

## **Sociopolitical Influence and the Impact of Deterrence: An Examination of the ICC's Effectiveness in Preventing Global Human Rights Abuses**

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Imagine a world where perpetrators or repeated human rights abuses can escape justice and even sabotage the efforts of those who seek to hold them accountable. This is the reality that the International Criminal Court (ICC) faces in its mission to deter and prosecute international crimes. In this paper, I will argue that the ICC is largely ineffective in deterring human rights abuses by leaders abroad, based on descriptive qualitative studies of several cases involving Russia, Afghanistan, Libya, Democratic Republic of the Congo (DRC), Sudan, and Kenya, where political influence, among other related factors, undermined the court's authority and legitimacy. My research question is as follows: How effective is the ICC in deterring international human rights abuses by leaders? I hypothesize that the ICC is mostly ineffective in deterring human rights abuses abroad, especially by political leaders, albeit with a few notable exceptions. Utilizing information from primary sources, such as the press comments of relevant politicians and firsthand news articles detailing the events, and secondary sources, such as court documents and journal articles, This paper argues that the ICC is not only circumvented, but frequently undermined by political influence. Renown executives, such as the George Bush administration in the U.S. or William Ruto in Kenya, were able to directly interfere with investigation efforts by witness tampering or manipulating legal loopholes. In these cases, innate vulnerabilities were exposed, showing the ICC can be rendered powerless against human rights abuses. A historical and theoretical study on these cases and the implication of their respective ICC interactions will be the leading basis of my paper.

The following paper is organized into six distinct sections: *Introduction to the ICC*, *Research on the Effects of the ICC*, *Leading Theories*, *Empirical Investigation of the ICC's Impact*, *Case Studies: Outcomes and Implications*, and finally the conclusion. *Introduction to the ICC* will outline its history, a brief synopsis of past and present cases, as well as the framework of my research. *Research on the Effects of the ICC* details an in-depth review of specific cases that are essential to highlighting the ICC's deterrent effect, involving Russia, Sudan, Libya, Kenya, the Democratic Republic of the Congo (DRC), and Afghanistan. This section also provides a brief introduction to questioning the ICC's effectiveness and identifying its jurisdictional constraints and guidelines. *Leading Theories* then shapes the theoretical framework for deterrent effect, which will later be used to reinforce the conclusions made regarding the international impact of the ICC. After that, *Empirical Investigation of the ICC's Impact* describes the research design and methods used to conduct the examination. Next, *Case Studies: Outcomes and Implications* revisits the same cases from the previous *Research on the Effects of the ICC* section, except this time it draws on deterrence theories and recent developments to substantiate inferences regarding the extent to which the ICC has prevented future offenses. Lastly, the conclusion provides a summary of the entire research paper and reiterates the overarching reason for examining ICC deterrent effect.

## **Introduction to the ICC**

The International Criminal Court (ICC) is an international judicial body established under the Rome Statute of 1998 to investigate, prosecute, and try individuals accused of genocide, war crimes, and crimes against humanity. The court was founded with the intent of creating a global system of justice and accountability for serious crimes under international law (ICC, 2010). It is considered by its proponents to be a major step toward justice and a novelty in international law and human rights. However, it has faced ample criticism from various governments and human

rights groups, including objections to its jurisdiction, accusations of bias, questioning of the inexorability of its trial procedures, and uncertainties regarding its passive prosecution methods.

The research problem that this literature review addresses is the effectiveness of the ICC in deterring human rights abuses by political leaders worldwide. This is an imperative dilemma especially because the ICC's primary goal is to end impunity for the perpetrators of universal crimes against humanity and to meaningfully contribute to the prevention of such crimes. The literature on this topic includes a range of existing theories and empirical evidence on the deterrent effect of the ICC, as well as the factors that may expand or limit its impact. It discusses how the ICC's integrity and authority is questioned due to influence by political pressure, undermining contracts between countries, conflicts with state sovereignty and non-parties, and severe lack of legal enforcement. The literature that will be examined is organized on a thematic basis, beginning with past cases and their end results, then moving into limitations on the ICC in addressing major human rights abuses, and finally ending with current investigations that have potentially groundbreaking allegations. The background research is systematized to comprehensively explain the deterrent effect of the ICC and review the extent of concluding success in its pursuit of justice. After the literature review, the paper will then execute and evaluate case studies on each of the countries chosen for examination, utilizing various deterrence theories and motivational analysis.

### **Research on the Effects of the ICC**

#### *Past Cases of the ICC*

Starting the literature review with past cases addressed by the ICC and summaries of previous research into its effectiveness, allows the following analysis to build on outlined groundwork. In total, the ICC has pursued and concluded thirty-one cases (CFR, 2023). Two

defendants are serving sentences, seven have finished sentences, four have been acquitted, seven have had the charges against them dismissed, four have had the charges against them withdrawn, and seven have died before the conclusion of the proceedings against them (ICC, 2023b). Moreover, the Court has seventeen ongoing investigations in regions of the world such as the Democratic Republic of the Congo, Central African Republic, Georgia, and Ukraine. Throughout its history, the ICC has publicly indicted fifty-two people, many of whom were executive powers in their respective countries. Of those indicted, twenty-one remain in progress: sixteen are at-large fugitives and five are on trial (ICC, 2023b). As previously mentioned, the ICC at times appears swayed by political pressure, and has dismissed cases prior to a proper trial. However, it has also successfully called for the arrest of, tried, and convicted globally significant figures under its jurisdiction. The following introductions to some of these cases are organized by decreasing popularity in the media. Often when it comes to ICC proceedings, if a major political figure is involved, the case gains a public following which, as one will realize throughout this paper, can have some influence on deterrent effect, particularly in countries with many interventional ties.

One of the most publicized and recent cases is the arrest warrant against Russian President Vladimir Putin, and Maria Lvova-Belova, Russia's presidential commissioner for children's rights. The ICC issued the warrant in March 2023 for crimes against humanity and genocide in Kyiv, a territory uniquely under protection by the Rome Statute as Ukraine, not a state party to the Rome Statute, accepted the ICC's jurisdiction on an ad hoc basis, pursuant to Article 12(3) of the Statute (ICC, 2023e). Essentially, in 2015, Ukraine voluntarily agreed to allow the ICC to exercise its authority over alleged crimes committed on its territory, even though it had not officially ratified the Statute. Moreover, under the European Committee for the Prevention of Torture, Ukraine had an obligation to report these abuses on their soil, as ignorance is considered the same as granting

access, which qualifies as a “significant contribution” to the commission of the wrongful act, as required under Article 16 of the ILC Articles on the Responsibility of States (Duroy, 2021).

In June 2005, the ICC also opened an investigation into the situation in Darfur, Sudan, following a first-time referral by the United Nations Security Council. The investigation concerned alleged genocide, war crimes, and crimes against humanity committed by Sudanese government forces and allied militias known as Janjaweed, as well as by some associated rebel groups (HRW, 2022). The ICC issued arrest warrants for five suspects, including former president Omar al-Bashir, former minister Ahmed Haroun, former governor Ali Kushayb, former defense minister Abdel Raheem Muhammad Hussein, and rebel leader Abdallah Banda. All but one of the suspects mentioned not only remain untouched by the court, but as Allard Duursma and Tanja Müller (2019) argue, the ICC’s actions have intensified preexisting intimidation and obstruction of humanitarian groups in the area, specifically the United Nations – African Union Mission in Darfur (UNAMID), a UN peacekeeping mission to bring stability to the region. A severe distrust from the Sudanese government was displayed, as they began to accuse NGOs in the area of colluding with the ICC investigation (Thomas, 2006). These actions imply that ICC intervention might be prone to becoming a force that takes “one step forward,” but the consequences of doing so are “two steps back” for previously established peacekeeping efforts (Goldsmith, 2003).

Another case took place in Libya, the ICC’s second overall and first unanimous referral by the UN Security Council. It investigated alleged crimes against humanity during the social demonstrations and political uprising against Muammar Gaddafi, a de facto leader of Libya since his coup d’état in 1969. In March 2011, the ICC issued arrest warrants for six suspects, including Gaddafi, his son Saif al-Islam, his intelligence chief Abdullah al-Senussi, and three commanders of various armed groups loyal to him. However, Muammar was killed in October 2011 by NATO-

backed rebel forces. Soon after, al-Senussi's case was declared inadmissible by the ICC in July 2014. According to Courtney Hillebrecht (2016), Muammar's death signifies that transfer to The Hague for an ICC trial and possible imprisonment in the Netherlands may even be the preferable option for war criminals. Conceivably, the ICC could use this circumstance to its advantage, as offenders of international law, especially those who have been ousted or face increasingly powerful opposition, may be forced to choose between transfer to The Hague or death. Despite this assumption, Saif al-Islam Gaddafi not only remains at large and is still wanted by the ICC for trial (ICC, 2021), but he also has long-standing adversaries within Libya, so a potent mixture of pride and fear could be challenging any deterrent effect or an anticipated surrender.

Another case that faced closure, but for arguably less legitimate reasons, was in March 2010, when the ICC opened an investigation into a situation in Kenya following a request by the then-prosecutor Luis Moreno-Ocampo. Unfortunately, this was another case in which the ICC could not successfully get ahead of the situation. The investigation related to alleged crimes against humanity committed during the post-election violence in Kenya in 2007-2008, which resulted in more than 1,000 deaths and hundreds of thousands of displaced persons. In 2010, the ICC initially charged six suspects with varying roles in orchestrating or executing the violence, including former president Uhuru Kenyatta and current president William Ruto (then deputy president), who at the time had conveniently decided to run for office (ICC, 2019). However, due to insufficient evidence, continued witness interference, political pressure, and lack of cooperation from Kenya, all charges were withdrawn or dismissed by ICC judges between 2013 and 2016 (Mueller, 2014). No one has since been convicted or acquitted by the ICC for crimes committed in Kenya.

Lastly, one of the most successful cases the ICC has tried was regarding war crimes and crimes against humanity in the Democratic Republic of the Congo (DRC), where ongoing conflicts

had earned infamy for being one of the world's deadliest since World War II. The ICC investigation into the DRC was opened in June 2004, after the DRC government referred the situation regarding crimes committed during the Second Congo War and its aftermath, including the intercommunal Ituri and Kivu conflicts. The investigation focused on war crimes and crimes against humanity committed mainly in eastern DRC, such as murder, rape, sexual slavery, torture, pillaging, and using child soldiers. The investigation led to six total cases involving seven suspects, of whom one is still at large, one was acquitted, one had charges not confirmed, and four were convicted, making it one of the most successful cases in ICC history (ICC, 2023c).

### *Effectiveness in Question*

These cases, while deemed successful resolutions by the ICC's standards, become questionable when considering the lack of true accountability being enacted, such as in the case of Putin's unresponsiveness towards his active warrant as well as the various "still at large" suspects that have yet to make an appearance in court. According to Iryna Marchuk & Aloka Wanigasuriya (2022), it is likely that the ICC's only chance to try avoidant individuals such as Putin, is a regime change and election of a more ICC-cooperative government. Additionally, the case of Kenya raises a huge concern for the success of the ICC in that Kenyan officials were able to manipulate and regress court proceedings back into evidence-seeking status. Conversely, Mueller (2014, 28) argues that the ICC does in fact "[have] teeth," as it is one of the few judicial bodies to prosecute high-level perpetrators such as presidents. Furthermore, Michael Gilligan (2006), argues that the presence of the ICC and similar international courts might further expose suspects or convicted felons, thus eliminating, or at least impeding, their ability to seek asylum in another country.

Although the ICC has the signatories and precedent to be an influential force in the reduction of human rights abuses worldwide, its post-incident powers, inconsistent ability to

resist the will of external forces, and lack of enforcement diminish it to an outwardly unintimidating force. Though, one could argue that if its authorities were more capable of physical intervention, such as that of the UN Security Council, it would become more corruptible to human errors, such as the tendency to become violent and abandon objectivity. Carsten Stahn (2012) discusses how many of the ICC's cases, such as the situation in Libya, originate from UN Security Council referrals in an attempt to eliminate the need for ground forces, and possibly prevent violent, costly, or lengthy intervention. These referrals, while considered a win for humanitarian groups worldwide due to their pacification of the Responsibility to Protect or "R2P" principle, undoubtedly still have faults (Birdsall, 2015). The transfer of judicial power means warrants are rarely met with any police reinforcement (Gilligan, 2006). While the ICC has a seemingly endless network of legal counsel, its detachment from UN reinforcements causes influential regional control to spread thin. However, such involved, conciliatory ICC assets could still be employed in a more productive manner through extension of on-site research and evidence-based initiatives, as it has been doing the Kyiv office (Marchuk & Wanigasuriya, 2022). This way, in the rare, yet possible, event that a regime change does occur, a substantial record of guilt will be prepared. With adequate funding and assets, expanded ICC recordkeeping and investigative work could be the key to proving international justice can be served from exclusively inside the courtroom.

### *Issue of Jurisdiction*

While there are also many cases throughout the extensive list of global conflicts where the ICC appeared unsuccessful in deterring human rights abuses, there are a few infamous situations in which the court was instead limited by a lack of jurisdiction. The primary example would be with Guantanamo Bay, a detention center on the coast of Cuba. Much of the literature regarding human rights abuses occurring in this military prison refers to the location as a "legal black hole"

(Borelli, 2005; Steyn, 2004). This is accurate for the ICC because the case of Guantanamo Bay cannot be tried under their purview due to issues of legal authority, given neither the U.S. nor Cuba are ratified members of the ICC under the Rome Statute. Additionally, the area is historically territorial grey water, with the land being sovereign Cuban property, but leased by U.S. military in 1903 after the Spanish-American War (Keeler, 1898). Similarly, a U.S. detention center in Diego Garcia, a disputed territory of the British Indian Ocean, reportedly committed similar acts of torture, but also remains outside of ICC jurisdiction, circumventing legal repercussion (Vine, 2011). Thus, even though the Geneva Conventions presumably apply to the atrocities committed in these places, no trial can be held (ICRC, 2010).

These are just two of the many cases in which the U.S. has quite literally “gotten away with murder” and left a lasting stain on its reputation as a democratic superpower. In a Congressional Research Services Report for Congress, it was stated that “[a]t the core of the U.S. objection to the ICC Treaty is the fear that other nations would use the ICC as a political forum to challenge actions deemed legitimate by responsible governments” (Scharf 2001, 68). Although these territories evaded international tribunal, there are still cases that are actively being tried or at the very least, leave substantial room for investigation. The implications of such bodies existing without consequence leaves not only the ICC, but the world, in a place of vulnerability, in which the prevailing powers can declare war, abduct detainees, and torture them without consequence on disputed land and waters where international courts hold no influence. As Sophie Duroy (2021) concludes, this reality is a critical source of judicial compromise for global organizations, especially those who seek accountability for violations of the Geneva Conventions.

*ICC at Work*

Among the current ICC cases is Afghanistan, a signatory and ratified member of the ICC, and the location of three major black sites, code-named “The Salt Pit,” “The Dark Prison,” and “The Black Jail.” At these sites, the U.S. allegedly conducted experimental torture and illegal interrogation techniques to extract relevant information regarding the whereabouts of terrorist leaders (Pugliese, 2013). The methods reportedly included chaining prisoners to the floor, stripping them, depriving them of food, water, light, and sleep, exposure to extreme temperatures, military dogs, and more which ultimately resulted in post-traumatic stress disorder (PTSD) or death (Rose, 2006; Schneider, 2004). Other similar sites were found in remote areas of Poland, Lithuania, and Romania, also signatories and ratified members of the Rome Statute (Human Rights Watch, 2017; Hashimy, 2022).

While the ICC had initially rejected an investigation of Afghanistan, likely due to resistance from the hegemonic perpetrator, they have since reopened an investigation (Mariniello, 2021). However, it will be extremely difficult for the court to find state parties willing to testify or cooperate due to preexisting bilateral immunity agreements or BIAs (also known as Article 98 agreements), instituted under the Bush administration (Rosén & Gruner, 2007). Meernik & Shairick (2005) even found that states with greater dependence on foreign aid and more foreign debt were more likely to sign the Rome Statute. Consequently, according to Judith Kelley (2005), these same states were also more likely to be leveraged by an economically strong state, such as the U.S., into signing a BIA out of fear they will be sanctioned. Conveniently, these leveraged states are also some of the lowest-scoring on the Freedom Index, therefore not only areas which are primed for ICC intervention, but deviant misuse of international legal obscurity by the leveraging powers (Freedom House, 2023).

Cases such as Afghanistan, where it initially looked as if the ICC would relent to pressure from the U.S., but were reopened due to substantial evidence, is a promising look into the future of international law. It implies that these bodies were built with at least some sense of impartiality and justice. As the ICC moves forward with their investigation into Afghanistan, and perhaps related black site territories throughout Europe, it will be interesting to see whether a trial will be put in motion, and subsequently, which political actors will potentially face prosecution. Due to the public appraisal and approval of the CIA torture programs from former Vice President Dick Cheney and somewhat from former President George W. Bush, it is fair to assume they will be at the top of the indictment list. While it would not be the first time that executive powers were put on trial by the ICC, the U.S. would certainly qualify as the most high-profile of such cases. If this were to occur, the reaction and level of cooperation by these constituents would test U.S. rule of law and set the tone for relations with international courts for generations to come. Some researchers, including Beth Simmons & Allison Danner (2010), contend that just the anticipation of accountability under the Rome Statute is so legitimate that some states refuse to ratify it. It seems the U.S. might be one of these fearful states because despite its Western counterparts having signed and ratified, it has instead chosen to directly associate itself with some of the most anti-democratic governments in the world, including Russia, Syria, Sudan, Egypt, and Iran.

### **Leading Theories**

The first and central theory that contributes to my hypothesis is deterrence theory which, in a general sense, asserts that criminal penalties not just punish violators, but also set a discouraging precedent that reduces the repetition of the same or similar crimes. In the case of the ICC, its success in arresting and prosecuting violators of international law largely determines its legal authority moving forward. If it is shown to consistently and effectively prosecute war crimes

or crimes against humanity, its deterrent effect should be strong and widespread. Yet, research has shown that despite the punishment's actual certainty and celerity, individual perceptions of the two, as well as risk awareness and prior experience with the legal system, are habitually skewed in the offender's favor, as the "gains of crime are often immediate, whereas legal costs are 'uncertain [and] far in the future'" (Paternoster, 2012; Buitelaar, 2016, 290). Consequently, the predominant criticism of deterrence theory as a basis for ICC effectiveness is that it is strongest only when a potential offender has yet to commit a crime, has never been involved with or gotten away with crime, and is hyperaware of the risks. Otherwise, a committed or overconfident criminal is unlikely to yield to an organization which they feel has no power. Unfortunately for the ICC, its record of both prosecutorial validity and consistency is minimal and frequently challenged.

A second subset of deterrence theory, which draws more heavily on conservative criminological theories, is that deterrence largely depends on not only the certainty or credibility of punishment, but the severity of the sentence given (Loughran, Paternoster, and Weiss 2015). Essentially, if the ICC were to consistently prosecute individuals for international crimes, it might not be enough to deter them entirely. The ICC, under this framework, would have to ensure that the punishment for the crime committed is intimidatingly fitting for the offenses. For example, prosecuting an individual for genocide should result in a timely arrest, and likely a life sentence, of which many following offenders would fear and attempt to avoid. The "sentence" can also include extralegal consequences, not imposed by the trying body, but instead through social censure, such as disapproval of loved ones and society (Buitelaar, 2016). In direct relation to penalty severity is the main bittersweet feature of the ICC's composition: its lack of a police force and reliance on state cooperation. This attribute is a strength in that it solely relies on judicial practices to impose accountability, circumventing potential unlawful or excessive use of force.

However, in the eyes of offenders, it is regularly perceived as “all bark and no bite.” The lack of physical outcomes and limited capacity in taking cases continually contests cooperative obedience and ultimately undermines deterrent effect.

Continuing on the concept of societal penalties, control theory will also play a part in the support of my hypothesis. Control theory, according to its co-creator Michael Gottfredson (2008), is an overarching sociological theory that emphasizes the presence of interpersonal control systems that discourage society from deviating against social or legal norms. For example, not wearing shoes to class is not necessarily illegal, but it is strongly frowned upon, and thus it is unlikely that anyone will arrive shoeless. Similarly, the actions leading up to an international crime might begin as legal, especially in areas with weaker sovereign rule of law. Even so, the social implications of approaching or promoting what is widely accepted as an international crime are often negative, dissuading individuals from testing the threshold and thus deterring the crime entirely. Nonetheless, this reality is limited, such as in the case of Libya, where the crimes being committed were initially in the name of revolution, thus provoking the population to not only turn a blind eye but encourage violent lawlessness. Moreover, individuals in leadership positions are able to legitimize these actions further by maintaining authority through continued violence (Buitelaar, 2016). However, one could argue this governing direction is prone to gradually increasing public dissent and disapproval and will eventually *delegitimize*, especially when at the forefront of international tribunal hearings and media coverage, as Muammar’s activities had so often been.

Lastly, rational choice theory indicates that people will weigh a situation using a system of instinctual cost-benefit analysis. It is often influenced by factors described in all three of the previous theories, forming an intrapersonal conflict contributory to deterrence (Gül, 2015). If an individual knows the ICC is consistent, penalizing, and socially abided by, they might view the

costs of committing an actionable offense (i.e. losing freedom) as higher than any perceived benefit (i.e. gaining power, authority, or money). Yet, as American criminologist Ronald Akers (1990) suggests, this theory does not apply to every situation. Many critics argue that goal-orientation and identity, such as encountering particularly determined, provoked, and/or stubborn individuals, are discounted, thus why the theory is not always obeyed, as seen in Libya where the offenders never sought to mitigate or avoid the charges against them as the Kenyan government had. Instead, they waited until their lives were on the line, and a few surrendered to law enforcement out of survival.

### **Empirical Investigation of the ICC's Impacts**

#### *Research Design*

I began my research with a brief, yet necessary contextual explanation of ICC jurisdiction, as it is pertinent that the readers comprehend Rome Statute boundaries. I accomplished this through the use of case studies on human rights abuses committed at Guantanamo Bay and Diego Garcia. In these cases, abundant evidence was found and exposed regarding direct violations of the Geneva Conventions occurring within on-site detention centers and black sites. However, the ICC was unable to pursue further investigation into the matter due to their “legal black hole” status and lack of Rome Statute ratification. In using these cases to underline the restrictions of the ICC as a juridical shell of the Rome Statute, the reader could then understand how the ICC operates and where its jurisdiction was derived from in previously investigated cases.

Next, my paper will examine the conclusions of individual cases involving heads of states that the ICC has investigated. These will include Vladimir Putin of Russia, Omar al-Bashir of Sudan, Muammar Gaddafi of Libya, and finally William Ruto of Kenya. I chose these cases mainly because they are among the most well-known, but also because each serves a distinct purpose in

evaluating the ICC's deterrence abilities. In Russia, while arrest warrants for Putin have been issued through the Kyiv office, limited progress has been seen in terms of deterring his abuses. It is highly unlikely that this case will ever result in any substantial prosecution. However, in Sudan, despite there still being many suspects at large, former President al-Bashir is currently charged and detained in a Sudanese prison. This indicates that the principle of complementarity is in effect, and therefore that the ICC is enhancing local authorities. Next, the paper explores the case in Libya, in which there are also many pending arrest warrants, but in this case, the primary target, Gaddafi, refused to surrender peacefully, and consequently met a fatal end against rebel forces. Lastly, the investigation into Kenya is explored, with a particularly discreditable result for the ICC. A mixture of witness tampering, local dissent, and ongoing election campaigns prevented the ICC from outmaneuvering the perpetrators. The case was ultimately a failure and due to lack of evidence, all pursued charges were withdrawn or dropped, and it was closed. As intended, each of these unique cases offers a variety of challenging or supportive evidence in the assessment of ICC deterrence effects and its related theories, for instance social control theory and rational choice theory.

### *Methods*

My approach to collecting qualitative/case study evidence consists of seeking, reading, and evaluating a range of relevant sources through Google Scholar, Nexis Uni, and other library resources. These sources include, but are not limited to, scholarly journal articles, primary sources including speeches, meeting transcripts, intelligence reports, and published studies. These sources will be analyzed for direct (and sometimes indirect) relevance to the theories and cases listed above, with additional consideration for those which include reference to or implications for both.

Any information deemed appropriate will be collected and placed in one of four categories: *Currently Investigating*, *Outstanding Arrest Warrants*, *Trials (Dismissed)*, and *Trials (Convicted)*.

*Currently Investigating* is where I will discuss the case of black sites throughout Afghanistan and Europe, where human rights abuses were allegedly committed. The ICC has only recently reopened the case into these offenses, thus earning it the term “currently.” *Outstanding Arrest Warrants* includes most notably Vladimir Putin, but also most of the indicted offenders in the cases of Sudan and Libya. Then there is *Trials (Dismissed)* which includes cases in which the defendants either evaded trial or died prior to a trial taking place. Examples of this include the case in Kenya, as well as in the case of Muammar Gaddafi. Finally, *Trials (Convicted)* accounts for any political actors in the aforementioned cases that were arrested, tried, and convicted either in The Hague, like the DRC perpetrators, or in regional courts, like former President Omar al-Bashir. These sections are now arranged in order of increasing relevance to modern day, moving from cases that ended in finalized convictions to those in which the ICC is only recently opening an investigation.

### **Case Studies: Outcomes & Implications**

#### *Trials (Convicted)*

The case in the Democratic Republic of the Congo (DRC) is one of the most important in the ICC’s history, as it was the first to bring about a full trial and conviction. Thomas Lubanga Dyilo, the founder and leader of the Union of Congolese Patriots (UPC) and the commander-in-chief of its military wing, the Patriotic Forces for the Liberation of Congo (FPLC), was arrested by DRC authorities in March 2005 and transferred to the ICC detention facilities in March 2006 (ICC, 2023c). He was charged with the war crimes of enlisting and conscripting children under the age of 15 years and using them to participate actively in hostilities. He was found guilty 6 years later and officially sentenced to a total of 14 years of imprisonment in July 2012. He served his sentence in a prison in the DRC but was released in March 2020.

Additionally, Germain Katanga, the leader of the *Force de Résistance Patriotique en Ituri* (FRPI), an armed group operating in the Ituri region, was arrested by the DRC authorities in 2005 and in October 2007 was transferred to The Hague (ICC, 2023c). He was charged with three counts of crimes against humanity and seven counts of war crimes, including murder, rape, sexual slavery, and pillaging, in relation to an attack on the village of Bogoro in February 2003. He was found guilty of one count of crime against humanity and four counts of war crimes in March 2014 and sentenced to 12 years of imprisonment in May 2014. He served his entire sentence in a prison in the DRC and was released in January 2016 (ICC, 2023c).

Lastly, Bosco Ntaganda, the deputy chief of staff of the FPLC and the former leader of the M23 rebel group in the Kivu region, was indicted by the ICC in August 2006 and a second warrant of arrest was issued in July 2012, adding more charges to his case (ICC, 2023c). He was charged with 13 counts of war crimes and five counts of crimes against humanity, including murder, rape, sexual slavery, persecution, and using child soldiers, committed in the Ituri region in 2002 and 2003. He surrendered himself to the U.S. embassy in Rwanda in March 2013, and was transferred to the ICC in the same month. He was found guilty of all charges in July 2019 and sentenced to 30 years of imprisonment in November. He was the fourth person to be convicted by the ICC and the first person to be convicted of sexual slavery and rape as war crimes and crimes against humanity. He is still currently serving his sentence in a prison in an undisclosed location (ICC, 2023c).

The procedures used in the DRC cases are the ideal model for how the ICC is intended to operate. While maintaining the principle of complementarity in utilizing local police forces to apprehend indicted suspects, the ICC was able to swiftly and effectively transfer and process those involved in the alleged crimes. Once in The Hague, convictions were executed with ease and the suspects would remain in ICC detention facilities or eventually be transferred to another prison in

Africa. There could not be a stronger example of legal swiftness and severity taking place, two factors that are critical to deterrence theory, and thus provide the ICC with substantial credibility.

While not nearly as successful as the case in the DRC, the conviction of Omar Al Bashir, the former president of Sudan and the first sitting head of state to be indicted by the ICC, was still somewhat of an achievement for the Court. He was charged with five counts of crimes against humanity, two counts of war crimes, and three counts of genocide, committed in Darfur between 2003 and 2008 (ICC, 2021). While he is still wanted by the ICC and has two warrants of arrest issued against him, he was ousted from power by a military coup in April 2019, and is currently detained in a prison in Khartoum, the capital of Sudan. There he has been convicted of corruption and money laundering by a Sudanese court and sentenced to two years of detention in Kobar Prison, a reform facility. Most recently, though, on April 26<sup>th</sup>, 2023, he was transferred from the facility to Alia Military Hospital after fighting between the Sudanese army and paramilitary Rapid Support Forces (RSF) – consisting of mostly former Janjaweed militia members – broke out and engulfed the prison where he was being held (Aljazeera, 2023). In this raid, many of the detainees at the prison escaped, possibly indicating an attempt at releasing al-Bashir. It is currently unknown how long he will remain at the military hospital and whether he will return to his cell.

It is important to note that then president al-Bashir visited South Africa to attend an African Union summit in June 2015, prior to his arrest and detainment. His visit sparked a legal and diplomatic controversy, as he was wanted at the time by the ICC for alleged crimes against humanity, war crimes, and genocide committed in Darfur. South Africa, as a state party to the Rome Statute, was under a clear obligation to arrest and surrender him to the ICC, pursuant to two warrants of arrest issued by the Court in 2009 and 2010 (NYT, 2017). However, South Africa

failed to comply with this obligation, claiming al-Bashir enjoyed immunity as a head of state and that he was protected by a host-state agreement with the African Union. South Africa also incorrectly argued that the ICC had no jurisdiction over al-Bashir, as Sudan was not a party to the Rome Statute and the United Nations Security Council referral to the ICC was invalid (ICC, 2021). It was not until May 2019 that the ICC appeals chamber officially ruled heads of state as not immune from arrest in ratified-signatory countries (HRW, 2019).

Al-Bashir's visit to South Africa had significant implications and importance for the ICC proceedings. On the one hand, it demonstrated the challenges and limitations that the early ICC faced in enforcing its decisions and exercising its authority, especially with its first head of state and in the context of the African continent, where many states have expressed their dissatisfaction with and resistance to the ICC's interventions. On the other hand, it also triggered a strong response from the civil society and judiciary powers in South Africa, which challenged the government's decision and sought to uphold the rule of law and the obligations under the Rome Statute. The South African High Court ordered the government to arrest and surrender al-Bashir, but he had already left the country by then. The ICC Pre-Trial Chamber also found that South Africa had violated the Rome Statute and the ICC's request but decided not to refer the matter to the Assembly of States Parties or the Security Council, taking into account South Africa's cooperation with the ICC in the past and its willingness to engage in dialogue with the Court. This tolerance would not last, however, as al-Bashir went on to successfully visit other ICC member countries such as Chad, Uganda, Lawai, Djibouti, and Jordan. It was not until March 2019, a month before his ousting of power, that they would officially rule heads of state vulnerable to arrest (ICC, 2019).

A few other convictions in the case of Sudan include Ahmad Muhammad Harun, the former minister of state for the interior and the minister of state for humanitarian affairs of Sudan and

Abdel Raheem Muhammed Hussein, the former minister of national defense and the minister of the interior of Sudan (ICC, 2021). Harun was charged with 20 counts of crimes against humanity and 22 counts of war crimes and Hussein was charged with seven counts of crimes against humanity and six counts of war crimes committed in Darfur between 2003 and 2004. Both perpetrators are still wanted by the ICC and have arrest warrants issued against them. However, they were arrested by Sudanese authorities in February 2020 and are detained in the same Khartoum prison as al-Bashir (ICC, 2021).

Additionally, though not as high-profile, the most successful conviction by the ICC in the case of Sudan was that of Ali Muhammad Ali Abd-Al-Rahman, who was a senior leader of the Janjaweed militia in Darfur (ICC, 2021). He was charged with 22 counts of crimes against humanity and 28 counts of war crimes, committed in Darfur between 2003 and 2004. He was arrested by the Sudanese authorities in June 2008 and transferred to the ICC the same month. He was found guilty of 31 counts of crimes against humanity and war crimes in September 2021 and sentenced to life imprisonment in October 2021. He was the fifth person to be convicted by the ICC and the first person to be convicted of persecution as a crime against humanity. He is currently serving his sentence in a prison in an undisclosed location (ICC, 2021).

Though the ICC's deterrent effect initially appeared weak, as they had never previously indicted a major head of state such as al-Bashir, it was a critical learning moment for them as a relatively new international tribunal, and one that displayed a determined obligation to adaptation and improvement. The precedent set in ruling al-Bashir's visits to various ICC-member states as a violation of Rome Statute obligations is one that affects the rational-choice theory aspect of deterrence effect greatly. Without the clearance to travel around the world, the ICC's ruling made

it extremely difficult for indicted leaders to fulfill their respective state's duties moving forward. Thus, a significant cost of committing ICC-related crimes was added to the equation, potentially discouraging future perpetrators from following through on crimes under the purview of the Court.

### *Trials (Dismissed)*

The case of exclusively Muammar Mohammed Abu Minyar Gaddafi in Libya is one that falls into the dismissed category due to death before trial. Muammar was the former leader of Libya and the first person to be indicted by the ICC in relation to the situation in the country (ICC, 2023d). He was charged with two counts of crimes against humanity, namely murder and persecution, committed in the country in February 2011. Before he could appear for trial before the ICC, he was killed by insurgent National Transitional Council (NTC) forces in Sirte, Libya, on October 20<sup>th</sup>, 2011. The ICC then promptly terminated the proceedings against him in November 2011, after receiving evidence of his extrajudicial death (ICC, 2023d).

In an interview with Morris Anyah, a lawyer for the ICC, it was expressed that the arrest warrants for these leaders only made them more reluctant to submit, which eventually led to the bombing of Libya by North Atlantic Treaty Organization (NATO) forces. It is speculated by Monika Nalepa and Emilia Powell, the interviewers and article authors, that while the Libyan defendant knew he may have eluded domestic accountability, he had less luck with the international counterparts. With that in mind, this could be evidence that ICC intervention further escalates authoritarian obstinance (2016). In opposition to this view, Hillebrecht (2016) suggests that in the case of Libya, even when controlling for extraneous variables such as conflict dynamics or media coverage, the ICC still served as a deterrent of violence against civilians. Yet, she also identifies that the principle of complementarity, which denotes the ICC is obligated to intervene if

and only if domestic justice is not delivered and/or unwilling, is a major limitation, especially in the case of Libya, where Libyan authorities and the ICC have regularly exchanged contending arguments on prosecuting authority. If the ICC was not committed to the principle, it is reasonable to assume it might have been able to arrest and extradite Gaddafi, as opposed to allowing the rebel forces to capture him, subsequently providing them with the opportunity to then execute him. As previously mentioned, and to emphasize these shortcomings, it is highly likely that the ICC's inability to prosecute Saif al-Islam at The Hague is also a result of its commitment to this principle.

The investigation in Kenya was infamously one that was dismissed by the ICC due to lack of evidence, mainly as a result of obstruction of justice by those involved. The case primarily focused on William Ruto, then Deputy President and current President of Kenya (ICC, 2019). He was charged with three counts of crimes against humanity, namely murder, deportation or forcible transfer of population, and persecution, committed in the Rift Valley province in Kenya between December 2007 and January 2008. He was the first person to stand trial before the ICC, along with Uhuru Kenyatta, then minister of finance, but also former president of Kenya from 2013 to 2022, and Joshua Arap Sang, a radio executive who was also a party to their alleged crimes. Before making much headway, the trial chamber vacated the charges in April 2016, finding that there was no case to answer due to insufficient evidence and alleged witness interference. The prosecution appealed the decision, but the appeals chamber upheld it in September 2019 (ICC, 2019).

Kenya was a groundbreaking case for the ICC as it was not only the first case to be fully withdrawn, but also the first case in which the defendants had run for president and deputy president as a strategy to avoid trial. Additionally, it was the first case not to be referred by the countries themselves or by the UN Security Council, triggering some noticeable pessimism in the

academic community regarding the court's independent abilities. In spite of this, the prosecutor has indicated that she might reopen the cases if new evidence emerges (NYT, 2016). To some this could appear to be a failure by the ICC, however, Mueller (2014) suggests that ICC intervention after the 2007-2008 election may have deterred future incidents in the 2013 election, deeming it at least a partial success in preventative terms. Nonetheless, the Kenyan government's ability to undermine ICC authority through the manipulation of local law enforcement stresses the darker side of the principle of complementarity. When a country like Kenya operates with a systematically absent rule of law, sovereign agencies, including courts, are often exploited for impunity.

### *Outstanding Arrest Warrants*

One of the most widely followed arrest warrants came in March 2023, when the ICC issued arrest warrants for two individuals: Russian President Vladimir Putin and Maria Lvova-Belova, Russia's presidential commissioner for children's rights (ICC, 2023e). They are accused of war crimes, including unlawful deportation of Ukrainian children to Russia. While the ICC investigation is ongoing, and therefore too early to determine the likelihood of conviction, the issuance of arrest warrants is a critical development, and suggests the ICC believes that there is enough evidence to pursue charges. It is also important to note that Russia is not a member of the ICC, and it has refused to cooperate with the investigation. This means that it is unlikely that Putin or Lvova-Belova will ever be brought to trial before the ICC. However, the investigation could still have a substantial impact, as it could persuade the democratic opposition, including other international organizations such as NATO to hold Russia accountable for its actions in Ukraine.

Since Putin's indictment, members of the Kremlin, primarily former president Dmitry Medvedev, have spoken out in disapproval. In March, right after the arrest warrant was issued,

Medvedev threatened the “toothless” ICC with comments such as: “It is quite possible to imagine a hypersonic missile being fired from the North Sea from a Russian ship at The Hague courthouse” (Aljazeera, 2023). Kremlin spokesman Dmitry Peskov also said that the decision is “null and void for the Russian Federation” (Reuters, 2023a). Despite these comments, Putin’s planned visit to South Africa came with controversy extremely similar to that of Omar (al-Bashir’s visit nearly a decade prior. Yet, this time, the ICC had precedent to reinforce Putin’s arrest in South Africa, had he attended the planned BRICS convention in-person. In a move that undoubtedly showed some concern for legal action, Putin made the decision to attend the meeting virtually, despite the South African government’s hints at reinstating the same head-of-state immunity they once did for al-Bashir. Though, since the last incident with al-Bashir, the Rome Statute has been integrated into South African domestic law, meaning the ICC could take the government to court if it did not uphold its obligations, something that South African opposition parties made statements about prior to his visit, and that Putin and his administration were acutely aware of (AP News, 2023).

In addition to this small, yet important act of surrender to the ICC’s outstanding warrant, Putin, as of October 2023, has agreed to a deal brokered with Qatar to return four Ukrainian children to their families (BCC, 2023). While Russia initially insisted that its motives for deporting thousands of Ukrainian children is purely humanitarian and out of protection, the need for a settlement to ensure the return of these children calls this into question. Not only that, but Qatar’s ability to convince Russia into returning these children could imply that Putin’s arrest warrant was used as leverage to do so, and that, after his indictment, Russia now has the incentive to separate itself from the allegations. It is not unreasonable to assume that Putin’s legal inability to travel to 123 ICC-member countries has posed difficulties, especially during ongoing BRICS negotiations.

In Libya, while many of the cases, including that of high-profile Muammar Gaddafi, were closed due to notice of death, some of the major actors remain at large. Most importantly, Saif Al-Islam Gaddafi, the son of Muammar Gaddafi and former de facto prime minister of Libya (ICC, 2023d). He was charged with the same counts as his father, as they were alleged to have acted jointly in the crimes. While he was arrested by the Zintan militia in Libya in November 2011 and faced a death penalty sentence there for several years, he was released in June 2017 under suspicious circumstances. He is still wanted by the ICC and has an active warrant of arrest issued against him. His whereabouts are listed as unknown; however, he did make a few public appearances after his release in attempts to run for president, followed by numerous legally problematic interactions. In November 2021, he registered as a candidate for the presidential election scheduled for December, the first direct and nationwide vote in Libya's history. However, his candidacy was rejected by the High National Electoral Commission (HNEC), which said he did not meet the eligibility criteria, which includes having a clean criminal record and renouncing any foreign citizenship (BBC, 2021). Gaddafi then appealed the decision to the Administrative Court in Sabha, the largest city in southern Libya, where he has a strong base of supporters. However, his appeal was interrupted by the intervention of General Khalifa Haftar, the commander of the Libyan National Army (LNA), which controls most of eastern and southern Libya. Haftar, who is also a presidential candidate and a long-term rival of Saif Al-Islam Gaddafi, sent his forces to blockade the court and prevent the judges from voting on the appeal. The court adjourned the session and said it would resume in December, but the situation remains tense and uncertain (Aljazeera, 2021).

Two other Libyan authorities that were also able to escape ICC surveillance were Abdullah Al-Senussi, the former director of military intelligence and the head of the external security

organization of Libya, and Al-Tuhamy Mohamed Khaled, former head of the Libyan Internal Security Agency (ICC, 2023d). Al-Senussi was charged with the same counts as the Gaddafi's, as they were alleged to have formed an inner circle that planned and executed the crimes. He was arrested by the Mauritanian authorities in March 2012 and extradited to Libya in September 2012, where he was tried by a Libyan court and sentenced to death by firing squad in July 2015. However, he is still wanted by the ICC, and his current status and detainment location are unclear. Khaled was charged with four counts of crimes against humanity, namely imprisonment, torture, persecution, and other inhumane acts, and three counts of war crimes - torture, cruel treatment, and outrages upon personal dignity - committed in Libya between February and August 2011. He is also still wanted by the ICC and the whereabouts of his location are unknown (ICC, 2023d).

While these two Libyan authorities evading detainment in The Hague are still indicative of the ICC's lack of enforcement, Saif Gaddafi's extended leave of absence from the public eye is an admirable display of deterrence effect, specifically control theory, at work. Not only was he socially isolated from what was previously a luxurious and well-broadcast lifestyle, but his attempts to regain political power through a presidential nomination were also seemingly blocked by his outstanding ICC warrant. Although one could argue that his suspicious exit from the Zintan prison underlines a serious mockery of rule of law, the ICC is once again limited by its commitment to the principle of complementarity and must leave it to regional judicial powers when it sees fit, which in this case it did. However, despite the lack of prison time, Saif is finding it difficult to readjust, and his attempts at regaining what he once had are, as of now, constricted by not only the social control surrounding the fugitive title, but also his loss of authority to other succeeding powers such as General Haftar, which would not have happened without the ICC publicly

establishing a need for Saif to go into hiding. It appears that the return of Muammar's heir, and potentially authoritarian rule under another war criminal, was barred by preventative ICC actions.

### *Currently Investigating*

As of now, no one has been indicted or convicted in the ICC investigation into Afghanistan and black sites. The investigation was authorized by the ICC Appeals Chamber in March 2020, after it reversed a previous decision by the Pre-Trial Chamber to reject the Prosecutor's request to open an investigation, blaming budget constraints (ICC, 2023a). The investigation covers alleged crimes against humanity and war crimes committed by the Taliban, the Afghan National Security Forces, and the U.S. armed forces and CIA personnel in Afghanistan and in other States Parties to the Rome Statute, such as Romania, Lithuania, and Poland, where the CIA operated numerous black sites (Priest, 2005). The investigation is still ongoing and faces many challenges, such as the lack of cooperation from the U.S. and the Afghan authorities, including the use of inhibitory BIAs, the security situation in Afghanistan, and the limited resources and capacity of the ICC.

The consequences of BIAs, which many view as one of the main hinderances to the ICC investigation into Afghanistan, are exceedingly complex. On the one hand, BIAs could pose a challenge to the ICC's jurisdiction even in ratified member countries, especially if the states refuse to cooperate with the ICC or attempt to grant immunity to U.S. nationals accused of crimes. On the other hand, BIAs might not be fully legally binding or effective in thwarting ICC prosecution of U.S. nationals, as the ICC is an independent and impartial judicial institution that operates solely on the basis of the Rome Statute, not on bilateral agreements. Therefore, BIAs may not be able to shield U.S. nationals from or prevent the continuance of the ICC's investigation into Afghanistan, but they will likely create political and diplomatic tensions that could affect both the ICC's

credibility and ability to effectively pursue the case. It will ultimately be up to the states to decide whether they wish to honor their agreements with the U.S. or lawfully comply with the ICC.

These BIAs are one attempt of many by the U.S. executive to undermine international law and evade accountability for its actions during conflicts in the Middle East. It will certainly not be an easy job for the ICC to adequately probe potential violations, let alone prosecute those involved. It was difficult enough for the Court to start an investigation in the first place, especially with President Trump revoking former ICC Prosecutor Fatou Bensouda's visa after she began investigating the case of Afghanistan. Then secretary of state, Mike Pompeo, explicitly outlined that restrictions will be imposed on any ICC staff aiming to cooperate or aid the "unjust" investigation (NYT, 2023). Despite the ICC's initial rejection of further investigation into the situation, this adverse reaction by the Trump administration indicates some level of genuine legal pressure by the Court, especially considering the U.S. is typically a strong public proponent of justice. Nonetheless, since the U.S. bared overt hostility towards ICC proceedings, it is likely that smaller, less democratic states will follow suit, averting culpability for any actionable offenses.

Since 2021, the Biden administration has reversed Trump's sanctions, allowing newly appointed Prosecutor Karim Khan to resume the investigation, and cooperated with the ICC in their investigation into Russia (Reuters, 2023b). It appears now that the Court's interests have temporarily aligned with that of the U.S. government, collaboration became viable despite resistance from the Pentagon. The longevity of this relationship will indisputably be up to the 2024 presidential election results as presently conservative agendas are anti-liberal internationalism and anticipate a return to the Trump-era level of globalist opposition. The U.S. is also historically self-

preserving, especially in the face of legal action, so as the investigation continues, relations are likely to wane.

## **Conclusion**

This research has demonstrated the effectiveness of the ICC in deterring global human rights abuses and holding notable individuals accountable for their actions, which has been a subject of mixed evaluation based on available literature. While the ICC has some significant successes, such as issuing an arrest warrant against President Vladimir Putin and conducting somewhat effective investigations into Sudan and the DRC, it has also encountered many challenges. The ICC's deterrent effect appears to strengthen with time and experience, but as a relatively young body among international tribunals, it must continue to confront its limitations and mature accordingly, not only for survival, but to establish respected, legitimate authority.

One significant obstacle moving forward lies in the enforcement of ICC's arrest warrants and ensuring that suspects appear before the court. Many suspects manage to evade accountability by remaining at large, raising concerns about the practical efficacy of bringing individuals to justice through this international tribunal. Additionally, there have been instances in which ICC interventions unintentionally led to consequences like escalated authoritarianism or hindered humanitarian efforts – evident in Sudan's case. The principle of complementarity adds even more complexity by requiring intervention only when domestic justice systems are avowed as unwilling or unable to act effectively, thus disputes of sovereignty could also arise as seen with Kenya.

Jurisdictional constraints pose another substantial limitation for the ICC since it cannot address crimes committed within areas like Guantanamo Bay due to legal restrictions concerning non-ratified parties. This issue is compounded by powerful nations' reluctance – such as that shown

by the United States – to ratify the Rome Statute, which underscores political complexities surrounding jurisdiction matters faced by this international institution. However, the reopened investigation into Afghanistan and related black site territories is a promising sign of the ICC's commitment to impartiality and justice in the face of counteractive pressure from the U.S.

It is essential to recognize that, despite these challenges, the ICC plays a crucial role in increasing awareness regarding human rights violations. It serves not just as a deterrent against violence but also an exertive pressure upon the world, encouraging nations to address justice-related issues domestically. In the future, the ICC's commitment to addressing these challenges and its cooperation with states and international bodies will continue to shape its overall success and permissibility in the pursuit of legal objectivity and culpability for grave international crimes.

The research above encompasses a multitude of perspectives and arguments, showcasing the intricate nature of the ICC's endeavors and its influence on global justice. It presents an array of viewpoints, both favorable and unfavorable towards the ICC's effectiveness, thereby illustrating a well-rounded approach to this subject matter. Some strengths of the research include extensive examination of historical background, which furthers the investigation into the causes of the ICC's deterrent effect, and legal comprehension, contributing to validation of any juridical conclusions or inferences. As for weaknesses, while there was a unique variety of case studies to support an assessment of the ICC, this also hindered my ability to extract relevant information to my specific research question. Much of the research had to be carefully scrutinized and narrowed down to avoid falling victim to the rabbit hole of unrelated ICC-related studies and many substantiated, yet unproven inferences had to be made in order to call into question the strength of ICC deterrence.

Moving forward, it would be interesting to evaluate the ramifications of the ICC's limited jurisdiction, such as with Guantanamo Bay and the principle of complementarity. In doing so, it

could expand the current literature on how these particular constraints impact accountability for human rights violations. This could yield insightful conclusions specifically about other international organizations that possess stringent requirements pertaining to jurisdiction. Furthermore, exploring how ICC intervention affects prior conflicts and peacekeeping efforts by examining deterrence factors and escalation effects is primed in the literature for further analysis.

In the words of Muammar Gaddafi at the 64<sup>th</sup> UN General Assembly in 2009: “Should we try only the underdogs, the weak and the poor of third-world countries, and not important and protected figures? Under international law, they should all face trial for the consequences of the crimes that they have committed. Otherwise, the role of the ICC will never be recognized” (C-SPAN, 2009). This sentiment should apply to all heads of state and related leaders, including Gaddafi himself. Is there such a thing as too large of a political figure for the ICC to prosecute? What differentiates each perpetrator? Why should the ICC’s treatment of one case be any less resolute than that of another? In an international anarchy, impartial justice is hard to come by on the global scale. The ICC has the unique potential to assume a position as a non-interventive defense against unchecked abuse of power. Ultimately, it is up to the member countries that signed and ratified its tissue, the Rome Statute, and the administrative bones of the Court that will determine whether it becomes merely another evadable legal body, or if it will stay true to its mission and provide legitimate accountability, regardless of political standing, influential leadership, or public backlash.

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