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## The United States, Syria, and the International Criminal Court: Implications of the Rome Statue's Aggression Amendment

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Zachary D. Kaufman<sup>\*</sup>

*Abstract: In August 2013, President Obama advocated military intervention by the United States in response to President Basbar al-Assad's alleged use of chemical weapons in Syria. President Obama further announced that he would seek congressional authorization for the attack and that he was comfortable*

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<sup>\*</sup> Visiting Researcher, Institute for Global Law & Policy, Harvard Law School; Associate Research Scholar and Schell Center Visiting Human Rights Fellow, Yale Law School; Lecturer, Yale University Department of Political Science; Visiting Fellow, Genocide Studies Program, Yale University; Social Enterprise Fellow, Yale School of Management. B.A. in Political Science, Yale University, 2000; M.Phil. in International Relations, University of Oxford, 2004; J.D., Yale Law School, 2009; Ph.D. in International Relations, University of Oxford, 2012. The author wishes to thank the following individuals for their comments on an earlier draft of this essay: Fahim Ahmed, Ashley Belyea (of the *Harvard International Law Journal*), Jana Everett, Chris Griffin, Elizabeth Katz, and Howard Kaufman. Any errors are the author's alone.

*pursuing this course of action without United Nations Security Council approval. While subsequent diplomatic developments have rendered U.S. military action against Syria less likely, the crisis in Syria remains a powerful example of situations that raise difficult questions about efforts arising under international law to curb states' use of force abroad. Such unilateral action may have fallen under the International Criminal Court's ("ICC") working definition of the crime of aggression. To date, the United States has declined to join the ICC. The main tension in international law I note in this essay concerns the ramifications of the U.S. government ratifying the Rome Statute of the ICC ("Rome Statute"), the court's underlying treaty. If subjected to ICC jurisdiction, then American political and military leaders, including the President, could become vulnerable to indictment, prosecution, and punishment by the court for interventions such as the one President Obama proposed. If it were a party to the Rome Statute, the U.S. government would expose its political and military commanders to such prosecutions. Those who support the United States joining the ICC, many of whom also support U.S. intervention in Syria, must acknowledge and resolve that tension.*

## I. INTRODUCTION

President Obama declared on August 31, 2013, that the United States "should take military action against Syrian regime targets" in response to President Bashar al-Assad's alleged use of chemical weapons. President Obama further announced that he would seek congressional authorization for the attack and that he was "comfortable going forward without the approval of a United Nations Security Council that, so far, ha[d] been completely paralyzed and unwilling to hold Assad accountable." He added that "[w]e would not put boots on the ground," leaving open the possibility of bombing high-value military targets. The justifications President Obama offered for intervening were to protect U.S. national security (from the proliferation of chemical, biological, and nuclear weapons and their use on our allies and ourselves) and to promote American values (in protecting civilians, including children, from genocide and other atrocities).<sup>1</sup> The crisis in Syria is but one example of situations that raise difficult questions about efforts arising under international law to curb states' use of force abroad.

Subsequent diplomatic developments have rendered U.S. military action against Syria less likely, at least for now.<sup>2</sup> Regardless, the implications of an American attack on

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<sup>1</sup> President Barack Obama, Statement by the President on Syria (Aug. 21, 2013), <http://www.whitehouse.gov/the-press-office/2013/08/31/statement-president-syria>.

<sup>2</sup> Paul Lewis, *Syria Crisis: Obama Leans to Diplomacy on Chemical Weapons Impasse*, GUARDIAN (United Kingdom), Sept. 11, 2013, <http://www.theguardian.com/world/2013/sep/11/obama-diplomatic-path-syria-chemical-weapons>.

Syria retain significance for the future relationship between the United States and the International Criminal Court (“ICC”), the world’s first permanent international war crimes tribunal. The importance of the Syrian intervention would have been apparent without UN Security Council (“UNSC”) approval under its mandate “to maintain or restore international peace and security”<sup>3</sup> even if the use of force had received congressional authorization (which approval, as in the case of the U.K. Parliament,<sup>4</sup> may not have materialized). Such unilateral action may have fallen under the ICC’s working definition of the crime of aggression. To date, the United States has declined to join the ICC.<sup>5</sup> The main tension in international law I note in this essay concerns the ramifications of the U.S. government ratifying the Rome Statute of the ICC (“Rome Statute”), the court’s underlying treaty. If subjected to ICC jurisdiction, then American political and military leaders, including the President, could become vulnerable to indictment, prosecution, and punishment by the court for interventions such as the one President Obama proposed.

To be clear, I am not advocating that the ICC indict President Obama or any other American as a war criminal even if the United States intervenes militarily in Syria or elsewhere without UNSC approval. What I am arguing is that, if it were a party to the Rome Statute, the U.S. government would expose its political and military commanders to such prosecutions.<sup>6</sup> Those who support the United States joining the ICC, many of whom also support U.S. intervention in Syria,<sup>7</sup> must acknowledge and resolve that tension.

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<sup>3</sup> U.N. Charter art. 39.

<sup>4</sup> Nicholas Watt, Rowena Mason & Nick Hopkins, *Blow to Cameron’s Authority as MPs Rule out British Assault on Syria*, GUARDIAN (United Kingdom), Aug. 29, 2013, <http://www.theguardian.com/politics/2013/aug/30/cameron-mps-syria>.

<sup>5</sup> For an explanation of the U.S. vote against the Rome Statute by the senior American diplomat involved in the treaty’s negotiations, see DAVID SCHEFFER, *ALL THE MISSING SOULS: A PERSONAL HISTORY OF THE WAR CRIMES TRIBUNALS* 163–247 (2012); David J. Scheffer, *The United States and the International Criminal Court*, 92 AM. J. INT’L L. 12, 17–22 (1999).

<sup>6</sup> See ICC, Assembly of States Parties, Review Conference, 13th plen. mtg. at Annex I, para. 4 (Rome Statute art. 25, para. 3 *bis*), U.N. Doc. Resolution RC/Res.6 (June 11, 2010), *available at* [http://www.icc-cpi.int/iccdocs/asp\\_docs/Resolutions/RC-Res.6-ENG.pdf](http://www.icc-cpi.int/iccdocs/asp_docs/Resolutions/RC-Res.6-ENG.pdf) [hereinafter 2010 ICC Aggression Resolution] (“In respect of the crime of aggression, the provisions of this article shall apply only to persons in a position effectively to exercise control over or to direct the political or military action of a State.”). Given the language in this amendment about “control” and “direct[ion],” a foot-soldier may not come under the ICC’s subject-matter jurisdiction over the crime of aggression.

<sup>7</sup> Examples of individuals who have both supported the United States joining the ICC and intervening militarily in Syria include current minority (Democratic) leader of the U.S. House of Representatives and former Speaker of the House, Nancy Pelosi; former presidential candidate and former Supreme Allied Commander of NATO, General Wesley Clark; and *New York Times* columnist, Nicholas Kristof. Regarding Pelosi, see Letter from Nancy Pelosi, U.S.

## II. THE ROME STATUTE'S AGGRESSION AMENDMENT

The original text of the Rome Statute, which was adopted in 1998 and entered into force in 2002, ostensibly endowed the ICC with jurisdiction over the crime of aggression.<sup>8</sup> However, because it was the subject of much controversy, the crime was left undefined, which prevented the ICC from exercising practical jurisdiction over it.<sup>9</sup>

At a 2010 conference in Uganda to review the Rome Statute, a resolution was adopted by consensus that defined the crime of aggression and set out the ICC's jurisdiction over it.<sup>10</sup> According to the resolution (the "2010 ICC Aggression Resolution"), the crime of aggression

Representative, et al. to William Jefferson Clinton, U.S. President (Dec. 15, 2000), *available at* [http://www.amicc.org/docs/Congress12\\_00.pdf](http://www.amicc.org/docs/Congress12_00.pdf) ("urg[ing]" Clinton to "sign[] the Rome Statute," which "would give members of Congress a solid ground to push for the ratification of the [treaty]"); Press Release, Democratic Leader Nancy Pelosi, Pelosi Statement Following President's Remarks on Syria (Aug. 31, 2013), [http://www.democraticleader.gov/Pelosi\\_Statement\\_on\\_POTUS\\_Remarks\\_on\\_Syria](http://www.democraticleader.gov/Pelosi_Statement_on_POTUS_Remarks_on_Syria) ("As the President stated today, military action in response to Assad's reckless use of deadly gas that is limited in scope and duration, without boots on the ground, is in our national security interest and in furtherance of regional stability and global security."). Regarding Clark, see Wesley K. Clark, Chairman & CEO, Wesley K. Clark & Associates, Remarks at the Council on Foreign Relations Symposium on International Law and Justice (Oct. 17, 2008), *transcript available at* <http://www.cfr.org/international-organizations-and-alliances/session-one-international-obligations-toward-victims-mass-atrocities/p17578> ("I hope the United States will be a leading member of [the ICC]."); Wesley Clark, Op-Ed., *Wesley Clark: Syria vs. Kosovo*, USA TODAY, Aug. 30, 2013, <http://www.usatoday.com/story/opinion/2013/08/29/syria-wesley-clark-kosovo-nato/2726733/> (comparing NATO military intervention in Kosovo with possible U.S. military intervention in Syria, arguing that "President Obama has rightly drawn a line at the use of chemical weapons" and favorably quoting President Clinton that "[w]here we can make a difference, we must act"). Regarding Kristof, see Nicholas D. Kristof, Op-Ed., *Rejoin the World*, N.Y. TIMES, Nov. 2, 2008, at WK12 (arguing that "[t]he United States needs to be a part of the International Criminal Court"); Nicholas D. Kristof, Op-Ed., *The Right Questions on Syria*, N.Y. TIMES, Sept. 5, 2013, at A25 (arguing that reluctance "to reach for the military toolbox" regarding Syria is laudable but "the humanitarian and strategic risks of inaction are greater").

<sup>8</sup> Rome Statute art. 5(1), July 17, 1998, 2187 U.N.T.S. 90 (declaring that the ICC's subject-matter jurisdiction includes "[t]he crime of aggression").

<sup>9</sup> See, e.g., Mark A. Drumbl, *The Push to Criminalize Aggression: Something Lost Amid the Gains?*, 41 CASE W. RES. J. INT'L L. 291 (2009); Andrew Trotter, *Of Aggression and Diplomacy: The Security Council, the International Criminal Court, and Jus Ad Bellum*, 18 NEW ENG. J. INT'L & COMP. L. 351 (2012).

<sup>10</sup> 2010 ICC Aggression Resolution, *supra* note 6. For an analysis of the resolution by a member of the U.S. delegation to the conference, see generally Beth Van Schaack, *Negotiating at the Interface of Power and Law: The Crime of Aggression*, 49 COLUM. J. TRANSNAT'L L. 505 (2011). For a discussion of U.S. involvement in the conference, including the impact of U.S. participation, see Harold Hongju Koh, Legal Advisor, U.S. Dep't of State & Stephen J. Rapp, Ambassador-

means the planning, preparation, initiation or execution, by a person in a position effectively to exercise control over or to direct the political or military action of a State, or an act of aggression which, by its character, gravity and scale, constitutes a manifest violation of the Charter of the United Nations.<sup>11</sup>

Military action that is not authorized by the UNSC and not initiated in self-defense—precisely what President Obama proposed—violates the UN Charter.<sup>12</sup> One of the undertakings covered under the resolution as an act of aggression is “[b]ombardment by the armed forces of a State against the territory of another State or the use of any weapons by a State against the territory of another State.”<sup>13</sup> Again, such an act was exactly what many interpreted President Obama to have proposed.<sup>14</sup> Whether the “character, gravity and scale” of such an act “constitutes a manifest violation” of the UN Charter would be determined subjectively.

### III. THE ROME STATUTE’S QUESTIONABLE PROTECTIONS

Proponents of the United States ratifying the Rome Statute argue that there are various protections built into the ICC that would defend Americans from frivolous or politically-motivated prosecutions or even genuine differences of opinion. Critics

at-Large for War Crimes Issues, U.S. Dep’t of State, Special Briefing by the U.S. Dep’t of State on “U.S. Engagement with the ICC and the Outcome of the Recently Concluded Review Conference” (June 15, 2010), *transcript available at* [http://www.state.gov/j/gcj/us\\_releases/remarks/2010/143178.htm](http://www.state.gov/j/gcj/us_releases/remarks/2010/143178.htm) [hereinafter Koh & Rapp].

<sup>11</sup> 2010 ICC Aggression Resolution, *supra* note 6, at Annex I, para. 2 (Rome Statute art. 8 *bis* (1)).

<sup>12</sup> *See* U.N. Charter arts. 1(1) (The UN purposes include “the suppression of acts of aggression or other breaches of the peace . . .”), 2(4) (All UN Members “shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.”), 39 (“The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.”), 51 (“Nothing in the present Charter shall impair the inherent right of individual or collective self-defen[s]e if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security.”).

<sup>13</sup> 2010 ICC Aggression Resolution, *supra* note 6, at Annex I, para. 2 (Rome Statute art. 8 *bis* (2)(b)).

<sup>14</sup> *See, e.g.*, Howard Fineman, *John Kerry: Obama Can Bomb Assad Even if Congress Votes No*, HUFF. POST, Sept. 6, 2013, [http://www.huffingtonpost.com/2013/09/06/john-kerry-congress-syria\\_n\\_3881200.html](http://www.huffingtonpost.com/2013/09/06/john-kerry-congress-syria_n_3881200.html); Charlie Savage, *President Tests Limits of Power in Syrian Crisis*, N.Y. TIMES, Sept. 8, 2013, at A1.

respond that, on closer inspection, these supposed protections appear weak or non-existent.<sup>15</sup>

For example, a case is inadmissible to the ICC where a state is willing and able genuinely to carry out the investigation and prosecution.<sup>16</sup> However, it is the ICC itself that determines that willingness and ability.<sup>17</sup> And American courts typically defer to the President on matters of foreign affairs, including the use of force abroad.<sup>18</sup> It is therefore unlikely that the President would be prosecuted at home for a foreign military intervention like the Syria proposal, especially when authorized by Congress and given U.S. precedent for a sitting president's immunity for official acts.<sup>19</sup> Thus, even if the ICC determined that the United States were able to prosecute the President, the ICC might further consider the United States to be unwilling. In that case, the ICC prosecutor might successfully indict the President for allegedly committing atrocities.

Pro-ICC commentary cites a second protection: that when the prosecutor initiates an investigation, a pre-trial chamber must authorize it.<sup>20</sup> ICC proponents argue that this procedural safeguard would deter renegade prosecutors through an institutional check

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<sup>15</sup> See, e.g., Matthew A. Barrett, *Ratify or Reject: Examining the United States' Opposition to the International Criminal Court*, 28 GA. J. INT'L & COMP. L. 83, 97–99 (2000); Francis T. Murphy, *United States Should Ratify Treaty for International Criminal Court*, 71 N.Y. ST. B.J. 86 (1999). The Coalition for the International Criminal Court is an umbrella group of civil society organizations in countries around the world that support the ICC. See Coalition for the International Criminal Court, <http://www.iccnw.org> (last visited Dec. 4, 2013). For an overview of U.S. reluctance to ratify the Rome Statute, see William A. Schabas, *United States Hostility to the International Criminal Court: It's All About the Security Council*, 15 EUR. J. INT'L L. 701 (2004).

<sup>16</sup> Rome Statute, *supra* note 8, at art. 17.

<sup>17</sup> *Id.*

<sup>18</sup> See, e.g., Jide Nzelibe, *The Uniqueness of Foreign Affairs*, 89 IOWA L. REV. 941 (2004) (explaining “the exceptional treatment that courts accord foreign affairs issues under the political question doctrine”).

<sup>19</sup> See *Nixon v. Fitzgerald*, 457 U.S. 731, 734 (1982) (establishing that the President is absolutely immune from civil suits for damages when acting in his official capacity). *But see id.* at 780 (White, J., dissenting) (“[O]ur cases indicate that immunity from damages actions carries no protection from criminal prosecution.”). The distinction between civil and criminal immunity may not be compelling within the ICC unless and until such a prosecution actually occurs.

<sup>20</sup> Rome Statute, *supra* note 8, at art. 15(4) (“If the Pre-Trial Chamber, upon examination of the [prosecutor’s] request and the supporting material, considers that there is a reasonable basis to proceed with an investigation, and that the case appears to fall within the jurisdiction of the Court, it shall authorize the commencement of the investigation, without prejudice to subsequent determinations by the Court with regard to the jurisdiction and admissibility of a case.”).

from the ICC's chambers on case initiation.<sup>21</sup> Although the ICC Office of the Prosecutor has not brought any cases against the United States, there is no guarantee that, in the future, it would not do so and that the pre-trial chamber would not approve these matters even if they are unreasonable. Prosecutorial abuse is less likely under judicial supervision but still possible.

According to the 2010 ICC Aggression Resolution, the ICC would not exercise subject-matter jurisdiction over the crime of aggression until 2017,<sup>22</sup> and even then at least thirty states party to the Rome Statute must ratify or accept the resolution's proposed amendment.<sup>23</sup> Unless and until that day comes, American officials do not risk prosecution before the ICC for the crime of aggression.

#### IV. OPTIONS FOR FUTURE U.S. ENGAGEMENT WITH THE ROME STATUTE

In the meantime, the United States should continue to remain actively involved in negotiations over further amendments to the Rome Statute. If the U.S. government contemplates using force abroad without the approval of the UNSC and for reasons other than self-defense, then it should consider pursuing one of three options.

First, the U.S. government could continue to refrain from ratifying the Rome Statute. Indeed, that is the position articulated by each of the three presidential administrations—Democrat and Republican alike—since the treaty was opened for signature.<sup>24</sup> Early advocates of such “benign abstention” have noted, however, that

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<sup>21</sup> See, e.g., Bartram S. Brown, *The Statute of the ICC: Past, Present, and Future*, in *THE UNITED STATES AND THE INTERNATIONAL CRIMINAL COURT: NATIONAL SECURITY AND INTERNATIONAL LAW* 61, 67 (Sarah B. Sewall & Carl Kaysen eds., 2000) (“As a safeguard against abuses, the Statute provides for the use of a Pre-Trial Chamber of judges to oversee the Prosecutor’s discretionary decisions.”).

<sup>22</sup> 2010 ICC Aggression Resolution, *supra* note 6, at Annex I, arts. 15 *bis* (3), 15 *ter* (3).

<sup>23</sup> *Id.* at Annex I, arts. 15 *bis* (2), 15 *ter* (2), Annex III, paras. 1, 3.

<sup>24</sup> Although he signed the Rome Statute, President Clinton did not submit it to the U.S. Senate for ratification. In addition, he recommended that his successor not propose Senate ratification “until our fundamental concerns are satisfied.” Statement on the Rome Treaty on the International Criminal Court, 3 PUB. PAPERS 2816, 2817 (Dec. 31, 2000). President George W. Bush’s administration not only followed that advice but also took the further, controversial step of declaring that President Clinton’s signature imposed no legal obligations on the U.S. government, a move some have characterized as “unsigned” the treaty. See Jean Galbraith, *The Bush Administration’s Response to the International Criminal Court*, 21 BERKELEY J. INT’L L. 683, 687 (2003) (explaining that “[t]he media has referred to [President Bush’s actions] as having ‘unsigned’ the treaty”); Luke A. McLaurin, Note, *Can the President “Unsign” a Treaty? A Constitutional Inquiry*, 84 WASH. U. L. REV. 1941, 1941 (2006) (characterizing President Bush’s actions as “unsigned” the treaty); Neil A. Lewis, *U.S. Is Set to Renounce Its Role in Pact for World Tribunal*, N.Y. TIMES, May 5, 2002, at A18 (same). Like his two predecessors, President Obama has not proposed Senate ratification of the treaty. Current U.S. Ambassador-at-Large for War

this strategy is not completely risk-free because the Rome Statute permits prosecution even if the defendant's state has not ratified the treaty.<sup>25</sup> The ICC could exercise jurisdiction over the United States if the matter were referred to the court by either the UNSC or a state party to the Rome Statute on the territory of which the offense purportedly occurred.<sup>26</sup> Because the United States holds veto power in the UNSC, it could block such a referral through that body. The United States would not be able to obstruct a state party referral, however, at least not on its own.<sup>27</sup> In the case of an alleged crime of aggression, though, the ICC prosecutor cannot charge nationals of non-state parties.<sup>28</sup> Thus, as long as the United States does not ratify the Rome Statute, U.S. nationals cannot be prosecuted for aggression.<sup>29</sup> Consequently, Americans could not be tried for interventions such as the one in Syria that President Obama proposed.

Second, the U.S. government could ratify the Rome Statute assuming that the 2010 ICC Aggression Resolution will be adopted in its present incarnation. However, as is permitted by the resolution, the United States could declare to the ICC's Registrar that it does not accept the court's jurisdiction over aggression.<sup>30</sup> The United States would thus opt out of being subject to trials for such alleged crimes and so, again, U.S. nationals could not be prosecuted for uses of force like the one President Obama called for in Syria.

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Crimes Issues Stephen J. Rapp stated: "[I]t's clear that joining the [ICC] is not on the table, as far as a U.S. decision at this time." Koh & Rapp, *supra* note 10.

<sup>25</sup> Ruth Wedgwood, *Fiddling in Rome: America and the International Criminal Court*, FOREIGN AFF., Nov.–Dec. 1998, at 20, 24.

<sup>26</sup> Rome Statute, *supra* note 8, at arts. 12(2), 13.

<sup>27</sup> The Rome Statute permits the UNSC to defer investigations and prosecutions. *See id.* at art. 16 ("No investigation or prosecution may be commenced or proceeded with under this Statute for a period of 12 months after the Security Council, in a resolution adopted under Chapter VII of the Charter of the United Nations, has requested the Court to that effect; that request may be renewed by the Council under the same conditions.").

<sup>28</sup> 2010 ICC Aggression Resolution, *supra* note 6, at Annex I, art. 15 *bis* (5) ("In respect of a State that is not a party to this Statute, the Court shall not exercise its jurisdiction over the crime of aggression when committed by that State's nationals or on its territory."). *But see id.* at Annex III, art. 2 ("It is understood that the Court shall exercise jurisdiction over the crime of aggression on the basis of a Security Council referral in accordance with article 13, paragraph (b), of the Statute irrespective of whether the State concerned has accepted the Court's jurisdiction in this regard.").

<sup>29</sup> Koh & Rapp, *supra* note 10.

<sup>30</sup> 2010 ICC Aggression Resolution, *supra* note 6, at Annex I, art. 15 *bis* (4) ("The Court may . . . exercise jurisdiction over a crime of aggression, arising from an act of aggression committed by a State Party, unless that State Party has previously declared that it does not accept such jurisdiction by lodging a declaration with the Registrar. The withdrawal of such a declaration may be effected at any time and shall be considered by the State Party within three years.").



Third, the U.S. government could lobby for amendments to the definition of the crime of aggression in the 2010 ICC Aggression Resolution that exempt using force for humanitarian purposes.<sup>31</sup> If such amendments were made that shielded U.S. interventions such as the one President Obama proposed in Syria, then the U.S. government could more safely ratify the Rome Statute. Negotiating such amendments would be difficult, however, given controversies over the definition, selectivity, scope, consequences, and other ethical and practical dilemmas of humanitarian intervention.<sup>32</sup> In addition, other parties might harbor suspicion that appeals to humanitarian grounds are mere cover for more self-interested objectives, such as pursuing imperialism and projecting hegemony. Moreover, the United States and ICC officials may disagree about whether U.S. foreign military interventions qualify as humanitarian. In cases such as Syria, the ICC might thus charge U.S. nationals with aggression if unconvinced by humanitarian justifications or if persuaded that concerns over national security (which President Obama acknowledged in the case of Syria) or other self-interest primarily or exclusively motivated the use of force.

#### V. NOT ALL ROADS NECESSARILY LEAD TO ROME

The ICC is a powerful institutional mechanism for addressing atrocity perpetrators through deterrence and punishment. The U.S. government should continue to support the ICC by working through the UNSC to refer “situations” to the court, as it did in 2011 with Libya,<sup>33</sup> and by providing expertise and logistical support in apprehending fugitives, as it has done with leaders of the Lord’s Resistance Army in the Great Lakes region of sub-Saharan Africa.<sup>34</sup> But if the United States continues to act as the world’s policeman, then it must shield its leaders from unreasonable

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<sup>31</sup> The argument for a “humanitarian necessity defense” is made in Christopher P. DeNicola, *A Shield for the “Knights of Humanity”*: *The ICC Should Adopt a Humanitarian Necessity Defense to the Crime of Aggression*, 30 U. PA. J. INT’L L. 641 (2008).

<sup>32</sup> See, e.g., SIMON CHESTERMAN, *JUST WAR OR JUST PEACE?: HUMANITARIAN INTERVENTION AND INTERNATIONAL LAW* (2001); THE ETHICS AND POLITICS OF HUMANITARIAN INTERVENTION (Stanley Hoffmann ed., 1996); HUMANITARIAN INTERVENTION AND INTERNATIONAL RELATIONS (Jennifer M. Welsh ed., 2004); ALAN J. KUPERMAN, *THE LIMITS OF HUMANITARIAN INTERVENTION: GENOCIDE IN RWANDA* (2001); MICHAEL WALZER, *JUST AND UNJUST WARS* (3d ed. 2000).

<sup>33</sup> S.C. Res. 1970, ¶ 4, U.N. Doc. S/RES/1970 (Feb. 26, 2011).

<sup>34</sup> Stephen J. Rapp, Ambassador-at-Large for War Crimes Issues, Office of Global Criminal Justice, U.S. Dep’t of State & Donald Y. Yamamoto, Principal Deputy Assistant Sec’y, Bureau of Afr. Affairs, U.S. Dep’t of State, *Expansion of the War Crimes Rewards Program* (Apr. 3, 2013), [http://www.state.gov/j/gcj/us\\_releases/remarks/2013/207031.htm](http://www.state.gov/j/gcj/us_releases/remarks/2013/207031.htm); Stephen J. Rapp, Ambassador-at-Large for War Crimes Issues, Office of Global Criminal Justice, U.S. Dep’t of State, *U.S. Statement to the Assembly of States Parties of the International Criminal Court* (Dec. 14, 2011), [http://www.state.gov/j/gcj/us\\_releases/remarks/2011/179208.htm](http://www.state.gov/j/gcj/us_releases/remarks/2011/179208.htm).

prosecution for atrocities by those who equate protecting human rights with perpetrating aggression.