

Why ICC Fails to Arrest the Sitting Head of the State and How to Improve

Ze Zheng Yang^{1,a,*}

¹The University of Melbourne, Melbourne, 3000, Australia

a. zezhengyang999@gmail.com

**corresponding author*

Abstract: This paper aims to explain why the International Criminal Court (ICC) fails to arrest the sitting head of the state and provides recommendations to improve the efficiency of arresting the sitting head of the state. To identify the factors that hinder the arrest, this paper incorporates a literature review and case study analysis of four existing arrest attempts on the sitting head of the state initiated by The International Criminal Tribunal for the former Yugoslavia (ICTY) and ICC. In the literature review and case study analysis, in addition to cases affiliated with the ICC, the ICTY, and its related case were introduced as a reference to reflect further the problems faced by the ICC in arresting sitting heads of state. Through the literature review and case studies, this paper finds that the ICC's arrest of the sitting head of the state can hardly be achieved with the ICC's limited jurisdiction, sole dependence on state cooperation, untimely interference, and inadequate supportive political power to address non-cooperation. Therefore, the ICC needs to expand its jurisdiction to reduce the room for indictees to evade arrest and also to include more supportive political powers. The ICC's cooperation model should also be reformed by authorizing cooperation with functional third-party forces to timely substitute the state's function for executing the arrest in uncertainty.

Keywords: International Criminal Court, Arrest Warrant, Sitting head of the state

1. Introduction

On 17 March 2023, the International Criminal Court (ICC) announced the issuance of an arrest warrant on the President of Russia, Vladimir Vladimirovich Putin [1], making Putin the fourth sitting head of the state wanted by the international criminal tribunals. However, after the announcement, the prospect of Putin's arrest was questioned [2], because among the previous three arrest warrants against sitting heads of the state, two of them issued by the ICC were not executed, and only one that was relatively successfully executed was under the jurisdiction of the International Criminal Tribunal for the former Yugoslavia (ICTY) and was executed only after the indictee lost his position as head of state. Judging from the results, although neither ICTY nor ICC could arrest the sitting head of the state on time, ICC seems to have more difficulties than ICTY in arresting a sitting head of state.

To address the difficulties of the ICC in arresting the sitting head of the state, this paper will first answer the question of "why the ICC fails to arrest the sitting head of the state" by giving a literature review about the comparison of statutory power between ICTY and ICC, and related scholarly research on ICC's arrest execution against sitting head of the state. Following the literature review, this paper will make hypotheses on the factors leading to arrest failure and test them through the

analysis of four existing arrest warrants against the sitting head of the state from ICTY to ICC. Then, according to the identified factors, this paper will make recommendations for the ICC to promote the arrest of the sitting head of the state.

2. Thesis and RoadMap

The thesis of this paper is that the ICC should seek to include more State Parties in the Rome Statute and improve its cooperation model to allow effective arrest against the sitting head of the state. To support this thesis, this paper will continue as follows:

First, it will give a literature review about the statutory power of ICC in arresting the sitting head of the state, drawing the articles from the Rome Statute, and make a comparison with the corresponding statutory power of ICTY drawing the articles from ICTY Statute and ICTY RPE (Rules of Procedure and Evidence). The scholarly research will also be included in the literature review to provide views regarding the ICC's problems of arresting the sitting head of the state.

Then, reflecting on the literature review, this paper will make hypotheses about the factors that hinder the arrest and test the hypotheses with a case study analysis of the existing four arrest warrants against the sitting head of the state.

Finally, according to the identified factors, this paper will make recommendations to address the difficulties and reach a comprehensive conclusion.

3. Literature Review

3.1. Statutory Power of ICC and ICTY

Regarding arresting the sitting head of the state, the statutory powers of ICTY and ICC have similarities but also differences. In terms of ICTY, the arrest of the sitting head of the state is jointly framed by the ICTY Statute and ICTY RPE. The ICTY statute Article 7 (2) first denied the personal immunity of the sitting head of the state. In contrast, Articles 18 and 19 granted the Prosecutor power to investigate, indict, and request arrest, detention, surrender, or transfer warrants on indictees. As the enforcement method, the state (ICTY Statute Article 29, ICTY RPE Rule 55, 56) and international bodies (ICTY RPE Rule 59*bis*) were required to execute the warrants from ICTY. In the case of the state's non-cooperation, the ICTY can take countermeasures by referring the state to UNSC according to ICTY RPE Rule 59.

According to the Rome Statute, the ICC adopted a similar procedure. The prosecutor was granted the power to investigate and request the issuance of an arrest warrant (Article 15). The Pre-Trial Chamber issued the arrest warrant (Article 58) based on the denial of personal immunity (Article 27, 98). However, cooperation with the state remained the sole method of executing arrest warrants (Article 59, 89, 91), while cooperation with international bodies was framed in the investigation stage (Article 87(6)). Facing the non-cooperative state, the Rome Statute also offered the countermeasure of referring the state to the Assembly of State Parties (ASP) and UNSC.

The research regarding the ICC's poor arrest execution of the sitting head of the state can be divided into two categories: The first category focuses on analyzing the affecting factors of arrest from the perspective of the executor -- state, and the second category examines the institutional factors in tribunal's statute.

3.2. About Non-cooperative State

In the first category, Berlin generally examined the cooperate and non-cooperate factors for states executing ICC arrest warrants. Incorporate the division of "target state (the state that ICC intervened)" and "third-party state (the state required for arresting indictees)", the author first explained that non-

cooperation from the target state is “unsurprising” because arresting and surrendering an ICC indicted citizen can bring “backlash from either the public at large or elite spoilers still in a position to wield influence” [3]. Then, the author examined the cooperate and non-cooperate factors in 26 third-party states regarding ICTR’s arrest warrants on 91 ICTR-Indicted suspects and found that third-party states can choose to cooperate with ICTR’s arrest requirements for three reasons. First, the third-party states may refuse to comply with arrest warrants considering the consequences of arresting on national security, especially when the indictee has connections with or can imply countermeasures on the state. Second, the state can refuse to arrest due to the stability of the regime. This happens when the state shares the same source of legitimacy with the indictee. Third, the state may refuse to comply due to domestic political pressure. When the indictee enjoys a good connection with the voters and political elites through reputation or corruption, the political pressure may stop the state from executing an arrest warrant.

Rastan generally examined the cooperation failure between the ICC and Party States. From the perspective of countries, he divided the non-cooperative countries into two types. First, the “unable” countries whose authorities and capabilities are undermined by domestic situation. The government’s power is too limited to execute the ICC’s requirement or the country’s *de facto* authority is not recognised by the ICC as a legal government. Second, the “unwilling” countries whose government has the power but refuse to comply with ICC’s requirements. The author stated that facing the two cases, the ICC should substitute the domestic authority with “concerted unified collective action” [4]. But, in reality, such collective actions lack feasibility due to the “fragmented, unified, and competing interests and value contestation” [4]. The author also pointed out that as the ICC is more intervening in conflicting states, cooperation with states will be more difficult.

3.3. Institutional Limitations

In the second category, Jaholl, Ekor, and Masumbe both considered that the ICC’s principle of “complement” in the beginning limited the ICC’s power to require the state’s cooperation in arresting the sitting head of the state. All of them analyzed the case of Al-Bashir, the sitting head of Sudan, on whom the ICC arrest warrant wasn’t executed by the requested state parties due to his “immunity” as the sitting head of the state. Jaholl also stated that the ICC’s requirement to arrest the sitting head of the state, disregarding the state’s recognition of immunity in domestic law, violates the ICC’s principle of “complement” [5]. In addition to the “immunity” concerns, they also pointed out that ICC’s jurisdiction is limited. The indicted sitting heads of state like Bashir and Putin can simply stay out of ICC’s jurisdiction to escape arrest.

Zhou and Rastan analyzed the institutional limitations in the ICC arrest warrant’s executive model. Zhou compared the statute articles of ICC and ICTY regarding executing the arrest warrant and found out that cooperation with international bodies grants an advantage to ICTY in arresting and transferring indictees. The NATO-led force involved in arresting ICTY indictees indeed facilitated the process. In the ICC Rome Statute, however, the state became the only executor of the arrest warrant, while the international bodies’ involvement was framed only in the investigation process by Article 87(6). The author considered that the Rome Statute Article 87(6) didn’t deny the cooperation with international bodies in executing arrest warrants on a voluntary-based agreement, but the voluntary basis itself may undermined the effectiveness of enforcement [6]. Rastan, in his analysis of state cooperation, argued that to “substitute” the function of “unwilling” or “unable” states in investigating and arresting, cooperation with a functioning force is necessary. The ICC’s sole cooperation model with the state’s *de jure* government cannot adapt to the growing ICC intervention in conflicting countries. He demonstrated the case of Libya, where the ICC attempted to cooperate with a non-state militia, the Abu-Bakr al-Siddiq Battalion, to arrest and surrender the ICC indictee Saif Al-Islam Gaddafi but was rejected by the Pre-Trial Chamber (PTC) according to Article 57,

which resulted in Saif's at large till today. Besides, Rastan also considered the ICC's countermeasures for a state's non-cooperation as inadequate: If the state refuses or fails to comply with ICC requirements, the ICC should refer the state to ASP or UNSC for persuasion or sanction. However, the referred state can also take countermeasures such as creating ambiguity in interpretation or obtaining sympathy before ASP, UNSC, or other international platforms or a group of states, thus undermining ICC's reputation and delaying the overall process.

4. Statement of Hypotheses

To identify the factors hindering the arrest, this paper hereby makes the following hypotheses.

The first hypothesis is based on real-world observation and scholars' view, which is the ICC doesn't have enough jurisdiction over countries to execute arrest warrants so that the indicted head of the state can simply stay outside the ICC's jurisdiction to evade the arrest.

The second hypothesis reflects the scholar's view, which is the ICC's sole dependence on state cooperation for executing the arrest warrants is problematic, as the state can refuse to cooperate with the ICC due to multiple reasons, and the ICC doesn't have adequate countermeasures to enforce cooperation.

The third hypothesis is concluded from the statutory power's comparison between ICTY and ICC, indicating that the Rome Statute poses more institutional limitations to ICC than the ICTY Statute to ICTY, thus limiting ICC's statutory power.

5. Case Study Analysis

From ICTY to ICC, there were 4 arrest warrants issued on sitting heads of the states (see **Table 1**). Among the 4 indicted heads of the state, two of them are still at large, one was dead in the domestic conflict before his arrest, and one was arrested and surrendered to the ICTY only after he lost the position of president. In general, none of the arrest warrants on sitting head of the state were executed in time.

Table 1: Arrest Warrants on Sitting Heads of the State

Indictee	Issued Time	Status
Slobodan Milosevic	May 1999	Executed in 2001
Omar Al-Bashir	March 2009	At large
Muammar Gaddafi	June 2011	Terminated in 2011
Vladimir Vladimirovich Putin	March 2023	At large

(Source: International Criminal Court; International Criminal Tribunal for the former Yugoslavia)

5.1. Slobodan Milosevic

Compared with others, the arrest warrant of the President of the Federal Republic of Yugoslavia (FRY), Slobodan Milosevic, was the only relatively successfully executed warrant. According to the Case Information Sheet (IT-02-54) published by ICTY, Milosevic was indicted on 24, May 1999, for war crimes and crimes against humanity in Kosovo and was arrested and surrendered to ICTY in 2001 by the Yugoslav-Serbian police force after he was overthrown from the position of president in October 2000 [7]. Generally, the arrest warrant was issued on Milosevic as sitting head of the state but was only executed after he lost the position of President. From issuing an arrest warrant in May 1999 to his overthrow in October 2000, the ICTY didn't release any update about the arrest process nor take any action to facilitate the arrest. During that time, he concluded the Kosovo War under international pressure and called for an election under domestic political pressure. The arrest warrant remained undisclosed until today [8].

The follow-up ICTY instruction wasn't issued until January 2001, after Milosevic lost the position of President of FRY. After Milosevic's arrest in April, the president of FRY Kostunica initially refused to surrender Milosevic to ICTY according to Yugoslavia's constitution and extradition but eventually submitted under joint pressure from the ICTY and the international community.

5.2. Omar Al-Bashir

Two arrest warrants on Omar Al-Bashir, the former president of the Republic of Sudan, were issued in March 2009 and July 2010 during his tenure for crimes against humanity, war crimes, and genocide [9]. Unlike other prosecuted sitting heads of state who either died before the arrest or hid outside the ICC's jurisdiction, Bashir is by far the biggest stain on the ICC's reputation because he has been able to visit several ICC member states multiple times with impunity despite having two arrest warrants against him. From 2009 to 2019, Al-Bashir visited several ICC member states, including the Democratic Republic of Congo (DRC), Chad, Uganda, Djibouti, Jordan, Kenya, Nigeria, and South Africa. During his stay, Bashir didn't face any restrictions from the host country or managed to escape the country before the arrest was enforced [2].

In the process, although the ICC actively required the state parties to enforce arrest warrants and referred the non-cooperate cases to the UNSC and ASP, Bashir was still at large while the referred state parties took countermeasures to justify their non-cooperation before ASP, UNSC, or other international platforms [4]. In ten years, Bashir's visits triggered multiple referrals of non-cooperative state to UNSC and ASP, and a proposal from Kenya about amending the Rome Statute to stop prosecuting the sitting head of the state.

In Bashir's case, in addition to the fact that Sudan is not an ICC member state, his immunity as the sitting head was the major excuse for non-cooperation. This personal immunity was recognized not only by their national law but also by the bounding international agreements they share. Under the different recognition of immunity, the ICC's principle of complementarity (Rome Statute Article 27 and Article 98) gives states the right to prioritize the national recognition of immunity [5]. Also, the consequence of arresting the sitting head of state on regional security and stabilities was an excuse for non-cooperation. Kenya, for example, addressed its role in regional security and stability in Sudan before the ASP and UNSC when it was referred by the ICC for non-cooperation, arguing that arresting Al-Bashir may bring destabilization to the Eastern African region [5].

5.3. Muammar Gaddafi

The arrest warrant for Muammar Gaddafi was issued in June 2011, during the First Libyan Civil War. Muammar Gaddafi, recognized by the ICC as the acting head of the state, was indicted for two crimes against humanity [10]. After the arrest warrant was issued, the Libyan Authority immediately responded that the arrest warrant from the ICC had "no legitimacy" in Libya as the country doesn't recognize the ICC's jurisdiction [11]. On 29th October, Muammar Gaddafi was captured and killed by the Nation Transactional Commission (NTC) fighters before any action of arrest was taken, and two days later, the arrest warrant from the ICC was terminated.

To identify the failure to arrest Muammar Gaddafi, in addition to the absence of ICC's jurisdiction, the conflicting situation in Libya should be considered. On the one hand, Gaddafi's sudden death gave few times for the ICC to act. On the other hand, the ICC didn't cooperate with the capable forces to execute the arrest warrant in a conflicting situation due to its sole dependence on the state for execution. The limitation of state dependence can be identified in the prosecution of Saif Gaddafi following Muammar Gaddafi's death, where ICC served the arrest and surrender request of Saif Al-Islam Gaddafi on a non-government militia operating in Saif's hideout town, but later was rejected

by the Pre-Trial Chamber according to Rome Statute Article 57 [4]. As a result, Saif Gaddafi is still at large until today.

5.4. Vladimir Putin

The arrest warrant on Vladimir Vladimirovich Putin, the president of Russia, was issued on 27 March 2023 but remains non-disclosed. Vladimir Putin was indicted for the war crime of unlawful deportation and transfer of Children during the Russo-Ukrainian War [1]. As Russia withdrew from the Rome Statute in 2016 and hasn't ratified the ICC, the ICC doesn't have jurisdiction to enforce the arrest warrant on Putin as long as he stays outside the ICC's jurisdiction. Besides, his immunity as the sitting head of the state may also protect him from being arrested within ICC jurisdiction like Omar Al-Bashir [2].

However, unlike Bashir, Putin hasn't visited any state within the ICC's jurisdiction since the arrest warrant was issued. Until today, visiting South Africa for the 15th BRICS Summit was his only attempt to enter ICC jurisdiction, but it was eventually discarded. Even South Africa has made a declaration recognizing his immunity as head of state in advance. In other words, Vladimir Putin's freedom of movement has indeed been affected even with his immunity as sitting head of state.

The ICC is also delicate about arresting Putin. The ICC only announced the issuance of an arrest warrant against Putin via a press release [1] but did not publish the warrant or make any request for arrest. This "tell, but don't show" strategy appears to deliberately assist Putin in evading arrest rather than facilitating his arrest.

5.5. Why Does the Arrest Fail?

Reflecting on the four existing cases, some common factors that hinder the arrest can be identified.

First, among four cases, only ICTY has jurisdiction over the FRY in Milosevic's case, while the ICC has no jurisdiction over the countries where the other three indictees serve. Therefore, the ICC indictees can simply stay outside the ICC jurisdiction to avoid being arrested. Putin so far has played a significant example to testify this factor as he avoided visiting ICC member states but freely presented himself in other non-ICC member states like China, North Korea, and Vietnam. Bashir also took advantage of the ICC's jurisdictional limit, fleeing to non-member states to avoid arrest before the ICC required member states can enforce the arrest [12].

Second, the non-cooperation from the countries was evident in all four cases, including drawing Berlin's division [3], the "target countries", and related "third-party countries". Regarding the target countries, the countries outside the ICC's jurisdiction (Russia, Libya, and Sudan) refused to comply with the ICC as soon as the arrest warrant was issued. FRY, as the country within the ICTY jurisdiction, didn't take action to arrest Milosevic during his tenure (1999-2000) [13]. Even after his overthrow and arrest, the government of FRY still refused to surrender him to ICTY in the first place. Regarding the non-cooperation from the "third party" states, Omar Bashir has more than once proved that the states within ICC's jurisdiction can refuse to cooperate with the ICC's arrest requirement due to the recognition of immunity and the potential consequences of arresting a sitting head of the state [2,5,12]. South Africa discarded its obligation to ICC and claimed to respect Putin's immunity before his potential visit as President Ramaphosa considered arresting Putin would be a "declaration of war" [14].

Third, neither ICC nor ICTY took immediate interference to facilitate the arrest. In the three ICC cases, after the arrest warrant was issued, the ICC only required the state to execute the arrest and wait until things changed. ICTY didn't act during Milosevic's tenure until his overthrow and arrest. Theoretically, ICTY has better institutional flexibility than ICC in interference, as the ICTY Statute (Article 19; Article 29) and ICTY RPE (Rule 59; Rule 59bis) jointly framed the legal basis of

cooperating with functional third-party force to execute the arrest [6,15]. Other than Milosevic's case, the cooperation with NATO-led multinational forces played a successful role in arresting and surrendering the indictee when ICTY operated in conflicting North Balkan [6]. ICC, on the contrary, when operating in conflicting Libya, its only attempt to cooperate with the functional non-government militia to arrest and surrender Saif Gaddafi was rejected by the PTC according to Article 58 [4]. The importance of immediate and effective interference grows evident as the ICC is getting more involved in conflicting countries. ICTY has provided an interference model of cooperating with functional third-party forces to execute the arrest, which has proven useful in substituting the state's function in the ongoing conflict. Therefore, hypothetically, if ICC could cooperate with the functional force or de facto authority in Libya, like NTC, would things be different? When Gaddafi is pulled out of his hideout sewer, will NTC fighters arrest him and hand him over to the ICC rather than execute him? Although there won't be a definite answer, passive waiting has been proven to delay timing.

Finally, facing the non-cooperative state, the effective countermeasure of the tribunals also determines the result of the arrest. Both the ICTY and the ICC aim to put pressure on non-cooperative countries by referring them to the international community (through UNSC or ASP), but the results are different: ICTY with the international community pressured the FRY into surrendering Milosevic, while ICC's referral in Bashir's case led to endless debate before UNSC and ASP [4].

The major contributor to these diversified outcomes is the balance of political power behind the tribunals. The ICTY was created with a top-down approach by UNSC Resolution 827, reflecting the commitment of the UNSC and backed up by the major political power from UNSC permanent members [16]. The ICC, however, was established in a bottom-up approach by a treaty, the Rome Statute, ratified by a group of countries with major political powers in the world (e.g. the US, China, Russia). Comparing the cases of Milosevic and Bashir, the pressure from the international community on FRY was significantly larger than the pressure on non-cooperative countries in Africa: The FRY government faced joint pressure from the world's major political powers like the EU and the US in which the US's threat of cancelling financial aid from the IMF and World Bank played a vital role in submitting the FRY government [17]. In Bashir's case, however, the referral to UNSC and ASP couldn't call up enough pressure to bring non-cooperative countries into compliance because the absence of strong political powers left the space for states "manipulating political capital" [4] to protect their national interests and stick the ICC's countermeasure into a "dilemma of collective action". From this perspective, unfortunately, the overall success of arresting the sitting head of the state lies not in the tribunals themselves but in the balance of political power behind each arrest warrant.

6. Recommendations

Based on the identified factors from case studies, this paper hereby makes the following recommendations:

First, the ICC should seek to include more state parties in the Rome Statute, especially countries with strong political power and influence. By including more state parties, the room for indictees to evade arrest can be reduced, and the supportive political power behind the court can be strengthened. However, as the ICC cannot include the state to Rome Statute by itself, it needs to act to "attract" states. Take Ukraine, a non-Rome Statute state party that has accepted the ICC jurisdiction in 2014 to investigate the alleged crimes that happened during the civil conflict. As an example, states in conflict are more likely to accept the jurisdiction of the ICC to complement their ability to achieve criminal justice. Therefore, the ICC should continue its involvement in ongoing conflicts and make efforts to improve the justice enforcement capability in a conflicting situation, which leads to the second recommendation.

Second, the ICC should draw experience from ICTY, and reform its cooperation model by authorizing cooperation with functional non-state forces to execute the arrest warrant. The sole dependence on state cooperation for executing the arrest warrant can be undermined by the state's unwillingness or incapability. As the ICC is getting more involved in the ongoing conflict, the execution of arrests is also hindered by uncertainty and fleeting timing. Cooperation with functional non-state actors, including international organisations, non-government forces, and *de facto* authorities operating on the territory, can allow the ICC to substitute the state's function in executing the arrest warrant as well as to timely interfere during the ongoing conflict. Regarding cooperation with non-state actors, the Rome Statute doesn't have explicit denial or approval. Article 87(6) grants flexibility to the ICC in cooperating with intergovernmental organizations for information and "other forms of cooperation and assistance", while Article 57(3) grants the Prosecutor discretion to launch investigations on the territory without state cooperation. Therefore, the ICC only needs to reexplain Article 87(6) to specify the cooperation with international organisations in executing arrest warrants. However, due to the previous denial in Saif Gaddafi's case, cooperation with non-government forces and *de facto* authorities may require amending the Rome Statute [18].

Third, as arresting the sitting head of the state is opposed by many states due to the immunity granted by international laws and the serious diplomatic consequences, the ICC can also consider stopping issuing arrest warrants on sitting head of the state as a practical response to reality or wait until the indictee step down from the position.

7. Conclusion

For all international criminal tribunals, due to the absence of law-enforcement abilities, the arrest must be executed by capable non-tribunal actors. The separated judiciary and law enforcement essentially reduce the efficiency of the execution of arrest warrants, especially when the subject of arrest enjoys a superior official position and is protected by personal immunity. The ability of the tribunal to cooperate with capable and willing actors is critical to the execution of arrests.

In the four cases, the state as the main arrest warrant executor is generally negative about the arrest and transfer of a sitting head of state due to various reasons such as its national interest, immunity, and diplomatic consequences. Thus, compared with ICTY's flexibility in cooperating with international bodies to execute the arrest, the ICC's sole dependence on the state would more likely lead to failure. Besides, in contrast to the ICTY as the UNSC's specially mandated tribunal for the former Yugoslavia, the ICC doesn't always enjoy support from strong political powers and is often hindered by its limited jurisdiction. These drawbacks mean that if the ICC wants to improve the arrest of a sitting head of state, it must strengthen its statutory power to deal with complicated situations or, it has to submit to reality and wait until the indictee loses its position as the sitting head of the state to improve the feasibility of arrest.

References

- [1] ICC. 2023. "Situation in Ukraine: ICC Judges Issue Arrest Warrants against Vladimir Vladimirovich Putin and Maria Alekseyevna Lvova-Belova | International Criminal Court." March 17, 2023. <https://www.icc-cpi.int/news/situation-ukraine-icc-judges-issue-arrest-warrants-against-vladimir-vladimirovich-putin-and-maria-alekseyevna-lvova-belova>.
- [2] Ekori, Aghem Hanson, and Paul S. Masumbe. 2022. "Putin on Trial: The Reality of Heads of State Immunity before International Criminal Courts." *Polit Journal Scientific Journal of Politics* 2 (1): 29–36. <https://doi.org/10.33258/polit.v2i1.621>.
- [3] Berlin, Mark S. 2016. "Why (Not) Arrest? Third-Party State Compliance and Noncompliance with International Criminal Tribunals." *Journal of Human Rights* 15 (4): 509–32. <https://doi.org/10.1080/14754835.2015.1103160>.
- [4] Rastan, Rod. 2020. "Can the ICC Function without State Compliance?" In *The Elgar Companion to the International Criminal Court*, 147–79. Edward Elgar Publishing. <https://www.elgaronline.com/edcollchap/edcoll/9781785368226/9781785368226.00015.xml>.

- [5] Jalloh, Charles Chernor. 2014. "Reflections on the Indictment of Sitting Heads of State and Government and Its Consequences for Peace and Stability and Reconciliation in Africa." *African Journal of Legal Studies* 7 (1): 43–59. <https://doi.org/10.1163/17087384-12342040>.
- [6] Zhou, Han-Ru. 2006. "The Enforcement of Arrest Warrants by International Forces: From the ICTY to the ICC." *Journal of International Criminal Justice* 4 (2): 202–18. <https://doi.org/10.1093/jicj/mqi086>.
- [7] ICTY. n.d.-b. "Milošević, Slobodan (IT-02-54) | International Criminal Tribunal for the Former Yugoslavia." Accessed June 30, 2024. https://www.icty.org/en/case/slobodan_milosevic.
- [8] ICTY. 1999. "President Milosevic and Four Other Senior Fry Officials Indicted for Murder, Persecution and Deportation in Kosovo. | International Criminal Tribunal for the Former Yugoslavia, " May 27, 1999. <https://www.icty.org/en/sid/7765>.
- [9] ICC. 2010. *Second Warrant of Arrest for Omar Hassan Ahmad Al Bashir*. International Criminal Court.
- [10] ICC. 2011. "Warrant of Arrest for Muammar Mohammed Abu Minyar Gaddafi | International Criminal Court." June 27, 2011. <https://www.icc-cpi.int/court-record/icc-01/11-13>.
- [11] BBC News. 2011. "Libya: Muammar Gaddafi Subject to ICC Arrest Warrant, " June 27, 2011, sec. Africa. <https://www.bbc.com/news/world-africa-13927208>.
- [12] Kiyani, Asad G. 2013. "Al-Bashir & the ICC: The Problem of Head of State Immunity." *Chinese Journal of International Law* 12 (3): 467–508. <https://doi.org/10.1093/chinesejil/jmt035>.
- [13] ICTY. n.d.-c. "Milosevic Slobodan Case Information Sheet." ICTY.
- [14] Booty, Natasha, and Will Ross. 2023. "Arresting Vladimir Putin in South Africa Would Be 'Declaration of War', Says Ramaphosa." *BBC News*, July 18, 2023. <https://www.bbc.com/news/world-africa-66238766>.
- [15] United Nations. 2009. *UPDATED STATUTE OF THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA*.
- [16] BBC News. 2001. "Milosevic Arrested, " April 1, 2001. <http://news.bbc.co.uk/2/hi/europe/1254263.stm>.
- [17] United Nations. 2015. *ICTY RULES OF PROCEDURE AND EVIDENCE*. IT/32/Rev.50.
- [18] International Criminal Court. 1998. *Rome Statute of the International Criminal Court*. Vol. ISBN No. 92-9227-227-6.