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## Why This Country Might Want to Lower Its Expectations

Let me start with a confession: I no longer read all the way through newspaper stories about the war in Ukraine. After years of writing about [war](#) and [torture](#), I've reached my limit. These days, I just can't pore through the details of the ongoing nightmare there. It's shameful, but I don't want to know the names of the dead or examine images caught by brave photographers of half-exploded buildings, exposing details — a shoe, a chair, a doll, some half-destroyed possessions — of lives lost, while I remain safe and warm in San Francisco. Increasingly, I find that I just can't bear it.

And so I scan the headlines and the opening paragraphs, picking up just enough to grasp the shape of Vladimir Putin's horrific military strategy: the bombing of civilian targets like [markets](#) and

[apartment buildings](#)

, the

[attacks on](#)

the civilian power grid, and the

[outright murder](#)

of the residents of cities and towns occupied by Russian troops. And these aren't aberrations in an otherwise lawfully conducted war. No, they represent an intentional strategy of terror, designed to demoralize civilians rather than to defeat an enemy military. This means, of course, that they're also war crimes: violations of the laws and customs of war as summarized in 2005 by the International Committee of the Red Cross (ICRC).

The [first rule of war](#), as laid out by the ICRC, requires combatant countries to distinguish between (permitted) military and (prohibited) civilian targets. The second [states](#)

that "acts or threats of violence the primary purpose of which is to spread terror among the civilian population" — an all-too-on-target summary of Russia's war-making these last 10 months — "are prohibited." Violating that prohibition is a crime.

## The Great Exceptions

How should war criminals be held accountable for their actions? At the end of World War II, the victorious Allies answered this question with trials of major German, and Japanese officials. The most famous of these were held in the German city of Nuremberg, where the first 22 defendants included former high government officials, military commanders, and propagandists of the Nazi regime, as well as the banker who built its war machine. All but three were convicted and 12 were hanged..

The architects of those Nuremberg trials — representatives of the United States, the Soviet Union, the United Kingdom, and France — intended them as a model of accountability for future wars. The best of those men (and most of them were men) recognized their debt to the future and knew they were establishing a precedent that might someday be held against their own nations. The chief prosecutor for the United States, Robert H. Jackson, [put it](#) this way: “We must not forget that the record on which we judge the defendants today is the record on which we will be judged tomorrow.”

Indeed, the Nuremberg jurists fully expected that the new United Nations would establish a permanent court where war criminals who couldn't be tried in their home countries might be brought to justice. In the end, it took more than half a century to establish the International Criminal Court (ICC). Only in 1998 did 60 nations adopt the ICC's founding document, the Rome Statute. Today, 123 countries have signed.

Russia is a major exception, which means that its nationals can't be tried at the ICC for war crimes in Ukraine. And that includes the crime the Nuremberg tribunal identified as the source of all the rest of the war crimes the Nazis committed: launching an aggressive, unprovoked war.

Guess what other superpower has never signed the ICC? Here are a few hints:

- Its 2021 military budget [dwarfed](#) that of the next nine countries combined and was 1.5 times the size of what the world's other 144 countries with such budgets spent on defense that year.

- Its president has [just signed](#) a \$1.7 trillion spending bill for 2023, more than half of which is devoted to “defense” (and that, in turn, is only part of that country’s [full national security budget](#)).
- It [operates](#) roughly 750 publicly acknowledged military bases in at least 80 countries.
- In 2003, it [began](#) an aggressive, unprovoked (and disastrous) war by invading a country 6,900 miles away.

### War Crimes? No, Thank You

Yes, the United States is that other Great Exception to the rules of war. While, in 2000, during the waning days of his presidency, Bill Clinton [did sign](#) the Rome Statute, the Senate never ratified it. Then, in 2002, as the Bush administration was ramping up its “global war on terror,” including its disastrous occupation of Afghanistan and an illegal CIA global torture program, the United States simply withdrew its signature entirely. Secretary of Defense Donald Rumsfeld then [explained](#) why this way:

“...[T]he ICC provisions claim the authority to detain and try American citizens — U.S. soldiers, sailors, airmen and Marines, as well as current and future officials — even though the United States has not given its consent to be bound by the treaty. When the ICC treaty enters into force this summer, U.S. citizens will be exposed to the risk of prosecution by a court that is unaccountable to the American people, and that has no obligation to respect the Constitutional rights of our citizens.”

That August, in case the U.S. stance remained unclear to anyone, Congress passed, and President George W. Bush signed, the American Servicemembers Protection Act of 2002. As Human Rights Watch [reported](#) at the time, “The new law authorizes the use of military force to liberate any American or citizen of a U.S.-allied country being held by the [International Criminal] Court, which is located in The Hague.” Hence, its nickname: the “Hague Invasion Act.” A lesser-known provision also permitted the United States to withdraw military support from any nation that participates in the ICC.

The assumption built into Rumsfeld’s explanation was that there was something special — even exceptional — about U.S. citizens. Unlike the rest of the world, we have “Constitutional

rights,” which apparently include the right to commit war crimes with impunity. Even if a citizen is convicted of such a crime in a U.S. court, he or she has a [good chance](#) of receiving a presidential pardon. And were such a person to turn out to be one of the “current and future officials” Rumsfeld mentioned, his or her chance of being hauled into court would be about the same as mine of someday being appointed secretary of defense.

The United States is not a member of the ICC, but, as it happens, Afghanistan is. In 2018, the court’s chief prosecutor, Fatou Bensouda, formally requested that a case be opened for war crimes committed in that country. *The New York Times* [reported](#) that Bensouda’s “inquiry would mostly focus on large-scale crimes against civilians attributed to the Taliban and Afghan government forces.” However, it would also examine “alleged C.I.A. and American military abuse in detention centers in Afghanistan in 2003 and 2004, and at sites in Poland, Lithuania, and Romania, putting the court directly at odds with the United States.”

Bensouda planned an evidence-gathering trip to the United States, but in April 2019, the Trump administration revoked her visa, preventing her from interviewing any witnesses here. It then followed up with [financial sanctions](#) on Bensouda and another ICC prosecutor, Phakiso Mochochoko.

Republicans like Bush and Trump are not, however, the only presidents to resist cooperating with the ICC. Objection to its jurisdiction has become remarkably bipartisan. It’s true that, in April 2021, President Joe Biden [rescinded](#) the strictures on Bensouda and Mochochoko, but not without emphasizing this exceptional nation’s opposition to the ICC as an appropriate venue for trying Americans. The preamble to his executive order notes that

“the United States continues to object to the International Criminal Court’s assertions of jurisdiction over personnel of such non-States Parties as the United States and its allies absent their consent or referral by the United Nations Security Council and will vigorously protect current and former United States personnel from any attempts to exercise such jurisdiction.”

Neither Donald Rumsfeld nor Donald Trump could have said it more clearly.

So where do those potential Afghan cases stand today? A new prosecutor, Karim Khan, took

over as 2021 ended. He announced that the investigation would indeed go forward, but that acts of the U.S. and allies like the United Kingdom would not be examined. He would instead focus on actions of the Taliban and the Afghan offshoot of the Islamic State. When it comes to potential war crimes, the United States remains the Great Exception.

In other words, although this country isn't a member of the court, it wields more influence than many countries that are. All of which means that, in 2023, the United States is not in the best position when it comes to accusing Russia of horrifying war crimes in Ukraine.

### What the Dickens?

I blame my seven decades of life for the way my mind can now meander. For me, "great exceptions" brings to mind Charles Dickens's classic story *Great Expectations*. His novels exposed the cruel reality of life among the poor in an industrializing Great Britain, with special attention to the pain felt by children. Even folks whose only brush with Dickens was reading *Oliver Twist* or watching

[\*The Muppets Christmas Carol\*](#)

know what's meant by the expression "Dickensian poverty." It's poverty with that extra twist of cruelty — the kind the American version of capitalism has so effectively perpetuated.

When it comes to poverty among children, the United States is indeed exceptional, even among the 38 largely high-income nations of the [Organization for Economic Cooperation and Development](#) (OECD). As of 2018, the average rate of child poverty in OECD countries was 12.8%. (In Finland and Denmark, it was only 4%!) For the United States, with the world's highest gross domestic product, however, it was [21%](#).

Then, something remarkable happened. In year two of the Covid pandemic, Congress [passed](#) the American Rescue Plan, which (among other measures) expanded the child tax credit from \$2,000 up to as much as \$3,600 per child. The payments came in monthly installments and, unlike the Earned Income Credit, a family didn't need to have any income to qualify. The result? An almost immediate 40% drop in child poverty. Imagine that!

Given such success, you might think that keeping an expanded child tax credit in place would be an obvious move. Saving little children from poverty! But if so, you've failed to take into account the Republican Party's remarkable commitment to maintaining its version of American exceptionalism. One of the items that the party's congressional representatives managed to get expunged from the \$1.7 trillion 2023 appropriation bill was that very expanded child tax credit. It seems that cruelty to children was the Republican party's price for funding government operations.

Charles Dickens would have recognized that exceptional — and gratuitous — piece of meanness.

The same bill, by the way, also thanks to Republican negotiators, ended universal federal public-school-lunch funding, put in place during the pandemic's worst years. And lest you think the Republican concern with (extending) poverty ended with starving children, the bill also will allow states to resume kicking people off Medicaid (federally subsidized health care for low-income people) starting in April 2023. The Kaiser Family Foundation [estimates](#) that one in five Americans will lose access to medical care as a result.

Great expectations for 2023, indeed.

### **We're the Exception!**

There are, in fact, quite a number of other ways in which this country is also exceptional. Here are just a few of them:

- Children [killed by guns](#) each year. In the U.S. it's 5.6 per 100,000. That's seven times as high as the next highest country, Canada, at 0.8 per 100,000.
- Number of required [paid days off](#) per year. This country is exceptional here as well, with zero mandatory days off and 10 federal holidays annually. Even Mexico mandates six paid vacation days and seven holidays, for a total of 13. At the other end of the scale, Chile, France, Germany, South Korea, Spain, and the United Kingdom all require a combined total of more than 30 paid days off per year.
- Life expectancy. [According to 2019](#) data, the latest available from the World Health Organization for 183 countries, U.S. average life expectancy at birth for both sexes is 78.5 years. Not too shabby, right? Until you realize that there are 40 countries with higher life

expectancy than ours, including Japan at number one with 84.26 years, not to mention Chile, Greece, Peru, and Turkey, among many others.

- Economic inequality. The World Bank [calculates](#) a [Gini coefficient](#) of 41.5 for the United States in 2019. The Gini is a 0-to-100-point measure of inequality, with 0 being perfect equality. The World Bank lists the U.S. economy as more unequal than those of 142 other countries, including places as poor as Haiti and Niger. Incomes are certainly lower in those countries, but unlike the United States, the misery is spread around far more evenly.

- Women's rights. The United States signed the United Nations Convention on the Elimination of All Forms of Discrimination against Women in 1980, but the Senate [has never ratified](#)

it (thank you again, Republicans!), so it doesn't carry the force of law here. Last year, the right-wing Supreme Court gave the Senate a helping hand with its [decision](#)

in

*Dobbs v. Jackson Women's Health Organization*

to overturn

*Roe v. Wade*

. Since then,

[several state](#)

legislatures

have rushed to join the

[handful of nations](#)

that outlaw all abortions. The good news is that

[voters](#)

in states from Kansas to Kentucky have ratified women's bodily autonomy by rejecting anti-abortion ballot propositions.

- [Greenhouse gas emissions](#) . Well, hooray! We're no longer number one in this category. China [surpassed](#) us in 2006. Still, give us full credit; we're a strong second and remain historically the [greatest greenhouse gas emitter](#) of all time.

## Make 2023 a (Less) Exceptional Year

Wouldn't it be wonderful if we were just a little less exceptional? If, for instance, in this new year, we were to transfer some of those hundreds of billions of dollars Congress and the Biden administration have just committed to enriching corporate weapons makers, while propping up an ultimately unsustainable military apparatus, to the actual needs of Americans? Wouldn't it be wonderful if just a little of that money were put into a new child tax credit?

Sadly, it doesn't look very likely this year, given a Congress in which, however minimally and [madly](#), the Republicans control the House of Representatives. Still, whatever the disappointments, I don't hate this country of mine. I love it — or at least I love what it could be. I've just spent four months on the front lines of American politics in Nevada, watching some of us [at our very best](#) risk guns, dogs, and constant racial invective to get out the vote for a Democratic senator.

I'm reminded of poet Lloyd Stone's words that I sang as a teenager to the tune of Sibelius's [Finlandia hymn](#):  
:

"My country's skies are bluer than the ocean  
And sunlight beams on cloverleaf and pine  
But other lands have sunlight, too, and clover,  
And skies are somewhere blue as mine.  
Oh, hear my prayer, O gods of all the nations  
A song of peace for their lands and for mine"

So, no great expectations in 2023, but we can still hope for a few exceptions, can't we?



