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## The International Criminal Court, The United States, and What Next.

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**The International Criminal Court, The United States, and What Next.**

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**INTRODUCTION**

The International Criminal Court was set up in order to dissuade state officials from participating in behaviors that are considered war crimes and crimes against humanity. The U.S. is a major super power but not a pivotal character in the ICC institution. This fact has had negative effects on U.S. international policy. This paper explores first what the ICC is and how it came to be, and then addresses the weaknesses of the institution, U.S. relations with the ICC and how they effect U.S. international relations, and finally what policy changes need to be made in order to make the ICC more effective.

**THE EVENTS THAT LED TO THE CREATION OF THE ICC**

The twentieth century was characterized as an era of impressive “judicialization” on an international scale. Following the conclusion of the Cold War, many countries favored establishing courts in a rejuvenated endeavor to find solutions to international problems. Such problems included severe civil wars throughout the world, conflicts arising from the disintegration of global stability previously maintained by the forty-year-long balance of power between the United States and the Soviet Union. It can be argued that “there is a widening consensus that the protection of human rights is a matter of collective international concern and a legitimate object of foreign policy.”<sup>1</sup>

A United Nations that was limited in its ability to prevent atrocities in Yugoslavia and then Rwanda chose to create ad hoc courts able to bring the perpetrators to justice. The resulting Tribunals functioned as important precedents to the establishment of the International Criminal Court.<sup>2</sup> On February 2nd 1999, Senegal became the first country to ratify the Rome Statue, the treaty creating the International Criminal Court. Nearly 160 states met to negotiate the final act for the proposed ICC. 120 states voted in favor, 7 against (including the United States), and 21 abstaining. The ICC came into being on July 2002 six months after the sixth state ratified the court’s statute into its national laws.<sup>3</sup>

**WHAT IS THE ICC?**

The ICC is a permanent and independent court. It was established by

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governments, but it is not clearly in any given government's interest. The Court has jurisdiction over all potential cases of genocide, crimes against humanity, and war crimes that occur after July 2002 in the territory of a state that has ratified the Rome Statute or that are committed by a citizen of such a state.<sup>4</sup> The crimes in the ICC's statute are already established in international treaties and conventions and the statute therefore does not create new laws but establishes a new collective enforcement mechanism for already accepted universal norms.<sup>5</sup>

### **ICC JURISDICTION**

The ICC does not allow states to decide whether or not to accept the Court's jurisdiction on a case- by-case basis which is different than the previous International Court of Justice.<sup>6</sup> The Rome Statute is set up the prosecutor's office where the prosecutor has the ability to commence cases on her or his own initiative without relying solely on the referrals of states.<sup>7</sup> In the past, the jurisdiction of ad hoc court systems like the International Criminal Tribunal for the Former Yugoslavia (ICTY) and International Criminal Tribunal for Rwanda (ICTR) targeted specific events and individual actions. The writers of the Rome Statute carefully included within the treaty the language to allow states to address "situations" that include entire spans of conflict, rather than limiting the references to individual cases of wrongdoing.<sup>8</sup> The first step in approaching a state with a potential investigation is to allow their government first to administer their own judicial actions through domestic courts. If the procedures are thorough and accurate the ICC will not step in. However, if for any reason the ICC believes the domestic judicial practices are not adequate they then have the jurisdiction to step in and administer their own judicial policies.

### **STATE OFFICIALS AND THE ICC**

The ICC does not recognize any of the immunities traditionally afforded to heads of state and other senior officials under international law. This includes the president, parliament members, and legislative members. The Rome Statute is very clear that all states bound by the treaty agree that their president, parliament members, or any other legislative officials can and will in fact be targeted for investigation; a threat each government has to weigh when deciding whether to ratify the statute.<sup>9</sup>

### **WHY DO STATES JOIN THE ICC?**

If a state has to give up its own sovereignty in order to be a member of the ICC why would the states want to join? Power is something no state gives up willingly. Or do they? Danner and Simon argue there are two reasons why

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a state decides to join the ICC. The first is that governments anticipate they will never be found in violation of ICC policy. This might point to the reason why the more peaceful Scandinavian countries jumped on board without any hesitation. The second easy answer is that governments expect to be able to use the ICC to legitimate the prosecution of their political opponents. This can be counter-intuitive considering the governments themselves are also vulnerable to prosecution by the ICC. However, this allows the governments in countries who will more likely find themselves in an ICC courtroom to demonstrate to the opposition within their state that the government is willing to go to such lengths to avert conflict that they are willing to even have themselves subjected to the court, giving the government legitimacy through accountability.<sup>10</sup>

### **PROBLEMS AND WEAKNESSES OF THE ICC**

#### *I. Voluntary Participation*

The main problem remains, however, that even though states sign up to a large number of international laws to protect human rights, the laws' enforcement is nevertheless dependent on voluntary state cooperation.<sup>11</sup> The ICC does not have its own police department to enforce the laws that protect human rights. It is the responsibility of the states to enforce sanctions, extradite suspects, and allow the ICC freedom to investigate. When the goals of the ICC conflict with states' objectives, states will make things difficult for the ICC to carry out its objectives. Governments can interfere with prosecutions by strategically withholding evidence, interfering with investigations, and denying passports or visas to witnesses.<sup>12</sup>

#### *II. Management Problems*

Some of the weaknesses the ICC battles with are self-inflicted. The ICC operates in a complicated, sometimes hostile political environment within its own management team. By early 2003, the leadership of the ICC was configured as a triumvirate consisting of the prosecutor, the court's president or ceremonial head responsible for external relations, and the registrar or lead administrative officer.<sup>13</sup> The main source of conflict between these offices has been the prosecutor, Moreno Ocampo, who has confronted the registrar in an attempt to prevent his bailiwick, or bailiff jurisdiction, from being raided. He has also refused to coordinate with the president and has initiated fights over issues concerning witness protection and human resources. These conflicts have hindered the ICC's legitimacy and slowed progress. Furthermore, Ocampo's former aids voiced complaints that his tendencies to micro manage and

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his irregular modes of decision making were excessively eccentric. Many upstanding employees have already turned their two-week notice in, which has deprived the ICC of the exceptional minds it once had.<sup>13</sup>

### *III. Prosecutorial Problems*

Perhaps the most demoralizing fact is that, to the frustrations of victims and dozens of governments who have contributed nearly a billion dollars to its budget since 2003, the ICC has yet to complete even a single trial. Its first trial was nearly dismissed twice. The suspect tried was Thomas Lubanga Dyilo, the Congolese Militia leader accused of recruiting children as soldiers. In this case much criticism of Ocampo has been voiced for his failing to include sexual abuse charges, especially from individuals fighting gender discrimination in a country rampant with it. However, Ocampo's neglect does not stop there. During the trial, he was repeatedly witnessed focusing his attention on his Blackberry and did not even care to stay long enough to hear the defense's conclusion. On two occasions the judges were forced to order Luanga's release, the result of serious concerns that the prosecution denied the defense a shared inspection of potentially exonerating evidence. The prosecution also enraged judges by neglecting to fill out appropriate court documents hindering the prosecution's ability to conduct a trial in good faith.<sup>14</sup>

### *VI. Ocampo's Bold Demonstrations Compromising Cases*

Ocampo has also been criticized for his bold demonstrations and brash actions, which end up hindering the cases. For example the ICC had never charged a sitting head of state of genocide. In 2008 Ocampo requested that the judges issue a warrant for the arrest of Ahmad Harun (senior official of Bashir's Government), charging him with genocide in addition to war crimes and crimes against humanity. Due to the additional genocide charge it was eight months before the judges could make a decision on the crimes against humanity. It was an additional year and an appeal for the warrant for genocide to be issued; however, by this time the damage had been done. It was obvious to any defense team that the judges would struggle with internal dissent and public confidence if the genocide charge was undermined. By trying to make bold demonstrations he compromised the case. The Sudanese government, which was already failing to participate with the ICC, went into lockdown. It proceeded to remove any humanitarian work within its borders and exhibited aggression towards domestic opposition. The International Crisis group, though having been a strong supporter of the ICC, criticized Ocampo's methods, claiming that he risked "politicizing his office" and that he took needlessly "confrontational" attitudes

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with Bashir. As a result, any progress on the Darfur case seems to have come to a complete halt.<sup>15</sup>

### *V. International? Or just Africa?*

With all six of the ICC's investigations taking place in Africa- The Central African Republic, Congo, Kenya, Libya, Sudan, and Uganda, the ICC's reputation as a truly international tribunal is in question. The court has invited the charge that it is an agent for postcolonial Western interests. This is unfortunate because many atrocities do occur in Africa, and international attention should be encouraged, not shunned. The Prosecuting Office has conducted investigations outside of the African continent including Afghanistan, Colombia, Georgia, Honduras, and the Palestine territories, but Ocampo has not chosen to proceed in these territories. With Columbia, there was sufficient evidence to begin thorough investigations of war crimes and crimes against humanity by paramilitary offices with relations to government agencies. The facts demanded investigation, and with Columbian courts appearing unlikely to accuse high ranking officials, the ICC was left alone to intercede but did not.<sup>16</sup> This gives Africa enough of a reason to suspect the ICC's priorities are honed in on their homeland and avoiding contact with other ICC members states who are also in violation of ICC policy.

Jesse Helms predicted that "as long as there is a breath in me, The United States will never- and I repeat never, never- allow its national security decisions to be judged by an international criminal court."<sup>16</sup> The United States has always expressed its interest in an international court. The United States played an active role in the Nuremberg trails and also the creation of the UN ad hoc courts ICTY and ICTR. The United States attended all conferences that led up to the signing of the Rome Statue but when the day came the statue did not include acceptable protection measures the U.S. demanded it have in order to agree to it. Three presidential administrations have approached the ICC differently, approaches ranging from extreme hostility to cautious optimism. It is important to examine how these three administrations dealt with the ICC in order to determine what future U.S. policy should entail when dealing with the ICC.

## **U.S.'S TWO MAIN OPPOSTIONS TO THE ICC**

### *I. Article 12*

First let us look at the U.S.'s two main oppositions to the ICC. One, the Court's jurisdiction as it is set out in Article 12 and Article 2, the fact that the

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ICC is independent from the UN Security Council and does not recognize the “special” role that the United States plays as a major superpower in international relations. Article 12 of the Rome Statute gives the ICC jurisdiction if an offense is committed on a state party’s territory or if the accused is a national of an ICC member state. Therefore, if a U.S. national was accused of committing an ICC crime on a state party’s territory, the ICC could try him or her without the consent of the U.S. The U.S. argues this, in turn, gives the ICC universal jurisdiction, which is not customary in international law.<sup>17</sup> As a result, however, the U.S. is unfortunately guilty of using a double standard. It has signed other treaties that include provisions such as the Torture Convention, allowing and even requiring prosecution or extradition of alleged criminals, regardless of their nationality. It is evident “that there is no objection in principle to the idea of international courts”<sup>18</sup> but that the objection is only related to an international court exercising criminal jurisdiction over Americans.<sup>19</sup>

### *II. Great Power Responsibility*

Even though the goals of the ICC in human rights are the same as those in the U.S., the U.S. is concerned that the independence and flexibility of its military forces will be threatened. Some people suggest that the U.S. is a major super power and should be awarded special consideration because, as the saying goes, with great power comes great responsibility. As a member of the ICC, the U.S. could find its hands tied behind its back when issues of international peace and security are involved.<sup>20</sup> However others argue that since the U.S. is a democratic nation, accountability should be a major objective. The ICC would ensure that the U.S. would not only be accountable to itself but to the international community as well.<sup>21</sup>

The ICC is independent from the UN, which is a major concern for the United States because it cannot fully control the ICC through its powers in the Security Council. The Security Council is limited merely to recommending attention to a situation in which human rights laws are perhaps violated. Article 16, standing as an important adjustment to the statute, declares that no one state, not even the five permanent members of the Security Council, may be in complete control of ICC proceedings. This act is the resulting compromise of the two institutions distinguishing the functions they address. The UN is state centered and focuses on the protection of states’ sovereignty, while the ICC attempts to implement justice universally and independently of states’ influence.<sup>22</sup>

## **THE CLINTON ADMINISTRATION AND THE ICC**

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President Clinton did not sign the Rome Statute mainly because of the fact that he could not fully control ICC actions in case they conflicted with possible U.S. interest. The U.S. believed it could keep its stronghold over international justice without having to join the ICC.<sup>23</sup> Clinton continued to negotiate in order to debate about the terms the U.S. required the statute contain to protect in U.S. interests. David Scheffer, the US ambassador at large for war crimes issues and head of the US delegation, argued that “the statute had come to a point where the U.S. should sign for the greater good of enforcing universal norms globally, and that the U.S. had much to gain from joining the court”. He also believed that it was necessary to sign the treaty in order “to negotiate further Treaty friendly proposals and thus protect American interests while pursuing international justice.”<sup>24</sup> But on December 31st, 2000, the last day the states could sign the statute, Clinton decided to sign the statute. He wanted to express U.S.’s “strong support for international accountability and for bringing justice to all in the years to come” and to keep U.S. “moral leadership” in years to come.<sup>25</sup> President Clinton recognized that it was in the U.S. national interest to stay engaged with the ICC and be able to take part in future negotiations. And hopefully these negotiations would lead to more U.S. friendly policies. But this cautious optimism would not last long.

### **THE BUSH ADMINISTRATION AND THE ICC**

The Bush administration would be very hostile towards the ICC. John Bolton, Under Secretary of State for Arms Control and International Security, exemplified the straightforward rejection the Bush administration used when dealing with the ICC. He argued that “America’s posture towards the ICC should be “Three Noes,” no financial support, directly or indirectly; no cooperation; and no further negotiations with other governments to improve the ICC.”<sup>26</sup> On May 6th 2002, President Bush decided formally to withdraw from the Rome treaty and effectively to “unsign” it. Bolton, the most vocal opponent of the ICC, maintained that the ICC was “a stealth approach to eroding our constitutionalism and undermining the independence and flexibility that our military forces need to defend our interests around the world.”<sup>27</sup> Thus, the Bush administration declared adamantly that it was attempting to move away from “multilateralism” and that it understood justice for the victims of human rights violations to be a state’s concern, rather than international governance. However, by unsigning the treaty the U.S. gave up any chance of being involved in the creation of the ICC and the policies it might adopt, as well as use of the ICC for their own interest. Several members of Congress sent letters to President Bush protesting the unsigning of the treaty saying, “this has damaged the moral credibility of the United States and serves as a U.S. repudiation of the notion

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that war criminals and perpetrators of genocide should be brought to justice.<sup>27</sup> The letter also pointed out that such “unilateral action may have undesirable consequences on multilateral treaty-making and generally on the rule of law in international relations.”<sup>28</sup> Which it did.

### **BUSH’S ATTEMPT TO UNDERMINE THE ICC**

#### *Resolution 1422*

The U.S. could not prevent the ICC from becoming more substantial and forceful, and the Bush administration therefore tried extensively to undermine the operations of the court and exempt nations from its influence. In 2002 fearful that its troops would fall under ICC jurisdiction the U.S. vetoed a vote to extend the UN peacekeeping mission in Bosnia-Herzegovina, threatening a complete withdrawal of its troops invested in the UN security force.<sup>29</sup> Fortunately, by unanimous vote (despite the criticisms of several non-voting states) the UN passed Resolution 1422 which exempted from the ICC’s jurisdiction for a period of twelve months all peacekeeping personnel. The resolution was then given a further twelve months in 2003,<sup>30</sup> and a third attempt at renewal only fell apart because U.S. soldiers were being accused of abusing prisoners at Abu Ghraib prison in Iraq and the U.S. did not want to bring the Security Council into a “prolonged and divisive debate.”<sup>30</sup> The U.S. approached the UN and expressed that because the resolution was not signed they would be forced to pull out funding and personnel from ICC territories. A few days later, the Defense Department announced that it would withdraw personnel from peacekeeping missions in Ethiopia and Eritrea and also Kosovo because they were perceived to be at risk of ICC jurisdiction. Altogether, only nine individuals were withdrawn at the time. This was done in order to keep up the appearance of ICC defiance but was much less aggressive than the actions taken earlier.<sup>31</sup>

#### *Bilateral Immunity Agreements (BIAs) & the American Service-Members Protection Act (ASPA)*

Two of the most important measures implemented by the Bush administration were Bilateral Immunity Agreements (BIAs) and the American Service-Members Protection Act. The bilateral Article 98 agreements between the U.S. and individual states requires that U.S. personnel and nationals cannot be detained, arrested, or sent to the ICC. This was supposed to be used in order to make sure U.S. jurisdiction would protect its nationals even if they went

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into ICC territory. But the Bush administration used this provision to seek exemptions from a number of different states, exerting strong diplomatic and financial pressure if states did not sign. One hundred and two states have signed the BIA's including 52 ICC member states.<sup>32</sup> The European Parliament issued an official position in which it not only outlined its opposition to these agreements, but also argued, "ratifying such an agreement is incompatible with membership of the EU."<sup>33</sup> The Bush administration even signed these agreements into law, requiring the U.S. to do whatever is necessary to rescue a U.S. citizen that has been taken into custody by the ICC court.

As it turns out, the BIAs and the American Service-Members Protection Acts (ASPA) are actually more harmful to the U.S. than helpful. Cuts in military assistance to countries that have not signed the BIAs mean lost opportunities of military training provided by U.S. troops aimed at strengthening U.S. links to other countries, particularly in its fight against terrorism.<sup>34</sup> Other concerns have arisen because where U.S. military forces were not there to help China has taken the opportunity to be present in order to gain influence.<sup>35</sup> Even Condoleezza Rice admitted that the Article 98 agreements are like "shooting ourselves in the foot."<sup>36</sup> By the fall of 2008, the U.S. waived and withdrew several restrictions pertaining to the refusal of certain countries to sign BIAs as well as all sanction provisions of ASPA. Admitting that Article 98 restrictions had failed, the United States declared that it needed to be done away with "once and for all."<sup>37</sup>

### **OBAMA'S ADMINISTRATION AND THE ICC**

Hilary Clinton, the Secretary of State to President Barack Obama, laid out the administration's approach by stating "we will end hostility towards the ICC and look for opportunities to encourage effective ICC action in ways to promote US interests by bringing war criminals to justice." Although the United States is still not a member of the ICC there is a shift from Bush's unilateral approach to a multilateral approach. The Obama Administration is committed to collaborating with the ICC on such matters as prosecuting leaders of the Ugandan LRA and has definitely declared its intent to rejoin the Rome Statute or enlist the Senate to ratify the treaty.

### **WHAT'S NEXT?**

*Should the U.S join the ICC?*

The United States should approach the ICC the way the Clinton and Obama administrations did: with cautious optimism. In order to keep cordial

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international relations the U.S. needs to at the very least appear to be considering membership into the ICC. But is it in our best interest? No. The U.S. is such a major super power and a respected one that it is paramount for the U.S. to keep its autonomy. With great power comes great responsibility. The U.S. has a responsibility to the rest of the world to be able to process judicial decisions without the constraints of an international court. In all honestly, the U.S. court system is one of the fairest tribunal institutions. Anyone indicted for a heinous crime that would be considered under ICC jurisdiction will have his or her day in court on American soil. As for the U.S. heads of state being accountable, the U.S. court system does hold them accountable. The additional overlapping jurisdiction is not necessary. However, the U.S. needs to stay tuned into the ICC and even give the appearance that there is a chance that somewhere down the road America will join. This is necessary in order to keep international relations pleasant and hopefully sometimes even beneficial. America has already seen what happens to international relations if a hostile approach is taken.

*What needs to be done to make the ICC more effective?*

The first plan of action is to replace the prosecutor Ocampo with a prosecutor who can meet the court's most serious challenges: concluding trials, convincing governments to arrest fugitives, conducting credible investigations in difficult places such as Libya and Sudan, and expanding the ICC's reach beyond Africa. This may be a great deal to ask for, but the future of the ICC depends on it. Outside of the prosecutor's position there must be an effort to gain back confidence of the ICC's investigators, analysts, and other prosecutors. Recruiting and retaining the most highly qualified staff members means giving them substantial authority and providing them with guidance, without micromanaging them. One way in which to gain credit back from appearing as a post Western colonial institution would be to hire an African prosecutor. Having an African lead the prosecution over the next decade could help inspire domestic and regional efforts at developing accountability and the rule of law by demonstrating that international justice is not a norm imposed by the West but one shared by a top African jurist.

## **CONCLUSION**

The objectives of the ICC are noble, but is an international court the answer to dissuading anyone from participating in crimes against humanity? International justice does not work because every territory has different social norms. What one society finds taboo, others find normal. David Easton's accepted definition of political science indicates the important role social values

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play in judicial practices. Easton defined a political system as “the authoritative allocation of values for society as a whole.”<sup>33</sup> Yet the international community does not have a conformed set of values as a whole. There does seem to be a universal understanding about war crimes and extreme crimes against humanity. But will it stop there? If the ICC were to gain power and momentum, what would stop it from adding more laws to the books? Individual societies should be in charge of their own judicial systems because their laws reflect the social norms people within that environment are comfortable with. On the other hand, if states do want to participate in an international judicial system they should be allowed to do so with the U.S.’s blessing.

### Notes

<sup>1</sup>Mayerfeld, J. “Who shall be judged?: The United States, the International Criminal Court and the Global Enforcement of Human Rights,” *HumanRights Quarterly* 25, no 1 (2003): 93-129

<sup>2</sup>Danner, Allison & Simmons, Beth A., Credible Commitments and the International Criminal Court, *International Organization* 64 Spring 2010 pp 225-56

<sup>3</sup>Birdsall, Andrea, The Monster That we need to slay? Global Governance, the United States, and the International Criminal Court, *Global Governance* 16 2010 pp 451-69

<sup>4</sup>Rome Statue, Article 12 (2)

<sup>5</sup>G. Hafner, K. Boon, A Ruesame, and J. Huston, “A Response to the American View as Presented by Ruth Wedgwood,” *European Journal of International Law* 10. No. 1 (1999): 108-123

<sup>6</sup>Lee, Roy S. K. 1999. Introduction: The Rome Conference and Its contribution to International Law. In *The International Criminal Court: making of the Rome Statue- Issues, Negotiations, and Results*, edited by Roy S. Lee, 1-39. The Hague, Netherlands: Kluwer Law International.

<sup>7</sup>Danner, Allison, 2003. Enhancing the Legitimacy and Accountability of Prosecutorial Discretion at the International Criminal Court. *American Journal of International Law* 97 (3):510-52

<sup>8</sup>Rome Statue Article 14

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<sup>10</sup>Danner, Allison & Simmons, Beth A., Credible Commitments and the International Criminal Court, *International Organization* 64 Spring 2010 pp 225-56

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<sup>11</sup> Birdsall, Andrea, The Monster That we need to slay? Global Governance, the United States, and the International Criminal Court, *Global Governance* 16 2010 pp 451-69

<sup>12</sup> Peskin, Victor A. 2008 *International Justice in Rwanda and the Balkans: Virtual Trials and the Struggle for State Cooperation*. New York: Cambridge University Press

<sup>13</sup> Johannesburg, Johann, The international Criminal Court bares it's teeth, *Economist* 5/14/2011 Vol. 398 Issue 8933, pp 57-58

<sup>14</sup> Johannesburg, Johann, The international Criminal Court bares it's teeth, *Economist* 5/14/2011 Vol. 398 Issue 8933, pp 57-58

<sup>15</sup> Lietzau, W. K. "International Criminal Law after Rome: Concerns with the U.S. Military Perspective." *Law and Contemporary Problems* 64, no. 1 (2001): 119-140

<sup>16</sup> "Is a U.N. International Criminal Court in the U.S. National Interest?" Subcommittee on International Operations on the Committee of Foreign Relations, United States Senate, 1998 105th Congress, 2nd Session, 23 July 1998, p 6

<sup>17</sup> Scheffer, D.L. "Staying th Course with the International Criminal Court" *Cornell International Law Journal* 35, no. 1 (2001): 124-131

<sup>18</sup> Sands, P. *Lawless World: America and the Making and Breaking of Global Rules* (London: Peguin; London: Allen Lane, 2005)

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<sup>20</sup> Lietzau, W. K. "International Criminal Law after Rome: Concerns with the U.S. Military Perspective". *Law and Contemporary Problems* 64, no. 1 (2001): 119-140

<sup>21</sup> Ralph, J. "Between Cosmopolitan and American Democracy: Understanding US Opposition to the International Criminal Court" *International Relations* 17. No. 2 (2003): 195-212

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<sup>23</sup> Ralph, J. "International Society, The international Criminal Court and American Foreign Policy". *Review of International Studies* 31, no. 1 (2005): 27-44

<sup>24</sup> Scheffer, D.J. "Restoring U.S. Engagement with the International Criminal Court," *Wisconsin International Law Journal* 21. No. 3 (2003): 599-609

<sup>25</sup> Statement by Bill Clinton: Signature of the International Criminal Court Treaty, 31 December 2000, Camp David, Maryland

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<sup>26</sup> Bolton, J.R. “The Risks and Weaknesses of the International Criminal Court from an American Perspective” *Law and Contemporary Problems* 64 no. 1 (2001)

<sup>27</sup> Bolton, J.R. “Unsign that Treaty” *Washington Post* 4 January 2001, p A21

<sup>28</sup> Congressional Letter to President Georgia W. Bush, 22 May 2002, signed by forty-four democrats and one Republican.

<sup>29</sup> UN Security Council. Record of the 456 3rd Security Council Meeting, 30 June 2002

<sup>30</sup> Boucher, State Department noon briefing

<sup>31</sup> Aita, J. “US Drops Effort to Secure ICC Immunity for Peacekeepers” 23 June 2004, available at [www.usembassy.it/file2004\\_06/alia/a4062304.htm](http://www.usembassy.it/file2004_06/alia/a4062304.htm)

<sup>32</sup> McGoldrick, “Political and Legal Responses to the ICC” in D. McGoldrick, P. Rowe, and E. Donnelly. Eds. *The Permanent International Criminal Court: Legal and Policy Issues* (Oxford, UK: Hart, 2004), pp 389-449

<sup>33</sup> European Parliament resolution on the International Criminal Court (ICC) (2002) P5\_TA (2002)0449

<sup>34</sup> Birdsall, Andrea, The Monster That we need to slay? Global Governance, the United States, and the International Criminal Court, *Global Governance* 16 2010 pp 451-69

<sup>35</sup> Posture Statement of General Bantz J. Craddock. United States Army Commander, Senate Armed Services Committee, 109th Congress, 2nd Session. 14 March 2006 p. 26

<sup>36</sup> US Department of State, On the Record Briefing, Secretary of State Condoleezza Rice, Enroute to San Juan, Puerto Rico, March 10 2006, <http://montevideo.usembassy.gov/useweb/paginas/2006/06-094aEN.shtml>

<sup>37</sup> US Congress, House of Representatives, Foreign Assistance in the Americas, House Foreign Affairs Subcommittee on the Western Hemisphere, 110th Congress, 2nd Session, 16 September 2008, p 12

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