

The Final Round¹

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Resolved: The US should join the International Criminal Court.

A Note about the Notes

I've reproduced my flow chart for the Final Round at Simsbury High School augmented by what I remember from the debate. The notes are limited by how quickly I could write and how well I heard what was said. I'm sure the debaters will read them and exclaim, "That's not what I said!" I apologize for any errors, but I hope debaters will appreciate this insight: what a judge hears may not be what they said or what they wish they had said.

There are two versions of the notes. The one below is chronological, reproducing each speech in the order in which the arguments were made. It shows how the debate was actually presented. The second is formatted to look more like my written flow chart, with each contention running across the page as the teams argued back and forth. It's close to the way I actually take notes during the debate.

The Final Round

The Final Round was between the Farmington High School teams of Allen Haugh and Dylan Suffredini on the Affirmative and the Daniel Hand High School team of Sam Thorpe and Isabella Reynolds on the Negative. The debate was won by the Negative.

1) First Affirmative Constructive

- a) Introduction
- b) Statement of the Resolution
- c) Definition: resolution means the US ratifies the 2002 Rome Statute
- d) A1²: ICC prosecutes cases where others do not
 - i) ICC is the court of last resort sectarian violence, genocide, war crimes
 - ii) E.g., Joseph Kony in Uganda, al-Bashir in Sudan
 - iii) Over 40 prosecutions, 5 convictions, 20 ongoing trials
- e) A2: ICC is reforming to become more relevant
 - i) The head prosecutor, Bensouda, has expanded the crimes investigated
 - ii) E.g., human trafficking, cultural heritage
 - iii) E.g., conviction of those responsible for destroying shrines in Timbuktu
 - iv) This show the court can be an effective solution
- f) A3: A1 and A2 imply the US should join the ICC

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² "A1" indicates the Affirmative first contention, "N2" the Negative second contention and so forth.

- i) Adding the US will expand the jurisdiction of the court
 - ii) This means more prosecutions
 - iii) Moral declaration by the US, enhancing our prestige, as did the Nuremberg trials
- 2) Cross-Ex of First Affirmative**
- a) Hasn't the court begun to investigate the US? Bensouda has said she would consider whether war crimes were committed in Afghanistan.
 - b) Al-Bashir and Assad have not been brought to justice, so how is ICC positive? Their crimes have been recognized. ICC has no police power, but US membership could help enforcement
 - c) How many have actually been convicted? 4, with 1 dropped, crimes including war and genocide
 - d) You say there have been positive reforms? Yes
 - e) Is Bensouda's policy part of the Rome Treaty? She has prosecutorial discretion.
 - f) So she can widen scope as she sees fit? Things like the UN Convention on Human Rights, Cultural Heritage, provide guidance, and led to the Timbuktu convictions.
- 3) First Negative Constructive**
- a) Intro
 - b) Resolution
 - c) Neg accepts Aff definition
 - d) N1: ICC inherently limited by the Rome Statute
 - i) ICC has two hard limits
 - (1) Only applies to States that have ratified the treaty, or
 - (2) Situations referred to it by a unanimous vote of the UN Security Council
 - ii) (2) almost never happens, so ICC is often unable to prosecute
 - iii) The Statute lacks an enforcement mechanism
 - (1) Relies on cooperation by member states
 - (2) Under-funded and under-staffed, often told not to act
 - (3) E.g., Sudan President al-Bashir remains at large
 - iv) ICC action is symbolic at best
 - e) N2: Past actions have diminished the status of the court
 - i) Many countries are leaving or unwilling to cooperate
 - ii) All those tried have been from Africa
 - iii) Venezuela, Colombia and the US have been ignored
 - iv) As a result, nations are withdrawing
 - f) N3/Counterplan: US will lead a new court with different bylaws.
 - i) Court run by judges, one from each country, but 50% of the member countries must approve each judge
 - ii) If 2/3rd of the judges rule a crime has been committed, the court has jurisdiction
 - iii) UN Peacekeepers will enforce court orders
- 4) Cross-Ex of First Negative**
- a) Why not just reform the ICC? The Rome Statute limits the court.
 - b) Aren't all ICC judges appointed by members? Yes
 - c) Doesn't ICC prosecutor decide on crimes, vs 2/3rd of judges in you plan? Yes

- d) Aren't UN Peacekeepers under control of UN Security Council? Not in all areas.
- e) Won't they only act when it's easy? No, when there is a clear crime.
- f) Will they invade Syria to arrest Bashar al-Assad? They will assist the court
- g) So they will be sent to Syria? Yes
- h) By the UN Security Council? Yes
- i) Isn't any court dependent on the executive to enforce? [TIME]

5) Second Affirmative Constructive

- a) Intro
- b) Resolution
- c) N1: Limits prevent the court from infringing on sovereignty
 - i) E.g., invading countries to enforce court rulings could be a problem
 - ii) A2 shows the court is young, but expanding its role
 - iii) E.g., crimes against humanity, corruption, destruction of artifacts have been added
 - iv) Courts are not the police, don't go apprehending those they convict
 - v) Neg would invade Syria, get into a quagmire costing thousands of lives to catch one person
- d) N3/CP: Debate is about the ICC, not a new court
 - i) US membership in ICC would be a positive
 - ii) Would Russia or China join US in their new court? No.
- e) N2: Africa can't police these crimes, that why the ICC has
 - i) In Uganda, gov't powerless against Kony
 - ii) Other regions have infrastructure and rule of law

6) Cross-Ex of Second Affirmative

- a) You say the ICC acts only when others cannot or will not, so shouldn't it act if the gov't commits the crime? Yes, but it should invade countries
- b) How can it act? It can convict the guilty, as it has done already
- c) The ICC only operates in countries without structure? Yes, no rule of law.
- d) So only in Africa? No. They are investigating in Afghanistan
- e) Why not Latin America? Europe? Asia? Don't really know, but different factors. No big failure of law in Latin America. In Uganda, low GDP.
- f) What are UN Peacekeepers used for? Settle conflicts. But no invasion since the Korean War

7) Second Negative Constructive

- a) Intro
- b) Resolution
- c) When should an international court use violence?
 - i) UN Security Council is unlikely to resist a decision by 2/3rd judges.
 - ii) The ICC has no "executive branch" to enforce decisions
 - (1) Most cases arise in areas with the least government
 - (2) ICC can convict but not enforce, therefore not detain or try
 - (3) This is why the ICC is ineffective
 - iii) Violence would be used sparingly
 - iv) Aff agreed it should be used to stop genocide and human rights violations
 - v) Neg fixes problems with the ICC
- d) A1: ICC is ineffective as it can't detain and try suspects

- i) Only 4 convictions since 2002
- e) A2: Bylaws still limit ICC, so also limit reform
 - i) No access to nations that aren't members
 - ii) No ability to use force
- f) A3: Depends on A1&A2, so falls if they fall
 - i) No reason for US to join ICC
- g) N1: due to the nature of the ICC, these crimes will continue
- h) N2: only Africans have been tried
 - i) Any other investigations are not an exception to this
- i) N3/CP: ICC is like the League of Nations
 - i) A good idea in its time that failed without US support
 - ii) CP is like the UN: wider scope and enforcement powers

8) Cross-Ex of Second Negative

- a) ICC is limited by its bylaws? Yes
- b) Can you name any bodies not limited? The issue is specific to the ICC
- c) Couldn't the UN authorize Peacekeepers now? That's only one aspect.
- d) So they could do it now? US, Russia and China would all have to agree
- e) Wouldn't the US, Russia and China have to agree in your CP? [I DIDN'T CATCH THE REPLY]
- f) Is the problem the UN or the US? Our court is a more effective version of the ICC
- g) Will your court be governed by the UN or not? It will operate in accordance with the UN, not governed by it.
- h) How does a non-UN body get UN Peacekeepers? Anyone can do so now.
- i) How will the US lead this? At the moment, no one is leading

9) First Negative Rebuttal

- a) Aff has not refuted our point on the ICC African bias
 - i) There have been no 1st world prosecutions
 - ii) ICC can't or will not prosecute US or Russian torture
 - iii) Neither country's own judiciary has acted
- b) Bylaws limit the ICC
 - i) Aff says this is in the past
 - ii) Neg notes sometimes you need to use force
 - iii) Under Neg CP, if UN Security Council votes it will enforce decisions
- c) Aff arguments about ICC effective prosecutions
 - i) Neg court will have greater scale and scope
 - ii) ICC has failed: some good work, but not enough
 - iii) ICC has stood by while holocausts have occurred in Darfur and Syria

10) First Affirmative Rebuttal

- a) Compare the ICC w/US to the Neg CP
 - i) Neg just replaces ICC
 - ii) Neg court clashes with N1 and N2
 - iii) Countries appoint judges in both
 - iv) Both need UN Security Council approval to use force
 - v) 2/3rd vote? 51% vote? What's the difference
 - vi) Will the new court be run by the US or the UN? Neg is not clear

- b) N1: compared to the ICC, Neg court starts at 0
 - i) New court really has no new enforcement mechanism
 - ii) Neg has to hope everyone votes the right way
 - iii) On Aff side, it's clear US joins the ICC
 - iv) On Neg side it's not clear who will join
- c) A1: ICC has already sent war lords and genocides to prison
- d) A2: ICC is being expanded and reformed
- e) A3: If the US joins, the ICC will be even better

11) Second Negative Rebuttal

- a) Intro
- b) Plan does not equal the CP
 - i) ICC is limited in scope and cannot change this
 - (1) Jurisdiction, actions, dependence on UN Security Council
 - ii) Even if Aff had the power, ICC couldn't use it
- c) CP vs N1 and N2
 - i) N1 is based on ICC limits the new court won't have
 - (1) More actions will be taken in more countries
 - ii) N2, note human rights offenses occur world-wide
 - (1) ICC has only acted in Africa
 - (2) CP court can go everywhere
 - (3) Developed nations won't be above the law
- d) ICC cannot be fixed
 - i) Problems are ingrained
 - ii) US would carry the cost of failure if it joined

12) Second Affirmative Rebuttal

- a) Intro
- b) Resolution
- c) Why should the US carry the cost of a new court?
- d) Neg has presented no examples of untried crimes in countries without ICC jurisdiction
- e) CP has no specific changes versus the ICC
 - i) Same UN Security Council oversight
 - ii) Same judicial issues
 - iii) Same crimes
- f) CP is not feasible
 - i) Neg sounds like it is defending the ICC
 - ii) No examples of different bylaws were provided
 - iii) No list of genocides that have not been tried
 - (1) ICC has only convicted 5 as genocide is rare
- g) If the US joined the ICC, others would follow
 - i) This would increase justice for all