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Effective Threat, Ineffective Action: The Narrow Influence of the ICC on State Killings in Venezuela

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Abstract

This paper examines whether International Criminal Court (ICC) actions deter state violence in authoritarian settings. We study Venezuela under Nicolás Maduro following two ICC interventions: the 2018 multistate referral requesting an investigation, and the 2020 prosecutorial determination that crimes against humanity had likely been committed. Using a regression discontinuity design on state-perpetrated killings data (2016–2024), we find that the 2018 referral—an external threat of future prosecution—corresponded with a significant reduction in killings by nationally commanded security forces. However, no comparable pattern emerges after the 2020 determination. We interpret this divergence through an “avoidability” mechanism: ICC deterrence operates when prosecution remains avoidable, but dissipates once incumbents conclude that avoiding accountability requires maintaining power rather than moderating repression.

Keywords: International Criminal Court, Human rights, Crimes against humanity, Venezuela.

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1 Introduction

Does the International Criminal Court (ICC) deter state violence? Proponents argue that the ICC raises expected costs of atrocities, dissuading perpetrators even absent immediate enforcement (Jo and Simmons, 2016; Appel, 2018). Skeptics counter that authoritarian rulers prioritizing survival remain undeterred by institutions lacking enforcement power, and may even intensify repression when prosecution appears inevitable (Snyder and Vinjamuri, 2004; Ku and Nzelibe, 2006). We contribute to this debate by examining how an authoritarian regime’s response to ICC scrutiny varies across different stages of legal engagement.

We propose an *avoidability mechanism*: ICC deterrence is strongest when prosecution remains avoidable through behavioral change, but weakens once perpetrators conclude that accountability can only be escaped through continued incumbency. Early ICC signals—such as preliminary examinations or referrals—create a window in which regimes may moderate violence to forestall investigation. This mechanism may operate through leadership moderation or through agency problems within the coercive apparatus, as individual officers recalculate personal liability risks. However, once the ICC advances toward formal prosecution, this calculus shifts. Leaders facing near-certain indictment have diminished incentives for restraint, as their survival strategy becomes preventing regime change rather than avoiding prosecution through compliance.

Venezuela under Nicolás Maduro provides an ideal setting to test this proposition. The country experienced unprecedented ICC scrutiny following systematic state violence against political opposition. In September 2018, six Rome Statute states referred the Venezuelan situation to the ICC Prosecutor—the first time member states sought investigation of alleged crimes entirely within another sovereign state’s territory. In December 2020, the Prosecutor formally determined that crimes against humanity had likely been committed. These discrete interventions allow us to examine regime responses at different stages of ICC engagement using a regression discontinuity design.

We find striking asymmetry. The 2018 referral coincided with an approximate 32 per-

cent reduction in killings by nationally commanded security forces—those under direct presidential control and most exposed to ICC liability. By contrast, the 2020 prosecutorial determination produced no comparable deterrent effect. This divergence is consistent with the avoidability mechanism: by late 2020, having chosen intensified repression during the 2019 political crisis, the regime had committed to a survival strategy predicated on avoiding accountability through incumbency rather than compliance.

Our theoretical contribution builds on an emerging consensus that ICC deterrence is conditional rather than absolute. [Jo and Simmons \(2016\)](#) provide the foundational empirical analysis, finding that ICC involvement reduces intentional civilian killings by government forces—but only when states are aid-dependent and value international legitimacy, and when the Court takes active investigative steps beyond mere ratification. [Appel \(2018\)](#) extends this logic, showing that Rome Statute ratifiers commit lower levels of human rights abuses due to reputational costs. However, skeptics have identified important limits. [Cronin-Furman \(2013\)](#) argues that leaders who explicitly order atrocities for tactical purposes have such powerful “overriding interests” that prosecution threats cannot deter them. [Ku and Nzelibe \(2006\)](#) contend that perpetrators often face death upon losing power, making ICC punishment a relatively minor alternative—and warn that prosecution may exacerbate rather than prevent atrocities through “spoiler” effects. These debates have largely focused on conflict contexts: [Prorok \(2017\)](#) finds that active ICC involvement can increase incentives for leaders to continue conflict as a way to avoid capture, while [Hillebrecht \(2016\)](#) documents reductions in violence in Libya’s early conflict stages.

The avoidability mechanism we propose resonates with [Krcmaric \(2020\)](#)’s analysis of how closing “golden parachute” exit options affects authoritarian behavior. He shows that leaders culpable for atrocities fight longer because they lack good exit options—but this same dynamic may deter some leaders from committing atrocities initially when prosecution remains uncertain. Our contribution is to identify how this logic operates *within* an ongoing ICC engagement: early signals create bargaining windows where moderation might forestall in-

vestigation, while formal prosecutorial advancement eliminates this option. This mechanism can operate at multiple levels—through leadership recalculation or through agency problems as individual security officers assess personal liability risks (Akhavan, 2001).

An important scope condition distinguishes our analysis from most ICC scholarship. The existing literature predominantly examines conflict-related atrocities—civil wars, ethnic cleansing, or post-conflict transitions (Kersten, 2016). Venezuela represents instead a case of *peacetime* crimes against humanity: systematic state violence against political opposition in the absence of armed conflict. This context is increasingly relevant as the ICC expands attention to authoritarian repression outside war zones. The Philippines under Duterte—where the former president now faces ICC trial for drug war killings—represents the paradigmatic case, with Myanmar, Belarus, and Egypt presenting similar patterns of non-conflict state violence under varying degrees of international scrutiny. Our findings thus speak to an emerging category of ICC engagement where the dynamics of deterrence may differ fundamentally from conflict settings: regimes retain consolidated coercive capacity, face no armed opposition, and calculate accountability risks within a framework of regime survival rather than military victory.

Empirically, we contribute rare causal evidence to a literature constrained by severe identification challenges. Measuring ICC deterrence requires observing violence that *would have occurred* absent international scrutiny—a counterfactual problem compounded by selection effects (states that ratify may already be committed to reform) and measurement error in civilian casualty data (Cronin-Furman, 2013). Existing quantitative work relies primarily on cross-national comparisons with matching or difference-in-differences designs (Jo and Simmons, 2016; Appel, 2018). Our regression discontinuity approach exploits two discrete ICC interventions producing different signals about prosecution likelihood, combined with high-quality daily killings data from systematic civil society monitoring. This design allows us to isolate short-term behavioral responses while holding broader political context approximately constant—an identification strategy unavailable in most ICC settings where case

selection lacks exploitable thresholds.

2 The Venezuelan Context

Venezuela’s economic and political crisis began after Nicolás Maduro assumed the presidency in 2013. Economic collapse following the 2014 oil price crash—with inflation exceeding one million percent by 2018 and GDP falling over sixty percent—fueled political opposition. The government responded to protests with escalating repression: security forces used lethal force against demonstrators in 2014, the regime neutralized the opposition-controlled National Assembly elected in 2015, and massive protests in 2017 resulted in at least 125 deaths ([Human Rights Watch and Foro Penal, 2017](#)).

The central instruments of repression were the National Guard and national-level police forces - the *Cuerpo de Investigaciones Científicas, Penales y Criminalísticas* (CICPC), the *Servicio Bolivariano de Inteligencia Nacional* (SEBIN) and the *Policia Nacional Bolivariana* (PNB). The *Fuerza de Acciones Especiales* (FAES), a police unit created in 2017 within the PNB, was characterized by the UN as conducting extrajudicial executions at “shockingly high” rates. 5,287 killings attributed to “resistance to authority” were committed in 2018 alone ([Office of the United Nations High Commissioner for Human Rights, 2019](#)). International attention intensified in 2018 when an expert panel of the Organization of American States concluded that crimes against humanity had been committed.

On September 27, 2018, Argentina, Canada, Chile, Colombia, Paraguay, and Peru formally referred the Venezuelan situation to the ICC Prosecutor, documenting systematic extrajudicial executions, arbitrary detention, torture, and political persecution ([International Criminal Court, 2018](#)). Maduro had consolidated power through disputed elections earlier in the year. Opposition leader and president of the country’s legislature Juan Guaidó took oath of office as interim president in January 2019, arguing that the constitution appointed power on the president of the National Assembly if no president had been elected through

free and fair elections at the start of a new presidential term (Zambrano, 2019). The regime responded with intensified repression, including mass arrests and expanded FAES operations. The Guaidó challenge was the most serious threat to Maduro’s rule. Having chosen to repress its way through this crisis, the regime demonstrated its commitment to a survival-through-dominance strategy. On December 14, 2020, the ICC Prosecutor formally determined that crimes against humanity had likely been committed since April 2017, marking the most significant escalation towards legal prosecution since the original referral (International Criminal Court, Office of the Prosecutor, 2020).

3 Data and Empirical Strategy

Our data come from the Monitor of the Use of Lethal Force in Venezuela (MULFVEN), which systematically compiles cases of lethal institutional violence (Avila, 2024). The sample contains 14,590 recorded killings by Venezuelan security forces between 2016 and 2024. We categorize killings into “National Forces”—including the Policía Nacional Bolivariana (PNB), CICPC, FANB, and SEBIN, all under direct presidential command—and “Local Forces” under regional authority. Summary statistics appear in the Online Appendix for the original event data (Table A.1 and for the weekly aggregates (Table A.2).

We employ a regression discontinuity design (RDD) using weekly aggregates, examining changes around September 27, 2018 (ICC referral) and December 14, 2020 (prosecutorial determination). The estimated model is:

$$R_i = \alpha + \beta_1 P_i + \beta_2 D_i + \beta_3 P_i \times D_i + \epsilon_i \quad (1)$$

where R_i is weekly killings, D_i is days from the cutoff (negative before, positive after), and P_i indicates post-event periods. The coefficient β_1 captures discontinuous changes at each intervention. Bandwidth is selected following Calonico et al. (2017). To isolate ICC effects from confounding political events, we separate nationally commanded forces (most exposed

to ICC liability) from local forces. We also conduct placebo tests shifting cutoffs six months before and after true dates, and restrict samples to pre-2019 observations to exclude potential confounding from the Guaidó crisis. We complement RDD estimates with McCrary density tests on daily data (McCrary, 2008).

4 Results

Table 1 presents the main RDD estimates. Panel A examines the September 2018 referral. For all security forces (Column 1), the post-cutoff coefficient indicates an approximate 33 percent reduction ($p < 0.05$). Column 2 isolates nationally commanded forces, yielding a similar magnitude (32 percent reduction, $p < 0.05$). Column 3 shows no significant discontinuity for local forces. This pattern—significant effects concentrated among forces under direct presidential command—is consistent with ICC deterrence operating through actors most exposed to international legal liability.

Panel B presents starkly different results for the December 2020 prosecutorial determination. Column 2 reveals no statistically meaningful change for national forces. Any apparent increase is concentrated among local forces (Column 3), institutionally less exposed to ICC action. The formal advancement of ICC proceedings produced no deterrent effect among agencies most closely linked to executive decision-making.

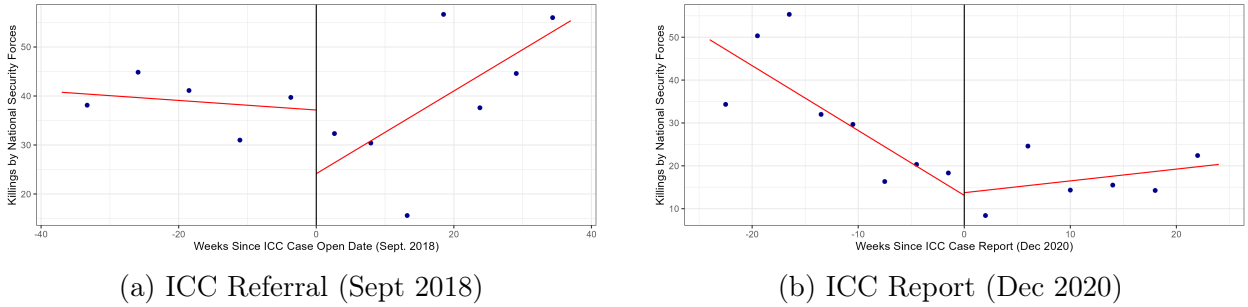
Figure 1 provides visual confirmation. Panel (a) displays a discrete downward shift at the September 2018 cutoff. Panel (b) shows no marked discontinuity at the December 2020 threshold.

Table 1: RDD Estimates for ICC Referral and Report

	(1) All Forces	(2) National Forces	(3) Local Forces
<i>Panel A: ICC Referral (September 27, 2018)</i>			
Post	−13.402** (6.459)	−11.343** (4.768)	0.386 (2.143)
Observations	51	75	57
Bandwidth (weeks)	25	37	29
Prediction at cutoff	40.66	35.85	2.65
Percent effect (%)	−32.96	−31.64	14.57
<i>Panel B: ICC Report (December 14, 2020)</i>			
Post	9.828* (5.911)	2.827 (3.073)	6.331* (3.264)
Observations	50	50	79
Bandwidth (weeks)	24	24	39
Prediction at cutoff	13.42	6.83	9.06
Percent effect (%)	73.23	41.38	69.90

Notes: Local linear RDD estimates. Dependent variable: weekly killings (MULFVEN). National Forces: PNB, CICPC, FANB, SEBIN. Bandwidth selected per [Calonico et al. \(2017\)](#). Standard errors in parentheses. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$.

Figure 1: Regression Discontinuity Plots for National Forces



Notes: Weekly killings by national security forces. Points are bin averages; lines are local linear fits. Data: MULFVEN.

Robustness checks reported in the Online Appendix support these findings. McCrary density tests on daily data shown in Table A.3 confirm a significant negative discontinuity at the 2018 cutoff for national forces ($\theta = -0.394$, $p < 0.01$) but not at the 2020 cutoff. These conclusions are visually confirmed in the density plots shown in Figure A.1. As robustness checks for our significant finding around the ICC Referral, Table A.4 shows that restricting

to pre-2019 observations yields comparable point estimates (41 percent reduction), though with reduced statistical power. Moreover, placebo tests shifting the referral cutoff six months before and after the true referral date produce no significant discontinuities.

5 Conclusion

This study provides evidence of conditional ICC deterrence in an authoritarian setting. The September 2018 referral—representing an external threat of future prosecution—coincided with a significant reduction in killings by nationally commanded forces. The December 2020 prosecutorial determination produced no comparable effect.

These findings support an avoidability mechanism: ICC deterrence operates when prosecution remains avoidable through behavioral change, whether via leadership moderation or agency problems within the coercive apparatus. However, once the Maduro regime chose intensified repression to survive the 2019 political crisis, it committed to a strategy where avoiding accountability required maintaining power rather than moderating violence. By December 2020, the relevant actors had concluded that prosecution would only materialize upon regime change—rendering compliance futile and further restraint counterproductive.

The implications extend beyond Venezuela. ICC deterrent capacity may be strongest during early, ambiguous phases of engagement when behavioral modification can still forestall investigation. Once authoritarian incumbents update their beliefs about enforcement likelihood and conclude that survival requires impunity through incumbency, the marginal deterrent value of legal escalation diminishes substantially. This paradox—that advancing toward accountability can remove incentives for restraint—represents a sobering implication for international criminal justice in contexts of ongoing authoritarian repression.

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Online Appendix

Table A.1: Summary Statistics, Original data

Groups	Total	Average day
Killings by National Forces	10,631	0.729
Killings by Local Forces	3,959	0.271

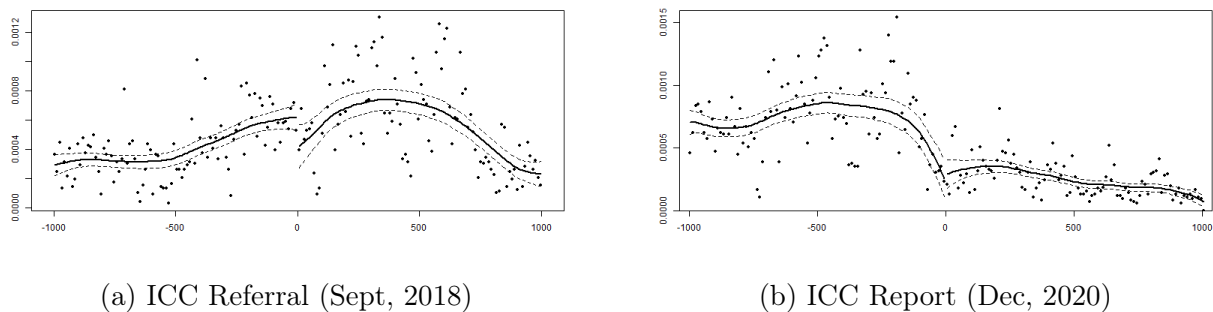
Notes: Table reports the total and average daily killings by national forces and local forces between 2016 and 2024 as reported in the MULFVEN data.

Table A.2: Summary Statistics, Weekly Aggregates

Groups	Weeks	Mean	Median	St. Dev.	Min	Max
All Killings	421	34.66	30	23.25	1	124
Killings by National Forces	421	25.25	20	18.71	1	96
Killings by Local Forces	400	9.90	8	8.14	1	76

Notes: Table reports summary statistics for the weekly killing aggregates reported in the MULFVEN data by national and local forces and the sum of the two.

Figure A.1: McCrary Density Plots for ICC Referral and Report



Notes: McCrary (2008) density plots for daily killings by national forces. Horizontal axis: days from cutoff. Vertical axis: estimated density. Panel (a) shows downward discontinuity at September 2018 referral; Panel (b) shows no break at December 2020 report. Data: MULFVEN.

Table A.3: McCrary Density Tests for the ICC Referral and Report

	(1) All Forces	(2) National Forces	(3) Local Forces
<i>Panel A: ICC Referral (September 27, 2018)</i>			
Theta	−0.362*** (0.076)	−0.394*** (0.080)	−0.205 (0.228)
Z-statistic	−4.755	−4.939	−0.899
<i>Panel B: ICC Report (December 14, 2020)</i>			
Theta	0.275*** (0.090)	0.215* (0.128)	0.387*** (0.133)
Z-statistic	3.061	1.686	2.905

Notes: McCrary (2008) density tests for daily killings. Negative theta indicates reduced frequency post-event. National Forces: PNB, CICPC, FANB, SEBIN. Panel A: September 2018 referral. Panel B: December 2020 report. Pre-2019 robustness yields $\theta = -0.249$ (s.e. = 0.211); placebos show no prior discontinuity. Standard errors in parentheses. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$.

Table A.4: Robustness: ICC Referral

	(1) Pre-2019 Only	(2) Placebo −6 Months	(3) Placebo +6 Months
Post	−13.470 (12.748)	−1.731 (4.596)	12.419 (8.344)
Observations	9	74	106
Percent effect (%)	−40.85	−4.00	30.07

Notes: Robustness checks for Table 1, Panel A. Column 1 restricts to pre-2019. Columns 2–3 shift cutoffs ± 6 months. Standard errors in parentheses.