matias. "The Upside of Western Hypocrisy." Foreign Affairs, July 21, 2023, <https://www.foreignaffairs.com/united-states/upside-western-hypocrisy-global-south-america>. Accessed January 12, 2025.

Finally, countries in the global South should recognize that too much criticism of hypocrisy can endanger international cooperation by breeding cynicism and political paralysis. Hypocrisy can sometimes be useful. It provides governments a pragmatic way out in situations when valuable principles are in conflict. Take the case of the Inflation Reduction Act introduced by the Biden administration. The law provides

subsidies for industries to transition to low carbon energy sources and thereby reflects a commitment to mitigating climate change for the entire planet. But the IRA also violates the norms of free trade that the United States so forcefully applies to others. **Hypocrisy in this case allows the White House to proclaim the value of both protecting the planet and maintaining free trade, even if the administration is not able to reconcile the two.**

Analysis: This rebuttal essentially says that there's no point in trying to remove the perception of Western hypocrisy because the West has "lost its chance." This is obviously a rather pessimistic rebuttal, so teams should only use this as part of a larger strategy and should consider collapsing on something else if possible.

A/2: Acceding to the Rome Statute allows American war crimes to be prosecuted.

Warrant: The Trump administration will engage in all-out war on the court's credibility.

Hathaway, Oona. "Don't Go to War With the ICC." *Foreign Affairs*, May 24, 2024,
<https://www.foreignaffairs.com/israel/dont-go-war-icc>. Accessed January 12, 2025.

There are those in Congress who want to return to the Trump administration's all-out war on the court. A bill proposed in the U.S. House of Representatives—dubbed the Illegitimate Court Counteraction Act—would sanction and revoke the visas of any ICC employee or associate involved in the investigation into the war in Gaza. Although this proposed bill may not win enough votes to pass, the Biden administration has signaled it is open to working with Republicans to retaliate against the court. That would be a huge mistake. Even if the court issues arrest warrants, the chance of a criminal trial for either Netanyahu or Gallant remains a remote possibility.

Warrant: Trump supports sanctions on the court, which threaten its credibility.

Anderson, Janet. "The clouded skies over the ICC." *JusticeInfo*, December 2, 2024,
<https://www.justiceinfo.net/en/139020-clouded-skies-over-the-icc.html>. Accessed January 12, 2025.

And, come January, when Donald Trump becomes the US president again, the court is likely to face sanctions – in retaliation against the arrest warrant for Benjamin Netanyahu, a staunch ally of the coming US administration – that will pose an even greater challenge. "They have the potential to sanction the actual institution, which

would be an absolute disaster. It is an existential threat for the court,” says Maria Elena Vignoli of Human Rights Watch. “We don’t know what ultimately will come down,” says James Goldston, the head of Open Society Justice Initiative, an NGO, “but they are potentially devastating.

Warrant: Trump sanctions happen no matter what because they don’t require Congressional approval.

Goldston, James. “To Protect the ICC, Its Chief Prosecutor Must Step Aside.” November 20, 2024, Foreign Policy, <https://foreignpolicy.com/2024/11/20/icc-israel-hamas-gaza-karim-khan/>. Accessed January 12, 2025.

Since May, when ICC Prosecutor Karim Khan requested arrest warrants for three Hamas leaders as well as Israeli Prime Minister Benjamin Netanyahu and then-Defense Minister Yoav Gallant, members of the U.S. Congress have assailed the court for what incoming Senate Majority Leader John Thune recently called its “outrageous and unlawful actions,” for which he promised to make imposing sanctions a “top priority in the next Congress.” **In addition to the threat of legislative action, once he takes office, Trump could simply impose sanctions by executive order, as he did four years ago to retaliate against an examination into alleged George W. Bush-era U.S. crimes in Afghanistan.**

Impact: US government has threatened military action against the court, regardless of accession

Mathews, Sean and Umar A Farooq, “Explainer: US lawmakers threaten ICC with ‘The Hague Invasion Act’ – but what is it?” Middle East Eye, November 21, 2024, <https://www.middleeasteye.net/news/us-lawmakers-hague-invasion-act-what-is-it>. Accessed January 12, 2025.

Some American defenders of Israel have gone further, warning the ICC that its issuance of arrest warrants for Israeli Prime Minister Benjamin Netanyahu and Defence Minister Yoav Gallant would invoke a two-decades-old law that gives the US president power to "use all means necessary and appropriate" to liberate any citizen of a country allied with the US who is detained by the court. "**The ICC is a kangaroo court and Karim Khan is a deranged fanatic. Woe to him and anyone who tries to enforce these outlaw warrants,**" Republican Senator Tom Cotton said on X. "**Let me give them all a friendly reminder: the American law on the ICC is known as The Hague Invasion Act for a reason. Think about it.**"

Impact: The US has laws on the books that allow full action against the ICC, regardless of accession.

Mathews, Sean and Umar A Farooq, "Explainer: US lawmakers threaten ICC with "The Hague Invasion Act" – but what is it?" Middle East Eye, November 21, 2024, <https://www.middleeasteye.net/news/us-lawmakers-hague-invasion-act-what-is-it>. Accessed January 12, 2025.

The act takes its name from Section 2008, which authorises the US president to use "all means necessary and appropriate" to free members of the US military and "covered allied persons." **The law states that the term "covered allied persons" means military personnel, elected or appointed officials, and other persons employed by or working on behalf of the government of a NATO member country, a major non-NATO ally (including Australia, Egypt, Israel, Japan, Jordan, Argentina, the Republic of Korea, and New Zealand).**" When the law was passed, Human Rights Watch said its language implied that the US president had sweeping powers to fight the court. "**The new law authorizes the use of military force to liberate any American or citizen of a US-allied country being held by the court, which is located in The Hague.**"

Analysis: This rebuttal says that regardless of the United States' ratification of the Rome Statute, they will not be investigated by the court fully because the United States can still refuse to cooperate. This is especially relevant in February, which will be the first month of Trump's presidency.

A/2: Acceding to the Rome Statute would allow “above-the-law” figures to be held accountable.

Delink: The ICC lacks enforcement mechanisms to hold “above-the-law” figures accountable

Warrant: The ICC has only had a small number of successful convictions since its creation – More people are at large.

“Is the International Criminal Court fit for purpose?” Do Better, September 26, 2023,
<https://dobetter.esade.edu/en/25-years-international-criminal-court-purpose>. Accessed January 11, 2025.

The first individual to be successfully prosecuted by the ICC was Thomas Lubanga Dylio, the former President of the Democratic Republic of Congo. In March 2012, Dylio was found guilty of the war crimes of enlisting and conscripting children under the age of 15 years and using them to participate actively in hostilities. Since then, the ICC has instigated a further 30 cases, with 10 convictions, four acquittals and 16 suspects remaining at large. With 18 judges selected by the Assembly of States Parties for nine-year, non-renewable terms and an annual budget of around €200 million, many have argued that the ICC is a waste of money and not fit for purpose — allegations the Coalition for the ICC strongly denies.

Warrant: Holding individuals accountable isn’t enough.

Priya Pillai. “The need for a convention on crimes against humanity.” Lowy Institute, April 30, 2024, <https://www.lowyinstitute.org/the-interpreter/need-convention-crimes-against-humanity>. Accessed January 2, 2025.

The protection of civilians and the fact that these crimes are not just committed in armed conflict, but may be committed in times of peace, is a significant component of crimes against humanity. **It is not sufficient to only be able to hold some individuals to account from states that have ratified the Rome Statute establishing the International Criminal Court.** State responsibility is also crucial, and is missing in the legal lexicon for crimes against humanity. This will also provide a legal pathway for redress, due to incorporation into domestic law, before national courts, as well as in international courts.

Warrant: The ICC relies on states to enforce warrants – If states support war crimes, warrants won't be enforced.

Yigzaw, Destaw. "The International Criminal Court in a World Retreating From International Rule of Law." Syracuse University, 2022, <https://jilc.syr.edu/wp-content/uploads/2024/10/501-A-World-Retreating-from-Intn-Law.pdf>. Accessed January 2, 2025.

KELLY: To sum up, Mongolia is a member of the ICC. And the ICC, as I mentioned, has an outstanding arrest warrant for Putin. So why was he not arrested? BOSCO: Yeah, it's a good question. Mongolia joined the ICC back in 2002. So it's been a member for quite a while now. The view of the court is that Mongolia, as a member state, has an obligation to conduct an arrest warrant - or to honor an arrest warrant. KELLY: Yeah. It's not optional, right? It's required. BOSCO: It's not optional from the court's standpoint. But Mongolia is also situated right between Russia and China - two countries that it has enormous economic linkages with. And neither of those countries is a member of the ICC. Neither of them are friendly to the ICC. And Mongolia clearly decided that its economic and diplomatic interests outweighed its legal obligations as a court member.

Impact: International law is a failure – domestic human rights protections are better

Brunk, Ingrid. "Does International Law Have a "Broken Windows" Problem?" LawFare, April 10, 2017, <https://www.lawfaremedia.org/article/does-international-law-have-broken-windows-problem>. Accessed January 12, 2025.

Yet creating a truly effective international human rights enforcement system seems unlikely. A more complicated possibility is to find ways to promote and protect human rights that do not depend upon binding norms of international law, including regional human rights courts and tribunals, domestic statutes and constitutions, capacity building and iterative interactions with review bodies, the enforcement of soft obligations, and so on. Thanks to the successes of the international human rights movement, there are a wide variety of tools designed to improve global human rights practices. While we have yet to see whether those mechanisms will work if they are decoupled from binding international legal commitments, it is clear that we should understand international human rights law as part of a broader international legal system. The debate around international law and human rights should be re-framed to consider not just potential benefits to human rights but also the potential costs to international law as a whole.

Impact: Focusing on country's adherence to norms encourages policy paralysis.

Spektor, Matias. "The Upside of Western Hypocrisy." Foreign Affairs, July 21, 2023, <https://www.foreignaffairs.com/united-states/upside-western-hypocrisy-global-south-america>. Accessed January 12, 2025.

Finally, countries in the global South should recognize that too much criticism of hypocrisy can endanger international cooperation by breeding cynicism and political paralysis. Hypocrisy can sometimes be useful. It provides governments a pragmatic

way out in situations when valuable principles are in conflict. Take the case of the Inflation Reduction Act introduced by the Biden administration. The law provides subsidies for industries to transition to low carbon energy sources and thereby reflects a commitment to mitigating climate change for the entire planet. But the IRA also violates the norms of free trade that the United States so forcefully applies to others. **Hypocrisy in this case allows the White House to proclaim the value of both protecting the planet and maintaining free trade, even if the administration is not able to reconcile the two.**

Analysis: This argument focuses on the fact that the ICC only prosecutes individuals and says that that isn't enough, so the court failing to prosecute "above-the-law" figures is less of an individual failure than a systemic one.

A/2: Acceding to the Rome Statute shifts the focus of the ICC away from Africa.

Non-unique: The ICC is not racist in the status quo so there's no need to shift focus

Warrant: The ICC focuses on Africa because African nations are active participants in the court.

Kersten, Mark. "Is the ICC Racist?" Justice in Conflict, February 22, 2012,
<https://justiceinconflict.org/2012/02/22/is-the-icc-racist/>. Accessed January 12, 2025.

Defenders against charges of the ICC being a neo-colonialist institution often point to the fact that **thirty-three African states are signatories of the Rome Statute and members of the Court. That's no paltry number. Furthermore, African states have engaged, and continue to engage, on a significant level, with the Court. African states lobbied heavily to successfully ensure that an African, Fatou Bensouda, was named the successor to Luis Moreno-Ocampo as the Court's top prosecutor.**

Warrant: Critiquing the ICC as "racist" removes agency from African nations.

Kersten, Mark. "Is the ICC Racist?" Justice in Conflict, February 22, 2012,
<https://justiceinconflict.org/2012/02/22/is-the-icc-racist/>. Accessed January 12, 2025.

The racist critique would suggest that these African states have been somehow fooled into joining the Court by duplicitous, white, Western states. But who truly believes that states like South Africa, Ghana, Uganda, etc. are, to put it bluntly, that stupid? What African state would willingly join a Court that was racist against it? Claiming that

the ICC is racist is thus to believe that African states and Africans in support of the Court are virtually agent-less in their conduct as states. In this account, they could not have decided upon their own volition, out of their own political interest, or out of a commitment to end impunity to join the ICC. They must have been powerless against the persuasion of Western states to join the Court and aren't smart or strong enough to not join an institution that is racist against them.

Warrant: The ICC focuses on African nations because they actively refer cases to the court.

Cannon, Brendon J. "The International Criminal Court and Africa: Contextualizing the Anti-ICC Narrative." SSRN, October 30, 2017,
https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3061703. Accessed January 12, 2025.

That said, **African states' eagerness so far to refer cases to the ICC, which might signal either unwillingness or inability to handle such cases, waters down that argument.** Except for Sudan's Al-Bashir indictment and the investigation in Libya that came at the urging of the UNSC, and the Kenyan case which the ICC brought on its own, all other investigations including situations in Uganda, Congo and Mali have come at the urging, or encouragement, of African countries. This, coupled with participation of majority of African countries information of the Court and at least 60% ratifying the Rome Statute, regardless of motivation or unconscionable demands from some Western countries, suggests that African signatories, too, have been partially responsible for the harm they claim the ICC is inflicting on them at the behest of Western imperial powers.

Impact: The ICC has a majority-black membership that the US might undermine.

Austin, W. Chadwick and Michel Thieme. "Is the International Criminal Court Anti-African?" Peace Review, 2016,

[https://www.tandfonline.com/doi/pdf/10.1080/10402659.2016.1201952.](https://www.tandfonline.com/doi/pdf/10.1080/10402659.2016.1201952)

Accessed January 12, 2025.

Africa actually represents the largest continental block of States-Parties with 34 African nations participating, compared to only 25 nations typically categorized as “Western” nations. Each State-Party is equally represented in the assembly, and it is hard to fathom how the court would be subjugated to the will of Western powers.

Further, the structure of the court diffuses power. Each branch has checks and balances to ensure independence. It is also inaccurate to say that the court has solely focused on Africa. The ICC is considering several other situations around the globe to determine if those situations warrant formal investigations by the court. Such non-African examinations include Afghanistan, Colombia, Georgia, Honduras, Korea, Iraq, and the Ukraine.

Impact: African nations are overrepresented in membership, maybe the only international institution where that's the case.

Lou, Theresa. "ICC on Ice?" Foreign Affairs, November 4, 2016,

<https://www.foreignaffairs.com/articles/burundi/2016-11-04/icc-ice>. Accessed January 12, 2025.

But this widely circulated criticism overlooks the fact that half of the current investigations were referred to the ICC by African member states themselves. Furthermore, whereas African countries ratified the Rome Statute en masse, many countries from regions such as Asia and the Middle East did not. As such, the court does not have jurisdiction in a lot of the places where horrendous crimes are occurring. This phenomenon leads to perhaps the most damning criticism—the ICC's spotty membership. Although 124 countries have ratified the Rome Statute, major players such as China, Russia, and the United States have not.

Analysis: This response essentially accuses the AFF of taking away African nations agencies and imposing a western binary onto them. Teams should be clear that African nations are ultimately responsible for initiating ICC investigations and shift the blame for racism squarely on Western nations, rather than the court.

A/2: US support of the ICC is key to advancing accountability in the War on Gaza.

Turn: Accession doesn't lead to accountability because the government still won't follow international law.

Warrant: The Trump administration will engage in all-out war on the court's credibility.

Hathaway, Oona. "Don't Go to War With the ICC." *Foreign Affairs*, May 24, 2024,
<https://www.foreignaffairs.com/israel/dont-go-war-icc>. Accessed January 12, 2025.

There are those in Congress who want to return to the Trump administration's all-out war on the court. A bill proposed in the U.S. House of Representatives—dubbed the Illegitimate Court Counteraction Act—would sanction and revoke the visas of any ICC employee or associate involved in the investigation into the war in Gaza. Although this proposed bill may not win enough votes to pass, the Biden administration has signaled it is open to working with Republicans to retaliate against the court. That would be a huge mistake. Even if the court issues arrest warrants, the chance of a criminal trial for either Netanyahu or Gallant remains a remote possibility.

Warrant: Trump supports sanctions on the court, which threaten its credibility.

Anderson, Janet. "The clouded skies over the ICC." *JusticeInfo*, December 2, 2024,
<https://www.justiceinfo.net/en/139020-clouded-skies-over-the-icc.html>. Accessed January 12, 2025.

And, come January, when Donald Trump becomes the US president again, the court is likely to face sanctions – in retaliation against the arrest warrant for Benjamin Netanyahu, a staunch ally of the coming US administration – that will pose an even greater challenge. “They have the potential to sanction the actual institution, which would be an absolute disaster. It is an existential threat for the court,” says Maria Elena Vignoli of Human Rights Watch. “We don’t know what ultimately will come down,” says James Goldston, the head of Open Society Justice Initiative, an NGO, “but they are potentially devastating.

Warrant: Trump sanctions happen no matter what because they don’t require Congressional approval.

Goldston, James. “To Protect the ICC, Its Chief Prosecutor Must Step Aside.” November 20, 2024, Foreign Policy, <https://foreignpolicy.com/2024/11/20/icc-israel-hamas-gaza-karim-khan/>. Accessed January 12, 2025.

Since May, when ICC Prosecutor Karim Khan requested arrest warrants for three Hamas leaders as well as Israeli Prime Minister Benjamin Netanyahu and then-Defense Minister Yoav Gallant, members of the U.S. Congress have assailed the court for what incoming Senate Majority Leader John Thune recently called its “outrageous and unlawful actions,” for which he promised to make imposing sanctions a “top priority in the next Congress.” **In addition to the threat of legislative action, once he takes office, Trump could simply impose sanctions by executive order, as he did four years ago to retaliate against an examination into alleged George W. Bush-era U.S. crimes in Afghanistan.**

Impact: US government has threatened military action against the court, regardless of accession

Mathews, Sean and Umar A Farooq, "Explainer: US lawmakers threaten ICC with "The Hague Invasion Act" – but what is it?" Middle East Eye, November 21, 2024, <https://www.middleeasteye.net/news/us-lawmakers-hague-invasion-act-what-is-it>. Accessed January 12, 2025.

Some American defenders of Israel have gone further, warning the ICC that its issuance of arrest warrants for Israeli Prime Minister Benjamin Netanyahu and Defence Minister Yoav Gallant would invoke a two-decades-old law that gives the US president power to "use all means necessary and appropriate" to liberate any citizen of a country allied with the US who is detained by the court. **"The ICC is a kangaroo court and Karim Khan is a deranged fanatic. Woe to him and anyone who tries to enforce these outlaw warrants," Republican Senator Tom Cotton said on X. "Let me give them all a friendly reminder: the American law on the ICC is known as The Hague Invasion Act for a reason. Think about it."**

Impact: The US has laws on the books that allow full action against the ICC, regardless of accession.

Mathews, Sean and Umar A Farooq, "Explainer: US lawmakers threaten ICC with "The Hague Invasion Act" – but what is it?" Middle East Eye, November 21, 2024, <https://www.middleeasteye.net/news/us-lawmakers-hague-invasion-act-what-is-it>. Accessed January 12, 2025.

The act takes its name from Section 2008, which authorises the US president to use "all means necessary and appropriate" to free members of the US military and "covered allied persons." **The law states that the term "covered allied persons" means military personnel, elected or appointed officials, and other persons employed by or working on behalf of the government of a NATO member country, a major non-NATO ally (including Australia, Egypt, Israel, Japan, Jordan, Argentina, the Republic of Korea, and**

New Zealand)." When the law was passed, Human Rights Watch said its language implied that the US president had sweeping powers to fight the court. "**The new law authorizes the use of military force to liberate any American or citizen of a US-allied country being held by the court, which is located in The Hague.**"

Analysis: This rebuttal says that, because of the historic positions of the United States' government and the incoming Trump administration, there is no reason to believe that the US would cooperate with an investigation into Israel.

A/2: US support of the ICC makes it easier for warrants to be served.

Turn: US credibility is irrelevant when it comes to the ICC

Warrant: US global credibility is in the gutter.

Cohen, Jared and Ian Bremmer. "The Global Credibility Gap." Foreign Policy, December 6, 2023, <https://foreignpolicy.com/2023/12/06/global-geopolitics-credibility-us-china-competition-alliances-deterrence-military-economic-power/>. Accessed January 12, 2025.

But the credibility crisis ailing the United States results principally from factors closer to home: its own recent foreign-policy choices and deepening domestic division and dysfunction. In the last two decades, U.S. foreign policy decisions have alienated both traditional U.S. allies and developing countries in the Global South. The 2003 invasion of Iraq was especially damaging, seriously eroding global trust in Washington. The decision not to enforce the “red line” over chemical weapons use in Syria further undermined U.S. credibility. **More recently, U.S. threats to withdraw from NATO and its abandonment of the Trans-Pacific Partnership undercut its reliability as both a strategic and commercial partner.**

Warrant: The Trump presidency changes the calculus, which means ICC ratification will be ignored.

Victor, David. "How the world will weather Trump's withdrawal from global agreements." Nature, November 18, 2024, <https://www.nature.com/articles/d41586-024-03755-x>. Accessed January 2, 2025.

International agreements are rarely enforced, but they work because governments and investors think it is more important to align their behaviours to the agreements' rules than to skirt these norms. For decades, members of global trade regimes nearly always followed the rules — for instance, to avoid self-serving tariffs — because, with open markets, almost everyone gets bigger benefits than they would if nations just followed their narrow self-interests. Solar panels are inexpensive and ubiquitous today because innovations made anywhere have quickly been scaled up into new products that can be sold worldwide. **But triumphs of globalization are contributing to its undoing, as supporters of open markets that are losing out are, like Trump, seeking to favour their local industries instead. Many countries' support for global order is already wavering. And Trump's presidency will put those political drivers on steroids.**

Warrant: Trump sanctions happen no matter what because they don't require Congressional approval.

Goldston, James. "To Protect the ICC, Its Chief Prosecutor Must Step Aside." November 20, 2024, Foreign Policy, <https://foreignpolicy.com/2024/11/20/icc-israel-hamas-gaza-karim-khan/>. Accessed January 12, 2025.

Since May, when ICC Prosecutor Karim Khan requested arrest warrants for three Hamas leaders as well as Israeli Prime Minister Benjamin Netanyahu and then-Defense Minister Yoav Gallant, members of the U.S. Congress have assailed the court for what incoming Senate Majority Leader John Thune recently called its "outrageous and unlawful actions," for which he promised to make imposing sanctions a "top priority in the next Congress." **In addition to the threat of legislative action, once he takes office, Trump could simply impose sanctions by executive order, as he did four years ago to retaliate against an examination into alleged George W. Bush-era U.S. crimes in Afghanistan.**

Impact: US government has threatened military action against the court, regardless of accession

Mathews, Sean and Umar A Farooq, "Explainer: US lawmakers threaten ICC with "The Hague Invasion Act" – but what is it?" Middle East Eye, November 21, 2024, <https://www.middleeasteye.net/news/us-lawmakers-hague-invasion-act-what-is-it>. Accessed January 12, 2025.

Some American defenders of Israel have gone further, warning the ICC that its issuance of arrest warrants for Israeli Prime Minister Benjamin Netanyahu and Defence Minister Yoav Gallant would invoke a two-decades-old law that gives the US president power to "use all means necessary and appropriate" to liberate any citizen of a country allied with the US who is detained by the court. **"The ICC is a kangaroo court and Karim Khan is a deranged fanatic. Woe to him and anyone who tries to enforce these outlaw warrants," Republican Senator Tom Cotton said on X. "Let me give them all a friendly reminder: the American law on the ICC is known as The Hague Invasion Act for a reason. Think about it."**

Impact: The US has laws on the books that allow full action against the ICC, regardless of accession.

Mathews, Sean and Umar A Farooq, "Explainer: US lawmakers threaten ICC with "The Hague Invasion Act" – but what is it?" Middle East Eye, November 21, 2024, <https://www.middleeasteye.net/news/us-lawmakers-hague-invasion-act-what-is-it>. Accessed January 12, 2025.

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personnel, elected or appointed officials, and other persons employed by or working on behalf of the government of a NATO member country, a major non-NATO ally (including Australia, Egypt, Israel, Japan, Jordan, Argentina, the Republic of Korea, and New Zealand)." When the law was passed, Human Rights Watch said its language implied that the US president had sweeping powers to fight the court. "**The new law authorizes the use of military force to liberate any American or citizen of a US-allied country being held by the court, which is located in The Hague.**"

Analysis: Much like some other rebuttals, this one says that the United States would not be obligated to actually follow the rulings of the court. In fact, existing US law that wouldn't go away with ratification actively prevent the US from cooperating with investigations.

A/2: Acceding to the Rome Statute is compatible with the United States Constitution.

Turn: The Rome Statute is not compatible with the United States Constitution

Warrant: The Rome Statute violates the US Constitution.

Casey, Lee. "The Case Against the International Criminal Court." Fordham International Law Journal, 2001,
https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?params=/context/ilj/article/1835&path_info=25FordhamIntLJ840_282001_2002_29.pdf. Accessed January 12, 2025.

Not surprisingly, ratification of the Rome Statute also would violate the Constitution. Becoming a State party would vest the ICC with jurisdiction over Americans both at home and abroad. If, in the ICC's unreviewable opinion, offenses within its jurisdiction occurred in the United States, it could prosecute and punish Americans who have never strayed from home, and whose actions affected only other American citizens.

Such offenses, however, are within the judicial power of the United States, which cannot be exercised by any court or institution not recognized by the Constitution itself, or established by Congress pursuant to authority granted in that document. This was the Supreme Court's ruling in the landmark, post-Civil War case of *Ex parte Milligan*,⁴ and this remains the law today.

Warrant: This is because the ICC would exercise governmental power without election.

Casey, Lee. "The Case Against the International Criminal Court." Fordham International Law Journal, 2001,

https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?params=/context/ilj/article/1835/&path_info=25FordhamIntlIJ840_282001_2002_29.pdf. Accessed January 12, 2025.

In fact, the ICC would exercise governmental power without the sanction of popular election, or democratic accountability, of any kind. Its prosecutor and judges would be selected by the ICC's Assembly of States Parties, a body composed of one representative from each country that has ratified the Rome Statute, and designed to represent the interests of States, not individuals. That body would, in no way, be representative of the people of the United States or their interests. If the United States ratified the Rome Statute, it would have but a single vote in the Assembly—the exact same representation enjoyed by His Serene Highness, the Prince of Liechtenstein, the Grand Duke of Luxembourg, the Republic of San Marino, Andorra, Antigua & Barbuda, and the Pacific atoll of Nauru.

Warrant: Ratification of the Rome Statute violates the territorial jurisdiction protections under the Constitution.

Casey, Lee. "The Case Against the International Criminal Court." *Fordham International Law Journal*, 2001,
https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?params=/context/ilj/article/1835/&path_info=25FordhamIntlIJ840_282001_2002_29.pdf. Accessed January 12, 2025.

In fact, despite the inflated claims regularly made on behalf of "universal jurisdiction," territorial jurisdiction remains the primary basis of international legal authority, recognized by all States and supported by centuries of consistent practice. "Universality" has a far more checkered pedigree. In theory, it permits any State to proscribe certain conduct damaging to all States. In practice, the only universal offenses that have a long

history of general acceptance are piracy and the slave trade, both activities taking place on the high seas, beyond the territorial jurisdiction of any single State. Since the Second World War, claims have also been made that "genocide," "war crimes," and "crimes against humanity" are subject to the universality principle. Even assuming that this is the case, 38 recognizing the authority of States to proscribe certain conduct does not resolve the issue of whether they would, in any particular circumstance, also have the authority to prosecute and punish the offense

Impact: The Constitution's sanctity is important.

"The Genius of the Constitution." The Heritage Foundation, n.d.,

<https://www.heritage.org/the-essential-constitution/the-genius-the-constitution>. Accessed January 12, 2025.

The Constitution's genius begins with recognizing both the virtues and limitations of human nature. It establishes a system of government that channels human nature toward the good of all. The first plan the Framers tried after declaring independence was called the Articles of Confederation. The government that the Articles created failed because it was too weak to coordinate national policy among states with different priorities. Before the government could do almost anything, the Articles required a unanimous vote by all of the states, which often put the states in the position of voting against their own individual interests. The Framers saw that it was not realistic to expect the states to do that. George Washington wrote, "We have probably had too good an opinion of human nature in forming our confederation." **So the Framers tried again, creating a system of government that did not deny the pursuit of self-interest, but instead helped to direct it toward compromise and consensus.**

Impact: Violating the Constitution threatens its future.

"Threats to the Constitution." The Heritage Foundation, n.d.,
<https://www.heritage.org/the-essential-constitution/threats-the-constitution>. Accessed January 12, 2025.

Recall that the Constitution is the meaning of its words. **Judges cannot change the Constitution's words, but they threaten the Constitution just as much by changing what those words mean. Rather than seeking to understand what the Constitution's authors meant, some activist judges, under the guise of interpretation, substitute what they want the Constitution to mean as if they were creating a different Constitution in their own image.** These judges and those scholars who support them are sometimes referred to as "living constitutionalists" because they believe that the Constitution is an ever-changing and evolving document that should bend to the whims of public opinion and contemporary society's values.

Analysis: This rebuttal essentially says that the United States Constitution is fully incompatible with ratification of the Rome Statute. Teams should be prepared to find quantitative impacts supporting the continued support of a country's constitution to help strengthen this rebuttal.

A/2: US Support of the ICC Restrains Putin in Ukraine

Answer: U.S. support may actual hinder the ICC's ability to keep actors accountable

Warrant: The ICC's effectiveness is often hampered by political considerations, which can undermine its ability to hold powerful leaders accountable, regardless of U.S. support

"US House Votes to Sanction International Criminal Court over Israel." Reuters, 9 Jan.

2025, <https://www.reuters.com/world/us-house-votes-sanction-international-criminal-court-over-israel-2025-01-09/>. Accessed 14 Dec. 2024.

The Senate's newly appointed Republican majority leader, John Thune, has promised swift consideration of the sanctions act in his chamber so that Trump can sign it into law shortly after taking office. The ICC is a permanent court that can prosecute individuals for war crimes, crimes against humanity, genocide and the crime of aggression in member states or by their nationals. The court has said its decision to pursue warrants against the Israeli officials was in line with its approach in all cases, based on an assessment by the prosecutor that there was enough evidence to proceed, and the view that seeking arrest warrants immediately could prevent ongoing crimes. Congressional Republicans have been denouncing the ICC since it issued arrest warrants for Netanyahu and his ex-defense chief Yoav Gallant, accusing them of war crimes and crimes against humanity in the 15-month-old Gaza conflict. Israel denies the allegations.

Warrant: U.S. support for the ICC may not effectively deter leaders like Putin, as the ICC's jurisdiction is limited and does not extend to non-member states like Russia. Without universal jurisdiction, the ICC's actions may have minimal impact on the behavior of such leaders.

"Explainer: Why Does The U.S. Have It Out For The International Criminal Court?" Radio Free Europe/Radio Liberty, 12 Sept. 2018, <https://www.rferl.org/a/explainer-why-does-u-s-have-it-out-for-international-criminal-court-/29484529.html>. Accessed 14 Dec. 2024.

The United States never joined the ICC and has consistently opposed the empowerment of an international court that could try U.S. military and political leaders under international law. That's largely because of concerns that U.S. soldiers and civilian leaders might be put on trial, without U.S. constitutional protections, by an anti-American prosecutor in a court with non-American judges. Instead, war crimes and crimes against humanity are prosecuted in U.S. courts under the War Crimes Act of 1996 -- a law that applies if either a victim or the perpetrator of an alleged war crime is a U.S. citizen or a member of the U.S. military.

Warrant: Supporting the ICC could strain diplomatic relations with allies who oppose the Court's actions (if administrations differ from support of Israel, for example)

"US officials slam ICC arrest warrant against Netanyahu, Gallant as 'outrageous, unlawful, dangerous'." New York Post, 21 Nov. 2024, <https://nypost.com/2024/11/21/us-news/us-officials-slam-icc-arrest-warrant-for-netanyahu-gallant-outrageous-unlawful-dangerous/>. Accessed 14 Dec. 2024.

US officials slammed the International Criminal Court's decision to issue an arrest warrant against Israeli Prime Minister Benjamin Netanyahu and his former defense minister as a “dangerous” act invalidating the Jewish state’s right to defend itself. The White House rejected Thursday’s decision against Netanyahu and former defense chief Yoav Gallant, with incoming Senate Majority Leader John Thune (R-SD) vowing to place sanctions against the ICC next year. **“The ICC’s arrest warrant against Prime Minister Netanyahu and former Defense Minister Gallant is outrageous, unlawful, and dangerous,” Thune said.**

A/2: A lack of US involvement in international law has negative implications for international law's future

Answer: U.S. non-participation allows international law to exist independently.

Warrant: U.S. non-participation in certain international legal institutions, such as the International Criminal Court (ICC), stems from concerns over national sovereignty and the potential for politically motivated prosecutions. This stance reflects a desire to protect U.S. citizens and military personnel from external legal actions that may conflict with domestic legal standards.

"The U.S. Should Not Join the International Criminal Court." *The Heritage Foundation*, 14 Apr. 2010, <https://www.heritage.org/report/the-us-should-not-join-the-international-criminal-court>. Accessed 14 Dec. 2024.

"The United States has long championed human rights and supported the ideal that those who commit serious human rights violations should be held accountable. However, once negotiations began on the final version of the Rome Statute, America's support waned because many of its concerns were ignored or opposed outright... The U.S. has refused to join the ICC because it lacks prudent safeguards against political manipulation, possesses sweeping authority without accountability to the U.N. Security Council, and violates national sovereignty by claiming jurisdiction over the nationals and military personnel of non-party states in some circumstances."

Warrant: The U.S. maintains that its domestic legal system is robust enough to address crimes that fall under international law, rendering participation in certain international legal bodies unnecessary. This perspective emphasizes the effectiveness of national institutions in upholding justice without external intervention.

"Why Does the United States Continue to Oppose International Courts?" *Opinio Juris*, 9 May 2022, <https://opiniojuris.org/2022/05/09/why-does-the-united-states-continue-to-oppose-international-courts/>. Accessed 14 Dec. 2024.

"The United States continues to oppose the International Criminal Court (ICC) due to concerns that it could assert jurisdiction over U.S. personnel, despite the U.S. not being a party to the Rome Statute. The U.S. argues that its own legal system is capable of addressing any alleged crimes and that the ICC's jurisdiction over non-consenting states infringes upon national sovereignty."

Warrant: Critics argue that international legal institutions can be influenced by political agendas, leading to selective justice.

"ICC a Political Body That Exceeds Its Jurisdiction." *The Australian*, 10 Nov. 2024, <https://www.theaustralian.com.au/business/legal-affairs/international-criminal-court-a-political-body-that-exceeds-its-jurisdiction/news-story/6ad7bd6e568cb7b2b33a6d0b98138383>. Accessed 14 Dec. 2024.

"The International Criminal Court (ICC) has been criticized for being a politicized institution, particularly in its actions against Israel... High-profile figures argue that the ICC has exceeded its jurisdiction, especially with arrest warrants for Israeli leaders. This discrepancy between global adherence to the rule of law and the influence over the ICC's operations points to structural biases and political manipulations within the court's framework."

Warrant: The U.S. government's cautious approach towards international legal commitments reflects a strategic decision to preserve flexibility in foreign policy and national security matters

"The U.S., the West, and International Law in an Age of Strategic Competition." *Brookings Institution*, 1 Mar. 2023, <https://www.brookings.edu/articles/the-us-the-west-and-international-law-in-an-age-of-strategic-competition/>. Accessed 14 Dec. 2024.

"The United States in particular worked to avoid the constraints of international law by expanding the practice of the extraterritorial application of American domestic law, sometimes through the imposition of sanctions, sometimes through the establishment of certification processes."

A/2: The Rome Statute and ICC can advance values and goals shared by the US.

Delink: The US is uninterested in applying the ICC or its values in a consistent way.

Warrant: The US doesn't care about the ICC and is unlikely to take it seriously even after joining.

Wheeler, Caleb H. "Should the ICC Allow the United States to Become a State Party?," August 12, 2022, Opinio Juris, <https://opiniojuris.org/2022/08/12/should-the-icc-allow-the-united-states-to-become-a-state-party/>. Accessed January 13, 2025.

However, the differences in how four of the five administrations engaged with the ICC are largely superficial and **that position of each has largely been informed by the same motivations: to encourage and sometimes assist the Court when it is pursuing the arrest of individuals to whom the United States is either hostile or indifferent, and to condemn it when the Court's activities may affect American citizens. This approach indicates that the United States is only interested in accountability when it is directed at individuals the United States thinks should be targeted, a position that is directly contradictory to the ICC's mission statement of ending impunity.** Therefore, the ICC needs to consider whether it wants a state as a party that is uninterested in furthering the Court's mission.

Warrant: The US is already selectively supporting the ICC when it aligns with their own interest.

Wheeler, Caleb H. "Should the ICC Allow the United States to Become a State Party?," August 12, 2022, Opinio Juris, <https://opiniojuris.org/2022/08/12/should-the-icc-allow-the-united-states-to-become-a-state-party/>. Accessed January 13, 2025.

The war in Ukraine has at least temporarily broken down some of the pre-existing opposition to the ICC. **On 15 March, the US Senate unanimously passed a resolution calling on the member states of the ICC to petition the Court to investigate war crimes and crimes against humanity being committed by and at the direction of Vladimir Putin.** The resolution was sponsored by Senator Lindsey Graham, a self-described ‘conservative problem-solver’. Several weeks later, the House of Representatives passed a bill with overwhelming bi-partisan support that directed the President to report on efforts the United States was making to collect, analyse and preserve evidence of Russian crimes committed in Ukraine for use in any future domestic, foreign or international proceedings. While it did not refer directly to the International Criminal Court, one of the bills’ co-sponsors, **Representative Ilhan Omar stated in a Press Release that the Bill would help support proceedings at the ICC.**

Warrant: The US has concerns over inner workings of the ICC.

Groves, Steven and Brett Schaefer. “The U.S. Should Not Join the International Criminal Court,” August 18, 2009, Heritage Foundation,
<https://www.heritage.org/report/the-us-should-not-join-the-international-criminal-court>. Accessed January 13, 2025.

Since the approval of the Rome Statute in 1998, U.S. policy toward the ICC has been clear and consistent: **The U.S. has refused to join the ICC because it lacks prudent safeguards against political manipulation, possesses sweeping authority without accountability to the U.N. Security Council, and violates national sovereignty by claiming jurisdiction over the nationals and military personnel of non-party states in some circumstances.**

Impact: The ICC also has concerns over the US.

Wheeler, Caleb H. "Should the ICC Allow the United States to Become a State Party?," August 12, 2022, Opinio Juris, <https://opiniojuris.org/2022/08/12/should-the-icc-allow-the-united-states-to-become-a-state-party/>. Accessed January 13, 2025.

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 United States, making it easier for the Court to conduct investigations and prosecutions. In exchange, it would almost certainly need to institute a policy exempting American citizens from prosecution in at least some situations. This could lead other states, particularly those that also regularly participate in peacekeeping efforts, to seek similar protections for their own citizens. **That would result in the development of a two-tiered jurisdictional structure at the ICC under which individual criminal responsibility would depend as much on the citizenship of the accused as the circumstances surrounding their alleged criminality. Such a change would fundamentally alter the Court's mission by making full accountability for atrocity crimes an unattainable goal. Until the United States is willing to drop its objections to how the ICC exercises its jurisdiction, the Court is better off without the United States as state party and should resist any attempts it might make to join.**

Analysis: Teams can take a couple different strategies here. First would be to argue that the US isn't interested in using the ICC consistently to promote values, it's more interested in politics and benefiting allies and going after rivals. Another option is to say that those are the US's values, and that in most cases we already use the ICC to advance them, by selectively supporting ICC action on cases aligning with our political goals. Finally, teams could argue that the US and ICC systems of justice and values are incompatible, as both have huge doubts about each other.

A/2: Accession benefits justice efforts in Ukraine and deters future aggression.

Delink: The US is uninterested in actually using the ICC for accountability.

Warrant: Whether the US will ever support ICC efforts for a particular task depends on the current administration.

Wheeler, Caleb H. "Should the ICC Allow the United States to Become a State Party?," August 12, 2022, Opinio Juris, <https://opiniojuris.org/2022/08/12/should-the-icc-allow-the-united-states-to-become-a-state-party/>. Accessed January 13, 2025.

The actions and statements of the last five presidential administrations suggest that they do not fully understand what the ICC actually does and that they are not particularly interested in finding out. They have only been interested in engaging with the Court as a tool to be used against others rather than as a real instrument designed to combat impunity. This was made clear in a recent statement by Linda Thomas-Greenfield, the US Ambassador to the United Nations. When asked about trying Putin at the ICC, she responded that it remained available as an option and that the United States has always been supportive of the Court taking action 'when action is required.' **Implicit in this statement is the idea that holding Americans accountable is never required.**

Warrant: Under Biden, the US already endorsed ICC actions on Ukraine, to little effect.

Wheeler, Caleb H. "Should the ICC Allow the United States to Become a State Party?," August 12, 2022, Opinio Juris, <https://opiniojuris.org/2022/08/12/should-the-icc-allow-the-united-states-to-become-a-state-party/>. Accessed January 13, 2025.

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Warrant: Trump is unlikely to support ICC action against Russia.

Bayer, Alexei. “Why Trump Supporters Love Putin,” May 21, 2024, The Globalist, <https://www.theglobalist.com/united-states-donald-trump-republicans-russia-vladimir-putin/>. Accessed January 13, 2025.

Trump looks up to dictators and wants to emulate them. Putin, with his flashy caudillo machismo, total control over Russia and ruthless suppression – and often murder – of his opponents, seems like Trump’s obvious role model. Thus, it is conventional wisdom that MAGA loves Putin merely because Trump admires him and tells them to do likewise. This is doubtless true, but MAGA is more than a mere one-man personality cult. MAGA is a political movement, it has an ideology which is, amazingly enough, quite close to Putinism – the ideology which Putin has imposed on Russia.

Impact: Trump is unlikely to support ICC action against Russia.

Sullivan, Kate. "Trump says he would encourage Russia to 'do whatever the hell they want' to any NATO country that doesn't pay enough," February 11, 2024, CNN News, <https://www.cnn.com/2024/02/10/politics/trump-russia-nato/index.html>. Accessed January 13, 2025.

"Trump's admission that he intends to give Putin a greenlight for more war and violence, to continue his brutal assault against a free Ukraine, and to expand his aggression to the people of Poland and the Baltic States are appalling and dangerous," Biden said in a statement via his campaign.

Analysis: Teams can argue that patterns show that whether or not the US will support ICC action on any particular issue is largely dependent on the politics of its current administration. Not only does this conflict with the ICC's goal of applying justice universally and consistently, but it means that under the Trump administration action will likely not be supported.

A/2: The US lends legitimacy to the ICC and strengthens the rule of law.

Delink: The ICC's system of justice is flawed, while the US already supports better institutions for the rule of law.

Warrant: The ICC justice system removes necessary protections during trials.

Casey, Lee A. "The Case Against Supporting the International Criminal Court," October 1, 2018, WashU St. Louis School of Law, <https://law.washu.edu/wp-content/uploads/2018/10/The-Case-Against-Supporting-the-International-Criminal-Court.pdf>. Accessed January 13, 2025.

With respect to the Constitutional objections, by joining the ICC Treaty, the United States would subject American citizens to prosecution and trial in a court that was not established under Article III of the Constitution for criminal offenses otherwise subject to the judicial power of the United States. This, it cannot do. As the Supreme Court explained in the landmark Civil War case of *Ex parte Milligan* (1866), reversing a civilian's conviction by a military tribunal, "[e]very trial involves the exercise of judicial power," and courts not properly established under Article III can exercise "no part of the judicial power of the country."² This rationale is equally, and emphatically, applicable to **the ICC, a court where neither the prosecutors nor the judges would have been appointed by the President, by and with the advice and consent of the Senate, and which would not be bound by the fundamental guarantees of the Bill of Rights. In fact, individuals brought before the ICC would only nominally enjoy the rights we in the United States take for granted.**

Warrant: The ICC's justice system leaves it open to abuse of power.

Casey, Lee A. "The Case Against Supporting the International Criminal Court," October 1, 2018, WashU St. Louis School of Law, <https://law.washu.edu/wp-content/uploads/2018/10/The-Case-Against-Supporting-the-International-Criminal-Court.pdf>. Accessed January 13, 2025.

For example, the ICC Treaty guarantees defendants the right “to be tried without undue delay.” In the International Criminal Tribunal for the Former Yugoslavia (an institution widely understood to be a model for the permanent ICC), and which also guarantees this “right,” defendants often wait more than a year in prison before their trial begins, and many years before a judgment actually is rendered. **The Hague prosecutors actually have argued that up to five years would not be too long to wait IN PRISON for a trial, citing case law from the European Court of Human Rights supporting their position. Such practices, admittedly, have a long pedigree, but they mock the presumption of innocence.** Under U.S. law, the federal government must bring a criminal defendant to trial within three months, or let him go.

Warrant: The US already supports the rule of law through numerous institutions.

Groves, Steven and Brett Schaefer. "The U.S. Should Not Join the International Criminal Court," August 18, 2009, Heritage Foundation, <https://www.heritage.org/report/the-us-should-not-join-the-international-criminal-court>. Accessed January 13, 2025.

The United States has long championed human rights and supported the ideal that those who commit serious human rights violations should be held accountable. Indeed, it was the United States that insisted--over Soviet objections--that promoting basic human rights and fundamental freedoms be included among the purposes of the United Nations. **Eleanor Roosevelt served as chairman of the U.N. Human Rights Commission**

when it drafted the Universal Declaration of Human Rights, which has served as the U.N.'s bedrock human rights document since 1948. The United States also played a lead role in championing major international efforts in international humanitarian law, such as the Geneva Conventions.

Impact: American membership would change the ICC's goals away from ending impunity.

Wheeler, Caleb H. "Should the ICC Allow the United States to Become a State Party?," August 12, 2022, Opinio Juris, <https://opiniojuris.org/2022/08/12/should-the-icc-allow-the-united-states-to-become-a-state-party/>. Accessed January 13, 2025.

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. Until the United States is willing to drop its objections to how the ICC exercises its jurisdiction, the Court is better off without the United States as state party and should resist any attempts it might make to join.**

Impact: The US has already endorsed ICC actions on Ukraine, to little effect.

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Analysis: Teams can argue that the ICC’s system of justice is bad for the global rules-based order/rule of law, and use evidence that the US has already pioneered and/or thrown its support behind many other methods of upholding international law. They could also argue that American membership will change the values and goals of the ICC too much and make it a less good, less effective part of the global order.

A/2: Accession supports US alliances and removes foreign policy inconsistencies.

Delink: The US is uninterested in furthering the ICC's mission and goals.

Warrant: The US doesn't care about the ICC and is unlikely to take it seriously even after joining.

Wheeler, Caleb H. "Should the ICC Allow the United States to Become a State Party?," August 12, 2022, Opinio Juris, <https://opiniojuris.org/2022/08/12/should-the-icc-allow-the-united-states-to-become-a-state-party/>. Accessed January 13, 2025.

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Warrant: The US has been consistent in its concerns about the ICC.

Groves, Steven and Brett Schaefer. "The U.S. Should Not Join the International Criminal Court," August 18, 2009, Heritage Foundation,

<https://www.heritage.org/report/the-us-should-not-join-the-international-criminal-court>. Accessed January 13, 2025.

Since the approval of the Rome Statute in 1998, U.S. policy toward the ICC has been clear and consistent: **The U.S. has refused to join the ICC because it lacks prudent safeguards against political manipulation, possesses sweeping authority without accountability to the U.N. Security Council, and violates national sovereignty by claiming jurisdiction over the nationals and military personnel of non-party states in some circumstances.**

Warrant: The ICC justice system removes necessary protections during trials.

Casey, Lee A. "The Case Against Supporting the International Criminal Court," October 1, 2018, WashU St. Louis School of Law, <https://law.washu.edu/wp-content/uploads/2018/10/The-Case-Against-Supporting-the-International-Criminal-Court.pdf>. Accessed January 13, 2025.

The United States should not ratify the ICC Treaty. There are two fundamental objections to American participation in the ICC regime. First, U.S. participation would violate our Constitution by subjecting Americans to trial in an international court for offenses otherwise within the judicial power of the United States, and without the guarantees of the Bill of Rights. Second, our ratification of the Rome Treaty would constitute a profound surrender of American sovereignty, undercutting our right of selfgovernment – the first human right, without which all others are simply words on paper, held by grace and favor, and no rights at all. With respect to the Constitutional objections, by joining the ICC Treaty, the United States would subject American citizens to prosecution and trial in a court that was not established under Article III of the Constitution for criminal offenses otherwise subject to the judicial power of the United States.

Impact: The ICC's justice system leaves it open to abuse of power.

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Analysis: Teams can argue that the US joining won't support its allies goals on the ICC because the US takes a different approach than them, advancing its own interests rather than the state ICC goal of ending impunity. They can also argue that the US has actually been very consistent in the reasons it doesn't support the ICC, that these reasons are good and solid, and that they have never infringed upon cooperation with allies before.

A/2: The ICC's oversight strengthens the US justice system and holds it accountable.

Delink: The US will not accept Court oversight or accountability.

Warrant: The US will only support ICC action when it is not itself involved.

Wheeler, Caleb H. "Should the ICC Allow the United States to Become a State Party?," August 12, 2022, Opinio Juris, <https://opiniojuris.org/2022/08/12/should-the-icc-allow-the-united-states-to-become-a-state-party/>. Accessed January 13, 2025.

The problem with this approach is that the United States' understanding of when action is required differs from that of the Court. The ICC was founded on the principle of ending the impunity of individuals committing genocide, war crimes, crimes against humanity and the crime of aggression regardless of their official position or national affiliation. From the Court's perspective, action is required when it can help achieve that purpose. The United States takes a different approach to deciding when action is required. It only believes in action against its enemies or citizens of those countries that it does not really care about. When the United States or its friends are threatened with prosecution, even in the face of overwhelming evidence of criminality, it rejects that action as an impermissible infringement on sovereignty. In the end, these two approaches are incompatible.

Warrant: The US will only support ICC action when it is not itself involved.

Wheeler, Caleb H. "Should the ICC Allow the United States to Become a State Party?," August 12, 2022, Opinio Juris, <https://opiniojuris.org/2022/08/12/should-the-icc-allow-the-united-states-to-become-a-state-party/>. Accessed January 13, 2025.

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 United States, making it easier for the Court to conduct investigations and prosecutions. In exchange, it would almost certainly need to institute a policy exempting American citizens from prosecution in at least some situations. This could lead other states, particularly those that also regularly participate in peacekeeping efforts, to seek similar protections for their own citizens. **That would result in the development of a two-tiered jurisdictional structure at the ICC under which individual criminal responsibility would depend as much on the citizenship of the accused as the circumstances surrounding their alleged criminality.** Such a change would fundamentally alter the Court's mission by making full accountability for atrocity crimes an unattainable goal. Until the United States is willing to drop its objections to how the ICC exercises its jurisdiction, the Court is better off without the United States as state party and should resist any attempts it might make to join.

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constitute a profound surrender of American sovereignty, undercutting our right of selfgovernment – the first human right, without which all others are simply words on paper, held by grace and favor, and no rights at all. With respect to the Constitutional objections, by joining the ICC Treaty, the United States would subject American citizens to prosecution and trial in a court that was not established under Article III of the Constitution for criminal offenses otherwise subject to the judicial power of the United States. This, it cannot do. As the Supreme Court explained in the landmark Civil War case of *Ex parte Milligan* (1866), reversing a civilian's conviction by a military tribunal, "[e]very trial involves the exercise of judicial power," and courts not properly established under Article III can exercise "no part of the judicial power of the country." **This rationale is equally, and emphatically, applicable to the ICC, a court where neither the prosecutors nor the judges would have been appointed by the President, by and with the advice and consent of the Senate, and which would not be bound by the fundamental guarantees of the Bill of Rights. In fact, individuals brought before the ICC would only nominally enjoy the rights we in the United States take for granted.**

Impact: The ICC's justice system leaves it open to abuse of power.

Casey, Lee A. "The Case Against Supporting the International Criminal Court," October 1, 2018, WashU St. Louis School of Law, <https://law.washu.edu/wp-content/uploads/2018/10/The-Case-Against-Supporting-the-International-Criminal-Court.pdf>. Accessed January 13, 2025.

In addition, the ICC would not preserve the right to a jury trial. The importance of this right cannot be overstated. Alone among the Constitution's guarantees, the right to a jury trial was stated twice, in Article III (sec. 2), and in the Sixth Amendment. It is not merely a means of determining facts in a judicial proceeding. It is a fundamental check on the abuse of power. As Justice Joseph Story explained: "The great object of a trial by jury in criminal cases is to guard against a spirit of oppression and tyranny on the part of

rulers, and against a spirit of violence and vindictiveness on the part of the people."⁵ It is "part of that admirable common law, which had fenced round, and interposed barriers on every side against the approaches of arbitrary power." **That said, the exclusion of jury trials from the ICC is not surprising, for that Court invites the exercise of arbitrary power by its very design. The ICC will act as policeman, prosecutor, judge, jury, and jailor – all of these functions will be performed by its personnel, with nothing but bureaucratic divisions of authority, and no division of interest. There would be no appeal from its judgments. If the ICC abuses its power, there will be no recourse. From first to last, the ICC will be the judge in its own case. It will be more absolute than any dictator. As an institution, the ICC is fundamentally inconsistent with the political, philosophical, and legal traditions of the United States.**

Analysis: Teams can argue that the US will use its power to prevent the ICC from being used to hold itself accountable, or that the ICC's system of carrying out justice is actually harmful. Teams should be careful to have a consistent narrative and view of the world in round, taking care not to contradict themselves if trying to run both these responses in addition or a mix of these and others.