

Accountability for Human Rights Abuses in Authoritarian Regimes? The Insufficiency of International Justice Institutions: A Critical Look at Syria, China, and Russia

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ABSTRACT

One of the key motivations behind the establishment of international justice institutions was accountability for countries to act within the confines of “international norms.” Egregious violations of human rights occurring in a country should reasonably be protected against by international justice institutions. However, this paper will argue that these institutions have been insufficient to deal with the violations of human rights occurring across the world in authoritarian regimes, specifically in China and Syria. Conversely, the current conflict with Russia’s invasion of Ukraine will be used to explore the idea that there is an opportunity for international justice institutions to capably provide accountability. The paper will conclude with suggestions on how international justice mechanisms can be best engaged to provide accountability for violations of human rights in authoritarian regimes.

I. INTRODUCTION

This paper will address the following inquiry: given the rise of authoritarian regimes over the past decade, to what degree have international justice institutions been capable of providing accountability for ongoing violations of human rights occurring across the world? In analyzing this question, three specific countries will serve as case studies: Syria, China, and Russia. These countries provide different perspectives of authoritarian regimes, all of which are currently, or have in recent history, committed human rights violations on a significant scale. An in-depth evaluation of the international justice institutions which are supposedly tasked with creating accountability for human rights abuses is necessary to evaluate whether the institutions are actually living up to the job. This paper will address the varying degrees to which these institutions have proved insufficient, and the

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devesting consequences of such inadequacy on the victims of human rights violations. Some potential explanations that account for these institutions' failures will be explored throughout the paper. The paper will conclude by offering some potential solutions for the international justice mechanisms to promote greater accountability.

Before beginning the analysis, this paper will explore the background on the international justice institutions as well as the countries serving as case studies. The international justice institutions this analysis will cover are the International Criminal Court, Hybrid Tribunals, and the UN Human Rights Council. These three institutions each employ various mechanisms in attempts to hold countries and individual perpetrators accountable for human rights violations.

This paper focuses on authoritarian regimes in connection to international justice mechanisms, because in many cases, those living under an authoritarian regime have no substantive accountability measures at a domestic level.¹ This poses a problem specifically in the human rights context because victims of human rights abuses must rely on international institutions for protection / some semblance of justice when the authoritarian regime in power is the one committing, or furthering, the violation of human rights.² The countries of China and Syria provide worthy examples of authoritarian regimes in which human rights abuses are being committed with little to no oversight domestically.³ Therefore, international justice mechanisms should step up to provide the needed accountability and protection for the human rights of Syrian and Chinese citizens.

II. BACKGROUND ON THE AUTHORITARIAN REGIMES OF SYRIA AND CHINA

In Syria, the rise of the current authoritarian regime began in 2011 with the start of the Syrian Revolution. It was initiated by human rights abuses that were occurring in the capital of Damascus in March of 2011.⁴ The attempted peaceful revolution quickly turned into an armed insurgency, and an attempt to establish a new constitutional order was made on February 15, 2012 by Bashar al-Assad.⁵ However the "democratic" nature of the newly proposed constitution was highly suspect; in reality, the new constitutional amendments allowed the government to indirectly maintain

¹ See generally Omar El Manfalouty, *Authoritarian Constitutionalism in the Islamic World: Theoretical Considerations and Comparative Observations on Syria and Turkey*, in *AUTHORITARIAN CONSTITUTIONALISM: COMPAR. ANALYSIS & CRITIQUE* 95 (Helena Alviar Garcia & Günter Frankenberg eds., 2019).

² See generally *id.* at 104.

³ See generally *id.*; see generally Stan Hok-wui Wong & Minggang Peng, *Petition and Repression in China's Authoritarian Regime: Evidence from a Natural Experiment*, 15 *J. EAST ASIAN STUD.* 27 (2015).

⁴ Manfalouty, *supra* note 1, at 104.

⁵ *Id.*

control of the election and decide with whom power would be shared.⁶ The constitutional regime established was in all material ways a farce, and Syrians were arguably aware of this, as the previous constitution had also claimed to guarantee citizens' rights, yet failed to protect the citizens' ability to exercise those rights.⁷

However, the establishment of this new "constitutional" order had significant strategic implications for Syria's standing in the international community.⁸ The new constitutional amendments, while realistically useless, gave Syria the perceived democratic legitimacy necessary to avoid scrutiny on the world stage, particularly by the "West."⁹ This is a crucial issue within the discussion of international justice mechanisms, as Syria was able to counteract some international scrutiny while effectively still running an authoritarian regime that continued to commit egregious human rights abuses with little to no domestic or international accountability.

China provides another example of an authoritarian regime which abuses its totalitarian power to restrict the human rights of its people.¹⁰ Human Rights Watch¹¹ called China an "authoritative one-party state that imposes sharp curbs on freedom of expression, association, and religion" in its annual report in 2012.¹² China's authoritarian regime is able to repress and censor domestic and international mechanisms from reporting information that would expose to Chinese citizens the extent to which human rights abuses are occurring in the country.¹³ While these restricted rights may not reach the extent of the violence and abuse that faces citizens in Syria, they are still quintessential human rights which citizens in China should be free to exercise. The restriction of information available to citizens can have devastating effects on individual's ability to recognize if their rights are being violated.¹⁴

In his article addressing the effect of international pressure on authoritarian regimes committing human right abuses, Gruffydd-Jones argues that restriction of information further perpetrates the power of the

⁶ *Id.* at 106.

⁷ *Id.* at 107.

⁸ *Id.* at 108.

⁹ Manfalouty, *supra* note 1, at 108.

¹⁰ See generally Jamie J. Gruffydd-Jones, *Citizens and Condemnation: Strategic Uses of International Human Rights Pressure in Authoritarian States*, 52(4) COMPAR. POL. STUD. 579 (2019), <https://journals-sagepub-com.ezproxy.law.uconn.edu/doi/pdf/10.1177/0010414018784066>.

¹¹ *Donate to Defend Human Rights*, HUM. RTS. WATCH (Sept. 6, 2022, 12:55 PM), <https://donate.hrw.org/page/86262/donate/1?locale=en-US> ("Human Rights Watch investigates and reports on abuses happening in all corners of the world. We are roughly 450 people of 70-plus nationalities who are country experts, lawyers, journalists, and others who work to protect the most at risk, from vulnerable minorities and civilians in wartime, to refugees and children in need. In order to maintain our independence, we accept no money from any government.")

¹² *World Report 2012: China*, HUM. RTS. WATCH (Sept. 6, 2022, 12:58 PM), <https://www.hrw.org/world-report/2012/country-chapters/china-and-tibet>.

¹³ Gruffydd-Jones, *supra* note 10, at 583.

¹⁴ See generally *id.* at 581.

authoritarian regime.¹⁵ He illustrates how the state-media is able to influence the way in which international criticism is reported, and prevent damage to the reputation of the country through reframing of the reports.¹⁶ Therefore, citizens within the country are much less likely to protest the repression of their human rights, as they are largely blind to the fact that said repression is occurring, and the power of the authoritarian regime can continue to thrive.¹⁷ Gruffydd-Jones's article illustrates how the international pressures opposing China's human rights abuses are fundamentally insufficient because of the control China's government has over the media, clearly illustrating the need for active intervention by international justice mechanisms.¹⁸

III. BACKGROUND ON THE INTERNATIONAL JUSTICE MECHANISMS

A. *The International Criminal Court*

For purposes of this analysis the “international justice mechanisms” discussed are the International Criminal Court¹⁹ (“ICC”), Hybrid Tribunals,²⁰ and the UN Human Rights Council.²¹ The ICC has issues with the referral process of cases, as well as admissibility issues which cause significant barriers to accountability. To initiate proceedings under the ICC there are a series of “trigger mechanisms” laid out in Article 13 of the Rome Statute:²² “a referral by a State Party; a referral by the Security Council; and the opening of an investigation by the Prosecutor acting on his or her own initiative.”²³ Each of these triggers poses unique issues. First, States do not always want to admit that human rights abuses are occurring within their

¹⁵ See generally *id.*

¹⁶ *Id.* at 583.

¹⁷ See generally *id.* at 583–84.

¹⁸ See *id.* at 604.

¹⁹ *About the Court*, INT'L CRIM. CT. (last visited Sept. 6, 2022), <https://www.icc-cpi.int/about/the-court> (“The International Criminal Court (ICC) investigates and, where warranted, tries individuals charged with the gravest crimes of concern to the international community: genocide, war crimes, crimes against humanity and the crime of aggression.”).

²⁰ *Hybrid Courts and Tribunals*, PRITZKER LEGAL RSCH. CTR. NORTHWESTERN PRITZKER SCH. L. (last visited Sept. 6, 2022), <https://library.law.northwestern.edu/IntlCrimLaw/Hybrid> (“Hybrid courts and tribunals are institutions that are created to address particular situations for a limited amount of time, but their nature incorporates international and national features (mixed). These courts and tribunals are composed of international and local staff and apply a mix of international and national substantive and procedural law.”).

²¹ U.N. HUM. RTS. COUNCIL (Sept. 6, 2022 1:22 PM), <https://www.ohchr.org/en/hr-bodies/hrc/about-council> (“The Human Rights Council is an inter-governmental body within the United Nations system made up of 47 States responsible for the promotion and protection of all human rights around the globe. It has the ability to discuss all thematic human rights issues and situations that require its attention throughout the year. It meets at the UN Office at Geneva.”).

²² Rome Statute of the International Criminal Court, Jul. 17, 1998, 2187 U.N.T.S. 90. (The Rome Statute of the International Criminal Court is the treaty that established the International Criminal Court (ICC)).

²³ ROBERT CRYER ET AL., AN INTRODUCTION TO INTERNATIONAL CRIMINAL LAW AND PROCEDURE, 151 (Cambridge Univ. Press ed., 4th ed. 2019).

territory, but also issues can arise when a State refers a case to the ICC that might be better handled domestically.²⁴ Second, the Security Council referrals are significantly restricted by the veto powers of permanent members of the council (such as China and Russia), as well as a lack of funding for investigations by the Security Council.²⁵ Finally, initiation by the Prosecutor is imperfect as the Prosecutor has limited powers of investigation when first receiving a referral or communication, but must determine if there is a “reasonable basis to proceed with an investigation,” keeping in mind issues of admissibility, jurisdiction, and “interests of justice.”²⁶ This is a high bar to meet, and it is only after an investigation can be justified that the Prosecutor gains more substantial legal powers of action.²⁷

Arguably, the biggest issue when assessing the success of the ICC in promoting accountability is the jurisdictional / admissibility issue. The ICC has limited jurisdiction, covering only “the most serious crimes of international concern, genocide, crimes against humanity, war crimes and aggression (Article 5).²⁸” Additionally, the ICC only has jurisdiction over States that accept the ICC’s jurisdiction and nationals of a State which accepted jurisdiction.²⁹ Moreover, the ICC will only have an admissible case if the aspects of complementarity and gravity are sufficiently established.³⁰ The concept of complementarity means that if a case is already being prosecuted or investigated domestically than the ICC cannot exercise jurisdiction.³¹ While the rationale of the complementarity principle is strong in theory, in the context of these authoritarian regimes it breaks down. This is due in large part to the fact that the human rights abuses are being perpetrated by the government, and therefore it is naïve to think that the government will bring a legitimate case against themselves. This means in theory a case could be brought domestically to ward off the jurisdiction of the ICC, but be a farce in that the domestic system has no intention of actually providing proper accountability.

Additionally, under Article 17, the gravity of the situation must be considered and four factors are applied by the Office of the Prosecutor: “(1) the scale of the crimes; (2) the nature of the crimes; (3) the manner of their jurisprudence; and (4) their impact.³²” After doing that analysis, if the crime is not “grave” enough, it will be inadmissible.³³ The limited investigatory

²⁴ *Id.* at 151–52.

²⁵ *Id.* at 152.

²⁶ *Id.* at 153–54.

²⁷ *See generally id.* at 155.

²⁸ *Id.* at 147.

²⁹ CRYER ET AL., *supra* note 23, at 149.

³⁰ *Id.* at 154.

³¹ *Id.* at 156.

³² *Id.* at 161.

³³ *Id.*

powers of the Prosecutor when first opening an investigation can mean that finding sufficient gravity to justify a formal case is challenging.³⁴ In considering these substantive requirements on the ICC, barriers to accountability become more apparent, especially when thinking about how powerful authoritarian regimes fit into this framework.

B. Hybrid Tribunals

Hybrid tribunals are courts established with elements of both international and domestic jurisdiction, composition, and law.³⁵ There are three pathways in which hybrid tribunals can be established:

(1) courts established by an agreement, being either bilateral agreement between a State and an international organization (such as the United Nations or the European Union) or a multilateral agreement between (regional) States; (2) courts established by an international transitional administration temporarily replacing weak or unavailable domestic institutions; and (3) courts established by a State under national law but with international support.³⁶

Hybrid tribunals function in complement to the ICC as they work in tandem with the domestic system of a state where Article 17 of the Rome Statute applies.³⁷ These tribunals have been established in part to counteract some of the deficiencies of the ICC, but also contain some of their own problems. For example, hybrid tribunals are important contributors to building domestic accountability, rule of law, and expanding the reach of domestic jurisprudence and international criminal law.³⁸ However, the cooperation of the relevant States is an essential element of the hybrid tribunal's ability to function, and this can be difficult to obtain in many circumstances.³⁹

Exploring this institutional deficiency is important when considering the positive public interest implications of a "successful" hybrid tribunal. The domestic framework of the hybrid tribunal offers a unique opportunity for domestic organizations to have a more influential role in the tribunal's implementation, including "public interest" organizations. Therefore, strong engagement by these organizations has the potential to encourage the cooperation of States in hybrid tribunals. Moreover, if there is significant public attention on the human rights abuses occurring in any

³⁴ See generally *id.*

³⁵ CRYER ET AL., *supra* note 23, at 174.

³⁶ *Id.* at 173.

³⁷ *Id.* at 198.

³⁸ *Id.* at 200.

³⁹ See generally *id.* at 199.

given regime, is becomes harder for a State to refuse hybrid tribunal jurisdiction without fear of significant public outcry and protest.

On the other hand, there are financial and structural deficiencies in the domestic system which can make it very challenging for the tribunals to sufficiently conduct investigations and trials at the level necessary for reasonable accountability.⁴⁰ Moreover, in the authoritarian context it would be easy for the state to simply refuse to cede jurisdiction to a hybrid tribunal in its territory, therefore effectively blocking the mechanism from its attempt on accountability.

C. *The Human Rights Council*

The Human Rights Council was established in 2003, after insufficiencies within the former UN Commission on Human Rights required a review of the method in which global threats to peace and security should be handled.⁴¹ Some important functions of the Human Rights Council are “making recommendations on the promotion and protection of human rights, contributing to the further development of international human rights law, and mainstreaming human rights within the UN System.”⁴² Additionally, the process of the council is supposedly cooperative and non-confrontational, which can incentivize countries to commit to being a part of the council.⁴³ China and Syria are both members of the Human Rights Council, and Russia was a member until the country was suspended on April 7, 2022.⁴⁴ Notably, China and Syria both voted against the suspension.⁴⁵

Once a country has joined the Human Rights Council there are three stages implemented to try to promote accountability for human rights violations.⁴⁶ First, a country must create a national report reflecting a self-assessment, which is then compared with the reports of UN treaty bodies, independent experts, NHRIs and NGOs.⁴⁷ This report is called a Universal Periodic Review (“UPR”).⁴⁸ Once the UPR “peer review” process is complete, an interview like process between the UPR Working Group, the other UN Member States, and the state under review takes place.⁴⁹ Throughout this dialog, questions, comments, and concerns are heard, and

⁴⁰ *Id.*

⁴¹ Jarvis Matiya, *Repositioning the International Human Rights Protection System: the UN Human Rights Council*, 36 COMMONWEALTH L. BULL. 313, 317 (2010).

⁴² *Id.* at 318–19.

⁴³ *See generally id.* at 320.

⁴⁴ *UN General Assembly Votes to Suspend Russia from the Human Rights Council*, U.N. (Apr. 7, 2022), <https://news.un.org/en/story/2022/04/1115782>.

⁴⁵ *Id.*

⁴⁶ *See generally* Matiya, *supra* note 41, at 321.

⁴⁷ *Id.*

⁴⁸ Junxiang Mao & Xi Sheng, *Strength of Review and Scale of Response: A Quantitative Analysis of Human Rights Council Universal Periodic Review on China*, 23 BUFF. HUM. RTS. L. REV. 1, 1 (2016-2017).

⁴⁹ *Id.* at 6.

recommendations for measures to be implemented are proposed to the state.⁵⁰ The state then must consent to certain recommendations.⁵¹ Four and half years later a follow-up process is integrated into the UPR framework, where states report on actions taken to improve their human rights conditions and whether the recommendations have been implemented.⁵² While the Human Rights Council methods of reporting and bringing attention to human rights violations have improved since the Commission on Human Rights, there are still significant deficiencies which counteract the Council's ability to promote accountability.⁵³

One major weakness of the Council is that the member states that make up the council are the same members judging behavior as those whose behavior must be judged.⁵⁴ The rationale is that those member states who have committed to being members are committed genuinely to a process,⁵⁵ but this is not a particularly persuasive argument when considering the activities of China, Syria, and Russia. Moreover, countries with strong "friendly" relationships with each other are engaging in "block voting" and giving only positive comments on reports without engaging in any substantial review.⁵⁶ This can significantly undercut the legitimacy of the Council's process because powerful countries that have relationships with other countries are realistically able to skirt accountability for human rights abuses when the other countries choose to not submit recommendations.⁵⁷

Additionally, once the recommendations are made, the country must accept the recommendations in order for their adoption to be enforced in any capacity.⁵⁸ These limitations of the institution can be exploited by powerful regimes like China, Russia, and Syria and illustrate that the Council cannot be individually relied on to obtain sufficient accountability for human rights abuses.

IV. APPLICATION OF THE CASE STUDY OF SYRIA

A. *Background on the Human Rights Abuses Occurring*

The human rights abuses occurring in Syria are widespread and horrific, but importantly, are also very well-known to the international

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.* at 6–7.

⁵³ See generally Matiya, *supra* note 41, at 321.

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.* at 319.

community.⁵⁹ The Syrian Civil War that began in 2011 has been traced as the start of more significant atrocities being committed against the civilian population.⁶⁰ The war subjected civilians to war crimes and crimes against humanity of drastic proportions including: “unlawful killings, arbitrary arrests and enforced disappearances, violations of children’s and women’s rights, illegal detentions and torture, use of illegal weapons [including chemical weapons], sieges, and destruction of property.”⁶¹ The human rights violations occurring in Syria are relatively well-documented, especially considering the government imposed media blockage which restricted first-hand reporting, created shortly after the war began.⁶²

Presumably to counteract the informational restriction, the U.N. Human Rights Council established the Independent International Commission of Inquiry on the Syrian Arab Republic, which was able to expose the human rights abuses occurring within Syria.⁶³ Through these investigations the U.N. reported over 100,000 Syrian casualties, and even additional injured parties.⁶⁴ Additionally, the report states 2.5 million refugees have escaped the State, and 6.5 million have been internally displaced within Syria.⁶⁵ These facts and figures illustrate the serious violations of human rights occurring in Syria, and how the international community is aware of what is occurring.⁶⁶

B. The ICC

As previously discussed within the context of the ICC, adequate jurisdiction must exist in order for a case to be brought forth to the Court, and unfortunately Syria is not a state party to the ICC.⁶⁷ The ICC Prosecutor cites jurisdictional issues as the primary reason behind not opening an investigation, and Syria has refused to voluntarily accept ad hoc jurisdiction of the Court.⁶⁸ Additionally, the Prosecutor refused to open an investigation *proprio motu*, finding that it would likely be a futile task, as those allegedly perpetrating the crimes against humanity and war crimes were Iraqi and

⁵⁹ See generally Nadia Shamsi, *Peace and Justice in the Middle East: Balancing International and Local Solutions to the Crises in Syria, Lebanon, and Palestine*, 3 *INDON. J. INT’L & COMPAR. L.: SOCIO-POL. PERSP.* 315, 329 (2016).

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.* at 330.

⁶⁵ Shamsi, *supra* note 59, at 330; (This source’s figures were based off of 2016, the more current figures are: 6.6 Million refugees and 6.7 internally displaces peoples). U.S.A. FOR U.N. HIGH COMM’R FOR REFUGEES, U.N. REFUGEE AGENCY, *Syria Refugee Crisis Explained*, (Feb. 5, 2021), <https://www.unrefugees.org/news/syria-refugee-crisis-explained/>.

⁶⁶ See generally U.S.A. FOR U.N. HIGH COMM’R FOR REFUGEES, *supra* note 65.

⁶⁷ Caroline Sweeney, *Accountability for Syria: Is the International Criminal Court Now a Realistic Option?*, 17 *J. INT’L CRIM. JUST.* 1083, 1087 (2019), <https://doi.org/10.1093/jicj/mqz049>.

⁶⁸ *Id.*

Syrian nationals holding prominent positions in ISIS.⁶⁹ Therefore, in order for accountability for the human rights abuses occurring in Syria to be pursued through the mechanism of the ICC, some changes must be made to the structure of the Court to address the jurisdictional issue.

In her paper “Accountability for Syria: Is the International Criminal Court Now a Realistic Option?” Dr. Caroline Sweeney argues that the Court’s Pre-Trial Chamber (“PTC”) decision involving the Rohingya people from Myanmar (a non-state party), and Bangladesh (a state party) could be adapted to work in the Syrian context.⁷⁰ The Court’s decision found that the ICC may exercise jurisdiction on a territorial basis over the alleged deportation the Rohingya people from Myanmar to Bangladesh.⁷¹ The legal support for the Court’s decision was based largely on that fact that an element or part of the alleged crime took place on the territory of a state party.⁷² This jurisdictional ruling could apply to the conflict in Syria because crimes under the purview of the ICC are being committed in Jordan (a state party to the ICC), but under the broader context of the Syrian conflict.⁷³

Therefore, the ICC may be able to gain temporal jurisdiction over the forced deportation of Syrians into Jordan because Jordan ratified the ICC Statute in 2002, and the deportations started in 2011.⁷⁴ Based on the new Myanmar precedent the ICC Prosecutor may begin a *proprio motu* preliminary investigation, and then must gain permission from the PTC before continuing a full investigation.⁷⁵ Before bringing the case to the PTC the Prosecutor must fulfill four requirements:

there is a reasonable basis to believe that a crime within the jurisdiction of the court has been committed (jurisdiction *ratione materiae* and *ratione temporis*); (ii) a precondition to the exercise of jurisdiction exists; (iii) the admissibility requirements of gravity and complementarity have been fulfilled; and (iv) there are no substantial reasons to believe that an investigation would not serve the interests of justice.⁷⁶

In regards to element of *ratione temporis*, it seems to be fulfilled easily; in June 2019, 660,330 Syrian refugees were registered in Jordan, and

⁶⁹ *Id.*

⁷⁰ *Id.* at 1083.

⁷¹ Prosecutor v. Bangladesh, ICC-RoC46(3)-01/18-37, Pre-Trial Chamber I, Decision on Prosecution’s Request for a Ruling on Jurisdiction under Article 19(3) of the Statute, ¶1, 78 (Sept. 6, 2018), https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2018_04203.PDF.

⁷² *Id.*

⁷³ Sweeney, *supra* note 67, at 1086.

⁷⁴ *Id.* at 1089.

⁷⁵ *Id.* at 1088–89.

⁷⁶ *Id.* at 1089.

it is projected that over one million Syrians have been displaced to Jordan since 2011.⁷⁷ Additionally, in considering the complementarity principle, there is no evidence that either Syria or Jordan have domestic prosecutions that are attempting to bring accountability for the unscrupulous displacement of Syrians.⁷⁸ However, in bringing a case to the PTC, the Prosecutor might struggle to prove the *ratione materiae* element, the PTC's decision could still be challenged, and the case must be proven that pursuing the case is in the "interests of justice."⁷⁹

Beginning with the issue of *ratione materiae*, "[a]rticle 7(1)(d) of the ICC Statute includes "[d]eportation or forcible transfer of population' amongst the crimes against humanity within the Court's subject matter jurisdiction.⁸⁰" In its interpretation in the Myanmar decision, the PTC found that two independent crimes could be incorporated by this language, "(i) deportation and (ii) forcible transfer of population."⁸¹ This is important as it means that deportation alone could constitute a crime against humanity, over which the ICC has jurisdiction.⁸² This interpretation is subject to debate within the international community, and should be expected to arise as an issue to be litigated if a case of this nature was brought by Jordan.⁸³ The *mens rea* and *actus reus* of deportation also must be sufficiently alleged in order for the PTC to hear the case.⁸⁴ Additionally, due to the nature of the Syrian conflict, proving that there was a specific government-sponsored policy to forcibly displace Syrians to Jordan is likely going to be more challenging than it was to prove in the Rohingya context.⁸⁵ If the government-sponsored element cannot be sufficiently alleged then the court will run into an 12(2)(a)-1095 issue.⁸⁶

In considering the interests of justice, issues such as the gravity of the crimes, interests of the victims, and feasibility should be considered.⁸⁷ The gravity of the atrocities being committed to Syrian refugees reasonably suggest that it would be within the interests of justice to pursue ICC accountability. Additionally, while it is unlikely that Syrian authorities will cooperate with an investigation, Jordan can be compelled to cooperate as it is a state party to the ICC, and collecting evidence should not be a challenge due to the dedication of NGOs and activists within Syria and Jordan.⁸⁸ With all those considerations in mind, while there are currently substantial

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ Sweeney, *supra* note 67, at 1113–14.

⁸⁰ *Id.* at 1089.

⁸¹ *Id.*

⁸² *Id.* at 1090.

⁸³ *Id.*

⁸⁴ *Id.* at 1091.

⁸⁵ Sweeney, *supra* note 67, at 1093.

⁸⁶ *Id.* at 1093–94.

⁸⁷ *Id.* at 1105.

⁸⁸ *Id.* at 1106.

obstacles to the ICC's ability to provide accountability for the human rights abuses that have been and are currently occurring in Syria, the new framework developed by the PTC in Myanmar may provide an avenue for accountability.⁸⁹

C. A Hybrid Tribunal

For the reasons discussed above, it is unlikely that a hybrid tribunal would be an effective mechanism for accountability for the human rights abuses occurring in Syria. Moreover, there has not been the attempt to establish one thus far. However, in 2016 the UN General Assembly did enact an "International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Those Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic since March 2011" with the intention of it helping to promote investigations and prosecutions for Syrian human rights abuses.⁹⁰ While this institution has some quasi-judicial qualities, in order for it to be valid exercise of the Security Council's powers, the authors argue it is simply assisting other states that have prosecutorial powers, and in that way is comparable to hybrid tribunals.⁹¹ The enabling resolution's language specifies that the Mechanism is intended to assist bodies that may have jurisdiction over the crimes being committed by collecting and sharing evidence in order to further cooperation by the international community.⁹²

However, there were two main objections during the drafting of this Mechanism, that it violated both Article 2(7) and Article 12 of the UN Charter.⁹³ Addressing the Article 2(7) issue, the Mechanism does not seem to violate the clause because it does not expand state's jurisdiction nor restrict Syria's jurisdiction, it merely intends to assist those with existing jurisdiction with accountability measures.⁹⁴ Moreover, Syria argued that the Mechanism violated Article 12 because the Security Council was still discussing the war in Syria and therefore the General Assembly should be barred from acting on the same issue.⁹⁵ This issue was evaluated by the President of the General Assembly, who looked at various sources and ultimately determined that "exercising" under Article 12(1) requires the Security to be "simultaneously, actually and actively — considering the issue" in order for it to be a problem.⁹⁶

⁸⁹ See *id.* at 1114.

⁹⁰ Christian Wenaweser & James Cockayne, *Justice for Syria? The International, Impartial and Independent Mechanism and the Emergence of the UN General Assembly in the Realm of International Criminal Justice*, 15 J. INT'L CRIM. JUST. 211, 212 (2017), <https://doi.org/10.1093/jicj/mqx010>.

⁹¹ *Id.* at 213.

⁹² *Id.* at 216.

⁹³ *Id.* at 218, 220.

⁹⁴ *Id.* at 219.

⁹⁵ *Id.* at 220.

⁹⁶ Wenaweser, *supra* note 89, at 222–23.

The legitimacy and legality of this Mechanism being upheld has potentially strong implications for accountability measures in Syria.⁹⁷ If implemented properly and effectively the Mechanism could provide a helpful gap-filling mechanism in Syria, as human rights abuses could be prosecuted via other interested parties and not require Syria to consent to a tribunal.⁹⁸ This provides an interesting example of an international accountability measure that may be more effective because it was seemingly created with the specific nuances of a conflict in mind as opposed to applying a broad framework that would be ineffective. Additionally, it is significant to note that this action was taken in response to the Security Council's failure / inability to act in regard to the Syrian conflict.⁹⁹

D. The Human Rights Council

Similarly, the UN Human Rights Council commissioned an independent body to create a report detailing the human rights violations occurring in Syria and to promote accountability.¹⁰⁰ The UN Human Rights Council expressly created an International Independent Commission of Inquiry on the Syrian Arab Republic (UNCOI) in March of 2011 to:

investigate all alleged violations of international human rights law since March 2011 in the Syrian Arab Republic...and, where possible, to identify those responsible with a view of ensuring that perpetrators of violations, including those that may constitute crimes against humanity, are held accountable.¹⁰¹

The UNCOI published its report on August 16, 2012, which found that egregious human rights violations were occurring in Syria, commissioned by government forces, the Shabbiha (a civilian militant group that supports Bashar al-Assad), and anti-government armed group.¹⁰² The report pointed to crimes against humanity, war crimes, and other violations of international humanitarian law being committed in Syria with "rampant impunity."¹⁰³ After the UNCOI released the report there was extensive conversation between those on the Human Rights Council and Syria regarding the findings, whereby Syria largely rejected the findings.¹⁰⁴

⁹⁷ *Id.* at 229.

⁹⁸ *Id.*

⁹⁹ *Id.* at 212.

¹⁰⁰ See generally Hillary W. Amster, *Report of the Independent International Commission of Inquiry on the Arab Syrian Republic*, 51 INT'L LEGAL MATERIALS 1381 (2012) (the report cited is that which was commissioned by the U.N. Human Rights Council).

¹⁰¹ *Id.* at 1381.

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ *Id.* at 1382.

In response, the Human Rights Council increased the UNCOI's mandate until December 2012 and further investigation was done into the alleged violations.¹⁰⁵ The updated report found additional human rights violations, as well as emphasized the severity of the earlier violations, painting a clear picture that accountability measures needed to be taken.¹⁰⁶ Some of the violations found were "crimes against humanity of murder and torture, war crimes, and gross violations of international human rights and humanitarian law, including unlawful killing, indiscriminate attacks against civilian populations, and acts of sexual violence."¹⁰⁷ However, the success of the report is unknown; while the UNCOI continues to report on the ongoing violations of human rights, the other UN bodies and international accountability institutions do not seem to be making any constructive progress in promoting accountability.¹⁰⁸

V. APPLICATION IN THE CASE STUDY OF CHINA

A. *Background on the Human Rights Abuses Occurring*

China provides another example of an authoritarian regime that is committing human rights abuses against its civilian population.¹⁰⁹ Specifically, the Falun Gong people have been significantly repressed by the Chinese government, as the practice of Falun Gong was outlawed in 1999. Since then, those practicing the religion have experienced significant human rights abuses.¹¹⁰ The practitioners of Falun Gong faced retaliation in the form of "torture, arbitrary detention, 're-education' through forced labor and forced psychiatric commitment, and possibly execution."¹¹¹ The Chinese government's rationale behind the persecution and repression of the followers of Falun Gong was the alleged threat they posed to the Communist Party.¹¹²

The mistreatment persisted past 2000 when the Chinese government signed the International Covenant on Civil and Political Rights, which was supposed to end the mistreatment, however, the agreement was never ratified and treatment of the people did not seem to improve.¹¹³ The ratification of this agreement was arranged in part by an agreement made with the United Nations High Commissioner for Human Rights, and

¹⁰⁵ *Id.*

¹⁰⁶ Amster, *supra* note 99, at 1382.

¹⁰⁷ *See generally id.* at 1381.

¹⁰⁸ *See generally id.* at 1382.

¹⁰⁹ *See generally* Mark J. Leavy, *Discrediting Human Rights Abuse as an "Act of State": A Case Study on the Repression of the Falun Gong in China and Commentary on International Human Rights Law in U.S. Courts*, 35 RUTGERS L. J. 749 (2004).

¹¹⁰ *Id.* at 756.

¹¹¹ *Id.*

¹¹² *Id.* at 757.

¹¹³ *Id.* at 762.

concerned parties from western countries traveled to China to take part in protest against the treatment of the Falun Gong.¹¹⁴ This illustrates the international community's awareness of the human rights abuses occurring in China, as well as the lack of an adequate response.

B. The ICC

Similarly to Syria in the case of China, the biggest barrier to accountability for the past and current violations of human rights via the International Criminal Court is that China is not a state party to the ICC.¹¹⁵ While China actively participated in the negotiations during the ICC's founding, the country declined to sign the Rome Conference, and has not since become a member.¹¹⁶ In expressing its opposition, China took issue with the jurisdiction of the ICC and the definition of the core crimes of the Court, especially that of the definition of crimes against humanity.¹¹⁷ Specifically, China claimed that the element of crimes against humanity, which did not require the conduct to be committed in a nexus to armed conflict, was contrary to customary international law.¹¹⁸ Since 1998, China has not changed its policy on the ICC and still has not ratified the statute, however the country has remained an active participant in international criminal justice mechanisms through its membership on the UN Security Council.¹¹⁹

This is an interesting contradiction, as China's involvement in the ICC process generally seems to suggest that they believe the Court is legitimate, however its refusal to ratify the statute illustrates the State's desire to keep ICC scrutiny away from its own territory. Without ratification of the ICC statute, China is theoretically able to avoid significant accountability for the human rights abuses occurring in the country as bringing a case against perpetrators under the jurisdiction of the ICC is nearly impossible. As previously discussed, if a state is not a party to the ICC, the Court is not able to gain jurisdiction over parties in the state unless jurisdiction is expressly granted.¹²⁰ Therefore, the international justice accountability measure of the ICC cannot be reasonably relied on to protect the human rights of those in China. Additionally, the factual background in

¹¹⁴ See generally *id.* at 762–63.

¹¹⁵ See generally *Statement of ICC Prosecutor, Karim A.A. Khan QC, on the Situation in Ukraine: Receipt of Referrals from 39 States Parties and the Opening of an Investigation*, INT'L CRIM. CT. (Mar. 2, 2022), <https://www.icc-cpi.int/news/statement-icc-prosecutor-karim-aa-khan-qc-situation-ukraine-receipt-referrals-39-states>. The Case Against China at the ICC, <https://eurasianet.org/the-case-against-china-at-the-icc>.

¹¹⁶ See generally Dan Zhu, *China, Crimes Against Humanity and the International Criminal Court*, 16 J. INT'L CRIM. JUST. 1021, 1021–22 (2018).

¹¹⁷ *Id.* at 1023.

¹¹⁸ *Id.* at 1024–25.

¹¹⁹ See generally *id.* at 1022.

¹²⁰ CRYER ET AL., *supra* note 23, at 149.

China is significantly different than Syria, i.e. the temporal jurisdictional pathway, and therefore other mechanisms to gain ICC jurisdiction do not seem to exist at this time.

C. Hybrid Tribunals

Considering the insufficiency of the ICC, hybrid tribunals can serve as a potential gap-filling mechanism in countries such as China. A state that has not agreed to ICC jurisdiction could still agree to a hybrid tribunal jurisdiction through regional organizations.¹²¹ Examples of these are the African Union or Arab League.¹²² Hybrid tribunals also have the ability to extend jurisdiction for more than the “three core international crimes namely genocide, crimes against humanity, [and] war crimes.¹²³” This can have powerful implications especially in the context of China because accountability could be found for the human rights abuses that do not necessarily fit the context of one of the core crimes.

However, in order to establish a hybrid tribunal, China must affirmatively consent, which, considering their history of eluding such international accountability mechanisms, consent seems unlikely. Moreover, because the crimes being committed against the followers of Falun Gong were state sponsored, domestic measures would be inherently biased and unreliable.¹²⁴ However, the establishment of a hybrid tribunal with the integration of some international norms and jurists could counteract that domestic impartiality, and promote fairness in the trials and verdicts.¹²⁵ Nevertheless, even if China was to establish a hybrid tribunal, the aforementioned insufficiencies of hybrid tribunals must also be considered in order to analyze if it would even be a sustainable method for accountability.

D. The Human Rights Council

China’s relationship to the third international justice mechanism, the UN Human Rights Council, provides an interesting case study of the UPR system.¹²⁶ Since the council’s founding, China has experienced two separate UPR rotations in 2009 and 2013.¹²⁷ Other member states took extraordinary interest in the two UPR reports of China, with a jump from 47 to 124 states involvement from 2009 to 2013, and an increase of issues addressed from

¹²¹ See generally Mathias Holvoet & Paul de Hert, *International Criminal Law as Global Law: An Assessment of the Hybrid Tribunals*, 17 TILLBURG L. REV. 228, 236 (2012).

¹²² *Id.*

¹²³ See generally *id.*

¹²⁴ *Id.* at 239.

¹²⁵ *Id.* at 240.

¹²⁶ Mao & Sheng, *supra* note 48, at 2.

¹²⁷ *Id.* at 9.

39 to 41.¹²⁸ Moreover, both developed countries and developing countries participated in the review, and China was one of the member states that received the most recommendations.¹²⁹ The issues that attracted the most attention were similar from the first UPR on China to the second; implementation of international instruments and the International Covenant on Civil and Political Rights (“ICCPR”).¹³⁰ Overall, the concerns of the state parties seemed to be with China’s lack of protection for the civil and political rights of its citizens and how that impacted the human rights situation of the country.¹³¹

However, in the second review, member states became more interested in human rights issues related to “[r]ights of the child, the right to education, freedom of religion and belief, and economic, social, and cultural rights”¹³² China received a total of 422 recommendations between both reviews, and accepted 259, which is a rate of 61.37%.¹³³ Notably, China accepted some recommendations in the second review that had been rejected in the first.¹³⁴ Conversely, China refused to accept some substantial recommendations that would have significant impacts on human rights. Some important examples include: (1) the ratification of core international human rights conventions such as the International Convention for the Protection of All Persons from Enforced Disappearance (“CPED”) and the International Convention of Civil and Political Rights (“ICCPR”); (2) the reforming of China’s political institutions to include the establishment of a National Human Rights Institution (“NHRI”); (3) extending a standing invitation to special procedures mandate holders; and (4) protecting ethnic minorities’ rights.¹³⁵

In regards to actual implementation of the recommendations, the MIA review found that “71 recommendations (51%) were not implemented, 19 recommendations (14%) were partially implemented, 4 recommendations (3%) were fully implemented, and no answer was received for 44 (32%) of the 138 recommendations in the first cycle of review.”¹³⁶ In comparison to the MIA of all 165 countries that were evaluated in the first cycle, the percentages were 48%, 30%, 18%, and 4% respectively.¹³⁷ Simply looking at those figures after the first review, China was behind implementation in comparison to the international community at

¹²⁸ *Id.* at 10.

¹²⁹ *Id.* at 10–11.

¹³⁰ *See generally id.* at 10.

¹³¹ *See generally id.* at 12.

¹³² Mao & Sheng, *supra* note 48, at 13.

¹³³ *See generally id.* at 22. For context, within the overall UPR process, there is a 74.2% acceptance rate of recommendations.

¹³⁴ *Id.* at 26.

¹³⁵ *Id.* at 27–28.

¹³⁶ *Id.* at 29.

¹³⁷ *Id.* at 30.

large.¹³⁸ However, there are some nuances to China's implementation of the UPR which must be considered when evaluating if the Council promoted substantial accountability for human rights abuses in the context of China. For example, China chose to implement in some capacity many recommendations that it had not actually accepted during the first review process, which illustrates some additional intention in meeting the expectations of the UPR.¹³⁹ Additionally, China is an active participant in the UPR process as a whole and offers extensive recommendations to other states, specifically in areas where China engages in best practices.¹⁴⁰

Nevertheless, China's seemingly involved participation in the UPR is not without its flaws. First, China tends to only accept and recommend actions that are not "positive," meaning that states would not have to take active and concrete actions by accepting them.¹⁴¹ This significantly undercuts the idea that state sponsored human rights abuses in China could be addressed through recommendations of a UPR. Similarly, China has a hard line rule that it will not accept recommendations that "specifically interfere with its own human rights policies."¹⁴² This accounts for some of the explanation behind why China's rate of acceptance of recommendations is lower than the international average.¹⁴³

China also avoids accepting recommendations that are precise, and opts to accept more general ones, allowing the country more leeway when adopting recommendations.¹⁴⁴ Finally, China's failure to give an implementation report on the recommendations raises a red flag, as it makes it practically impossible to determine if the human rights conditions have actually improved.¹⁴⁵ In conclusion, while China has been significantly involved in the U.N. Human Rights Council and subject to two separate UPR reports, the lack of review on the actual implementation of such reports undermines the accountability measure significantly.¹⁴⁶

VI. COUNTER-ANALYSIS USING RUSSIA AS A CASE STUDY

The examination of Syria and China provided analysis on the intricacies of some of the main international justice mechanisms illustrating broader message of this paper, that these institutions are largely insufficient to protect human rights in authoritarian regimes. However, as discussed, there are elements of these institutions that can be effective, and with some reform, accountability can be more successfully pursued in the international

¹³⁸ See generally Mao & Sheng, *supra* note 48, at 30.

¹³⁹ See generally *id.*

¹⁴⁰ See generally *id.* at 33.

¹⁴¹ See generally *id.* at 34.

¹⁴² *Id.* at 37.

¹⁴³ See generally *id.* at 37.

¹⁴⁴ See generally Mao & Sheng, *supra* note 48, at 37.

¹⁴⁵ See generally *id.* at 38.

¹⁴⁶ See generally *id.*

context. Looking at this issue from a current and relevant example is helpful in the analysis: Russia's recent invasion into Ukraine. Russia can be properly categorized as an authoritarian regime. More specifically, it has been referred to as a "new authoritarian system" because it controls its opponents with "illiberal legislation" and not solely violence.¹⁴⁷ When Russia invaded Ukraine on February 24, 2022, the international community immediately took notice.¹⁴⁸

A. *The ICC*

Starting with the ICC, as things stand there is some semblance of hope that some accountability could be obtained from the institution. But, the familiar issue of Russia not being a party to the ICC emerges. Additionally, Ukraine is not a party to the ICC.¹⁴⁹ However, Ukraine has extended jurisdiction to the ICC on two prior occasions, in April 2014, and September 2015, extending the jurisdiction of the ICC's examination with no stated end date.¹⁵⁰ Additionally, thirty-nine state parties to the ICC have referred the situation to the ICC Prosecutor and on February 28, he announced his intention to open an investigation.¹⁵¹ The opening of the investigation is encouraging, however, the Prosecutor is going to have an uphill battle in proving a case and actually prosecuting perpetrators for the heinous crimes being committed in this conflict, especially considering Russia will very likely not be a cooperative party.

The relatively quick nature in which the Prosecutor announced he will be opening an investigation into Russia also begs the question why this instance is different from the cases of Syria and China. In those contexts, no ICC investigation was started, and the reasoning given was similar to the jurisdictional issues that exist with Russia and Ukraine. The difference it seems is the international attention and scrutiny that Russia is facing. Based on Russia's actions in Ukraine, the ICC Prosecutor has already gotten thirty-nine referrals and the world is calling for accountability – that is not something easily ignored. Therefore, the argument can be made that it is not due to some newfound strength of the ICC but rather the international outcry being funneled through the ICC mechanism that might lead to accountability.

¹⁴⁷ Freek van der Vet, *When They Come for You: Legal Mobilization in New Authoritarian Russia*, 52 L. & SOC'Y REV. 301, 306 (2018).

¹⁴⁸ See generally The Visual Journalism Team, *Ukraine War in Maps: Tracking the Russian Invasion*, BBC NEWS (May 10, 2022), <https://www.bbc.com/news/world-europe-60506682>.

¹⁴⁹ Courtney Hillebrecht, *An International Court is Investigating Possible War Crimes in Ukraine. What Does that Mean, Exactly?*, WASH. POST (Mar. 21, 2022), <https://www.washingtonpost.com/politics/2022/03/21/ukraine-russia-icc-investigation/>.

¹⁵⁰ *Id.*

¹⁵¹ *Statement of ICC Prosecutor, Karim A.A. Khan QC, on the Situation in Ukraine: Receipt of Referrals from 39 States Parties and the Opening of an Investigation*, *supra* note 114.

B. Hybrid Tribunals

Next, the viability of the establishment of a hybrid tribunal to address this situation is worthy of consideration. The complex nature of this conflict may be better suited to be assessed by an individualized tribunal at the domestic level, which would not have the same jurisdictional concerns as the ICC.¹⁵² Ukraine, working in conjunction with the Council of Europe, could ask that, pursuant to Article 15(a) of the Statute, the Committee of Ministers recommend the establishment of a hybrid tribunal to investigate the crimes connected with Russia's invasion of Ukraine.¹⁵³ The tribunal would be established via treaty with the other members states of the Council of Europe, and would be ingrained in the Ukraine judicial system, with international monetary, investigatory, and staffing assistance.¹⁵⁴

This tribunal would have the advantages of domestic support as well as international resources, and could be established quickly so that the crimes occurring during the conflict could be investigated in a more timely fashion.¹⁵⁵ However, it is important to consider the feasibility of establishing a hybrid tribunal in Ukraine with the current severe conflict occurring; the infrastructure for such an undertaking would not seem to be a priority of the government.

C. The UN Human Rights Council

Finally, the potential for accountability to be obtained via the Human Rights Council is the least likely case in considering these three international justice institutions. The biggest reason for that contention is that Russia was suspended from the UN Human Rights Council as of April 7, 2022, as a response to Russia's war on Ukraine.¹⁵⁶ While the UN General Assembly claimed this suspension was done for the purpose of accountability, Russia's suspension from the Council means the country is no longer responsible for following the Council's mandates.¹⁵⁷ Moreover, Russia claimed it was already going to leave the Council before the vote, which means the country is seemingly unconcerned with the Council's disapproval of its actions in Ukraine.¹⁵⁸ Therefore this vote will mean that Russia is no longer responsible for conducting the UPR process, effectively lessening the international community's ability to promote accountability

¹⁵² Kevin J. Heller, *The Best Option: An Extraordinary Ukrainian Chamber for Aggression*, OPINIO JURIS (Mar. 16, 2022), <https://opiniojuris.org/2022/03/16/the-best-option-an-extraordinary-ukrainian-chamber-for-aggression/>.

¹⁵³ See generally *id.*

¹⁵⁴ *Id.*

¹⁵⁵ *Id.*

¹⁵⁶ See generally *UN General Assembly Votes to Suspend Russia from the Human Rights Council*, *supra* note 44.

¹⁵⁷ See generally *id.*

¹⁵⁸ See generally *id.*

for Russia's human rights abuses. The ability, or inability, for each of the international justice mechanisms described above to respond to this conflict highlights that authoritarian regimes are not infallible, but Russia shows that the proper international attention to the atrocities needs to be brought in order for international institutions to be spurred into action.

VII. PROPOSED SOLUTIONS

As shown throughout this paper, none of these internal accountability institutions are fully capable of obtaining sufficient accountability for the human rights abuses occurring across the globe. However, there are some potential solutions worthy of discussion which could aid in closing this accountability gap. First, is the idea of global pressure making it impossible for the international institutions to ignore or fail to properly respond to human rights abuses. The potential success of this solution can be seen in the Russia-Ukraine conflict. Here, the world's attention was on the conflict and the human rights atrocities occurring in Ukraine, and the call for international action was swift and powerful. While this conflict is still ongoing, the response by international institutions so far has been relatively better compared to the response of the institutions in many cases, such as Syria and China.

The next proposed solution is a restructuring of current institutions to encourage more collaboration between the different institutions. Currently, each international accountability institution functions relatively independently – in relation to the other institutions. However, this lack of cooperation only perpetuates the inadequacies of different institutions because there is no support to help tackle those inadequacies. For example, Hybrid Tribunals commonly struggle with economic and structural deficiencies, whereas the ICC has an extensive budget and resources at its disposal. An alliance between these two institutions would both counteract some of the hybrid tribunals deficiencies as well as the jurisdictional issues common to the ICC.

Another example of inter-institutional cooperation that could provide many benefits would be the added ability for the Human Rights Council to bring a case before the ICC or a hybrid tribunal based upon a state's refusal to fulfill its requirements to the Council. This would allow the Council to have the added "bite" of enforcement, which would substantially increase the institution's ability to carry out its mission of protecting human rights. Additionally, this would give the ICC another means to bring a case, which would help offset the ICC's struggle to gain jurisdiction in uncooperative states. While these serve as just a few examples of potential solutions to the accountability gap, they are a reminder that international justice institutions do have the ability to enforce accountability, but action must be taken to provide the necessary reform.

VIII. CONCLUSION

While human rights abuses are occurring across the world and under all types of regimes – not just authoritarian – this paper focuses on the significant accountability gap that exists in the international justice context specifically in authoritarian regimes. This particular approach was taken to highlight how a lack of domestic accountability can be exacerbated by insufficient international mechanisms. While the institutions addressed cannot be completely discounted, to say they can be legitimately counted on to protect the fundamental human rights of the international community would be naïve. Each international justice institution has its own strengths and weaknesses, and while the collective force is aimed to promote sufficient accountability, the system often falls short.

The people of Syria, China, Russia, and Ukraine can attest to the consequences of that insufficiency, as well as many others around the world. This is a salient issue which has spiked a lot of conversation internationally, especially with the current conflict in Ukraine. Conversations about this issue are essential if there is hope to bring about the necessary reforms to all international justice institutions – not just those mentioned in this paper. Without reform and the building up of the international justice institutions, it is very likely that these egregious human rights violations will continue to occur, unchecked, in powerful authoritarian regimes across the world. As seen with the conflict in Ukraine, international pressure can prove to be an effective mechanism for the pursuance of accountability, but there needs to be strong institutions in place to be able to follow through. As the world continues to change and authoritarian regimes grow more common and more powerful, the international community must step up to protect the human rights of all peoples.