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The Application of Universal Jurisdiction in South Africa: A Study of National Courts' Jurisdiction over International Crimes

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Abstract:
Universal jurisdiction is a principle of international law that allows national courts to prosecute certain grave international crimes regardless of where they were committed or the nationality of the perpetrators or victims.[1] South Africa, as a state committed to international criminal justice, has incorporated this principle into its domestic law through statutes like the Implementation of the Rome Statute of the International Criminal Court Act 27 of 2002 ("ICC Act") and the Prevention and Combating of Torture of Persons Act 13 of 2013 ("Torture Act").[2] These laws empower South African courts to try perpetrators of genocide, war crimes, crimes against humanity, and torture even if such crimes occurred outside South African territory. This article provides an academic analysis of how universal jurisdiction is codified and applied in South Africa, including a discussion of the main categories of international crimes, an examination of the country's legislative framework, and an overview of major cases in particular the landmark Southern African Litigation Centre v National Director of Public Prosecutions ("Zimbabwe Torture Docket" case).[3] The article further analyzes the legal, political, and practical challenges South Africa faces in implementing universal jurisdiction, such as issues of complementarity, immunities, diplomatic sensitivities, and the difficulty of investigating crimes committed abroad. It concludes that while South Africa's courts and laws have laid a strong foundation for exercising universal jurisdiction over international crimes, significant challenges remain in turning legal principles into effective prosecutions, highlighting the tension between the country's international obligations and political realities.

Keyword: Universal Jurisdiction, International Criminal Law, South Africa, Genocide, Crimes against Humanity and War Crimes, Rome Statute Implementation

Introduction:

The concept of universal jurisdiction permits a state to claim criminal jurisdiction over certain serious international crimes even when those crimes were not committed on its territory or by or against its nationals.[4] This extraordinary jurisdictional basis is usually reserved for atrocity crimes that shock the conscience of humanity, such as genocide, crimes against humanity, war crimes, and torture. The rationale is that such offenses are so egregious that they amount to offenses against the international community as a whole. Thus, any state should be entitled or even obligated to bring perpetrators to justice if the state with primary jurisdiction is unwilling or unable to do so. Universal jurisdiction has deep roots in international law, traditionally applied to piracy jure gentium and later extended to war crimes and other abuses.[5] In the modern era it has been affirmed through instruments like the Geneva Conventions (for grave war crimes), the Convention Against Torture, and, implicitly, the statutes of international tribunals which emphasize that certain crimes are of universal concern.

South Africa's post-apartheid commitment to human rights and international accountability is reflected in its embrace of universal jurisdiction. After joining the community of nations in 1994, South Africa became an early supporter of the International Criminal Court (ICC) and was the first African country to adopt comprehensive ICC implementing legislation.[6] The ICC Act 2002 domesticated the Rome Statute's provisions, inter alia by defining the crimes of genocide, crimes against humanity and war crimes under South African law and by authorizing national courts to exercise jurisdiction over these crimes even when committed beyond South Africa's borders in certain circumstances. In 2013, South Africa further enacted the Torture Act to fulfill its obligations under the UN Convention Against Torture, explicitly criminalizing torture and likewise providing for extraterritorial jurisdiction over torture offenses.[7] Together, these laws establish the legal framework through which South African courts can hold perpetrators of the most serious international crimes accountable, giving effect to the principle aut dedere aut judicare (extradite or prosecute) in national law.[8]

International Crimes Under Universal Jurisdiction

International law recognizes a handful of core international crimes of such gravity that they are often deemed subject to universal jurisdiction.[9] These include genocide, war crimes, crimes against humanity, and torture, each defined by treaty or customary law

and regarded as crimes erga omnes (against all) or arising from peremptory norms (jus cogens). Below is a brief overview of these categories:

Genocide:

Genocide is often called "the crime of crimes." As defined in Article II of the 1948 Genocide Convention, it is the commission of certain acts such as killing or causing serious harm with intent to destroy, in whole or in part, a national, ethnic, racial or religious group as such.[10] Genocide is a distinct offense characterized by the specific intent (dolus specialis) to annihilate a protected group. Because of its extraordinary heinousness, the international community has condemned genocide as an international crime whether committed in war or peace, and numerous states (as well as international tribunals) recognize universal jurisdiction over genocide.

War Crimes:

War crimes are serious violations of international humanitarian law (the laws of war) committed during an armed conflict.[11] They include grave breaches of the Geneva Conventions, such as willful killing, torture, or inhuman treatment of prisoners of war or civilians, or deliberate targeting of civilians, as well as other serious offenses in both international and non-international conflicts (for example, use of child soldiers or rape as a weapon of war). States are obligated under the Geneva Conventions to search for and punish perpetrators of grave breaches, regardless of nationality, under the principle of universal jurisdiction. War crimes were prosecuted at Nuremberg and Tokyo after World War II, and today, both treaty law and customary law affirm that any state can prosecute war criminals if the custodial or territorial state fails to do so.[12]

Crimes Against Humanity:

Crimes against humanity are a category of offenses that involve widespread or systematic attacks against civilian populations. First prosecuted in the Nuremberg Trials, crimes against humanity include acts like murder, extermination, enslavement, deportation, torture, rape and apartheid, when committed as part of a widespread or systematic attack directed against any civilian population.[13] Unlike war crimes, crimes against humanity can occur in peacetime as well as during conflict. There is no single global treaty solely on crimes against humanity (efforts to draft one are ongoing), but they are defined in instruments such as the Rome Statute of the ICC (Article 7) and have become part of customary international law.[14] Because these crimes by definition shock the conscience of humankind, they are subject to universal jurisdiction claims.

South Africa's ICC Act explicitly incorporates crimes against humanity into domestic law.

Torture:

Torture is both a grave human rights violation and, in many cases, an international crime. The UN Convention Against Torture of 1984 (UNCAT) defines torture as the intentional infliction of severe pain or suffering, whether physical or mental, by or with the consent of a public official for purposes such as obtaining information, punishment, intimidation, or discrimination.[15] Torture may be prosecuted as a specific crime under treaties like UNCAT, and it can also constitute a war crime (if committed in armed conflict) or a crime against humanity (if part of a widespread or systematic attack on civilians). Notably, UNCAT obliges States Parties to establish jurisdiction over torture when the accused is present in their territory, regardless of where the torture occurred (Article 5(2)), effectively mandating a form of universal jurisdiction.[16] The prohibition of torture has attained the status of a peremptory norm of international law (jus cogens). South Africa's domestic Torture Act implements these obligations by making torture a criminal offense even if committed abroad, so long as certain links (such as the presence of the offender in South Africa) are present.

South Africa's Legal Framework for Universal Jurisdiction

Implementation of the Rome Statute (ICC Act 2002)

South Africa's primary vehicle for codifying universal jurisdiction over genocide, crimes against humanity, and war crimes is the ICC Act of 2002.[17] Enacted after South Africa ratified the Rome Statute, the Act's purpose is to "enable, as far as possible and in accordance with the principle of complementarity… the national prosecuting authority of the Republic to prosecute and the High Courts of the Republic to adjudicate in cases against any person accused of having committed [ICC] crimes in the Republic and beyond the borders of the Republic in certain circumstances". The Act thus incorporates the ICC crimes into South African law (meaning genocide, crimes against humanity and war crimes are defined as offenses under domestic law) and sets out the jurisdictional rules and procedures for their prosecution locally.

Under Section 4(1) of the ICC Act, "despite anything to the contrary in any other law," any person who commits a Rome Statute crime (genocide, war crime or crime against humanity) is guilty of an offence under South African law.[18] Importantly, this provision prescribes these international crimes as offenses "without any reference to the locale of

the crime or the presence of the accused," giving South Africa what is essentially extraterritorial prescriptive jurisdiction over such conduct. In other words, the act of genocide or crimes against humanity does not cease to be a crime in South Africa simply because it was committed abroad; the law recognises it as if it were committed on South African soil for the purposes of criminal liability.[19]

Section 4(3) of the ICC Act then addresses enforcement jurisdiction the circumstances under which South African courts may exercise jurisdiction to actually try the offense.[20] It provides that a person who commits an ICC crime outside South Africa is "deemed to have committed that crime within the territory of the Republic" if any of several connecting factors is present. These connecting factors include: (a) the person is a South African citizen; (b) the person is ordinarily resident in South Africa; (c) the person, after commission of the crime, is present in South African territory; or (d) the person committed the crime against a South African citizen or resident. Thus, South African law asserts jurisdiction over international crimes on the basis of active nationality, passive personality, residence, or the presence of the suspect.[21] The most significant from a universal jurisdiction perspective is subsection (c): the presence of the offender in South Africa after the crime. This "presence" provision aligns with a common approach to universal jurisdiction, sometimes called the "conditional universality" principle or "present-in" jurisdiction. It allows South Africa to prosecute foreign nationals for atrocities committed anywhere, but generally requires that the suspect be on South African soil (or at least that the suspect later enter South African territory).[22]

South Africa's approach here is not unusually permissive by international standards it mirrors the jurisdictional regime of many states, including, for example, the United States, which also permits universal jurisdiction over crimes like genocide or torture only when the offender is present in the country.[23] It is worth noting that some countries have opted for an even broader interpretation of universal jurisdiction, permitting trials in absentia or without any presence requirement (notably, Germany's Code of Crimes Against International Law allows prosecution of international crimes regardless of where committed and without a need to establish any nexus).[24] South African law, by contrast, adopts the more conservative model that requires a tangible link, such as presence, before its courts can exercise jurisdiction to adjudicate the matter.

Another critical provision of the ICC Act is Section 4(2), which deals with the issue of official capacity and immunities.[25] It explicitly states that the fact that a person "is or was a head of State or government, a member of a government or parliament, an elected representative or a government official" is not a defense to an ICC crime, nor a ground for sentence reduction. Likewise, obeying a manifestly unlawful order is no defense. This mirrors Article 27 of the Rome Statute and ensures that in South African law, perpetrators of genocide, war crimes or crimes against humanity cannot escape liability by invoking sovereign or diplomatic immunity.[26] In essence, the ICC Act removes immunities for these crimes, reflecting the international law trend that no one not even heads of state is above the law for atrocity crimes. This provision figured prominently in debates over South Africa's obligations to arrest Sudan's President Omar al-Bashir (indicted by the ICC for genocide and crimes against humanity in Darfur) when he visited Johannesburg in 2015.[27] Al-Bashir was a sitting head of state of a non-State Party (Sudan) at the time, and the South African government allowed him to leave despite a domestic court order to detain him pursuant to the ICC warrant. The South African Supreme Court of Appeal later ruled that the failure to arrest al-Bashir was unlawful, noting that under the ICC Act and Rome Statute, he enjoyed no immunity from criminal process for ICC crimes. The incident, which will be discussed further below, tested the tension between South Africa's legal commitments and political pressures, but the law itself was clear that even heads of state can be subject to universal jurisdiction in South Africa for the most serious crimes.

Finally, the ICC Act also establishes procedural mechanisms, such as requiring the National Director of Public Prosecutions (NDPP) to consent to prosecutions under the Act (to ensure appropriate cases are pursued).[28] This provides for cooperation with the ICC (e.g., arrest and surrender of suspects to The Hague) as a complement to domestic prosecutions. The principle of complementarity is built into the Act: South Africa will prosecute if possible, but if not, it will defer to the ICC or vice versa to avoid duplication. The Act's preamble explicitly mentions South Africa's commitment to bringing perpetrators to justice "either in a court of law of the Republic… or, in line with the principle of complementarity… in the International Criminal Court".

Prevention and Combating of Torture of Persons Act 2013:

Complementing the ICC Act, which covers torture only insofar as it constitutes a crime against humanity or war crime, South Africa passed the Torture Act in 2013 to

criminalize torture in all circumstances.[29] This was done to fulfill obligations under the UN Convention Against Torture, to which South Africa is a party. The Torture Act defines torture in line with the international definition and makes it an offense for any person (not just officials) to commit torture or to participate in or incite torture. Crucially, the Act mirrors the ICC Act's jurisdictional reach. Section 6(1) provides that South African courts have jurisdiction over acts of torture committed outside the Republic if the accused is a South African citizen, or is ordinarily resident in South Africa, or is present in South African territory after the offense (and is not extradited), or if the victim is a South African citizen or resident.[30] This is essentially the same suite of connecting factors found in the ICC Act's Section 4(3), thus extending conditional universal jurisdiction to standalone torture offenses. Like the ICC Act, the Torture Act also contains a provision denying certain defenses: it states that neither official position nor an order from a superior can justify torture (reinforcing that there are no exceptional circumstances or immunities shielding perpetrators of torture). Additionally, if an act of torture is committed abroad, the Torture Act requires the NDPP's permission to institute a prosecution, a safeguard to ensure such sensitive cases are undertaken only when in the public interest and when evidentiary sufficiency is met.[31]

The Zimbabwe Torture Docket Case: SALC v NDPP and its Progeny

A pivotal moment in the application of universal jurisdiction in South Africa was the case of Southern African Litigation Centre and Another v National Director of Public Prosecutions and Others, commonly referred to as the Zimbabwe Torture Docket case.[32] This litigation arose from events in Zimbabwe in 2007, when members of the opposition Movement for Democratic Change (MDC) were allegedly detained and tortured by Zimbabwean police and security officials during a raid on the MDC's headquarters in Harare. In 2008, the Johannesburg-based NGO Southern Africa Litigation Centre (SALC), together with the Zimbabwe Exiles Forum (ZEF), compiled a detailed dossier of evidence on these alleged acts of torture, which by their scale and systematic nature appeared to amount to crimes against humanity.[33] The dossier documented witness statements from victims and other evidence indicating that at least 17 individuals had been tortured (beaten, waterboarded, given electric shocks, etc.) while in custody of Zimbabwean authorities. Notably, SALC's dossier argued that because the torture was widespread and systematic, it qualified as a crime against humanity of torture, bringing it within the ambit of South Africa's ICC Act.

Moreover, many of the Zimbabwean officials implicated were known to travel to South Africa regularly (for shopping, medical care or even refuge), meaning there was a realistic prospect of their presence in South African territory.[34] On that basis, SALC and ZEF submitted the dossier in March 2008 to South Africa's National Prosecuting Authority (specifically, the Priority Crimes Litigation Unit tasked with ICC Act crimes) and the South African Police Service (SAPS), urging them to open an investigation and, if appropriate, prosecute the offenders under the universal jurisdiction provisions of the ICC Act.

The South African authorities, however, declined to take action. In June 2009, the NPA informed SALC that it would not initiate an investigation, giving reasons such as doubts about the sufficiency of the evidence, anticipated difficulties in gathering further evidence from Zimbabwe, questions about jurisdiction, and concerns about political/diplomatic repercussions (implicitly, Zimbabwe's sovereignty).[35] Essentially, the NPA and police decided to take no further steps, which SALC viewed as a failure to fulfill South Africa's obligations under both domestic and international law. In 2009, SALC and ZEF initiated a judicial review, asking the High Court in Pretoria (North Gauteng High Court) to review and set aside the decision of the NPA and SAPS on the grounds that it was unlawful and inconsistent with South Africa's legal duties. The case thus squarely presented the issue: do South African authorities have a legal duty to investigate alleged crimes against humanity committed outside South Africa, when the suspects are foreign nationals not currently in South Africa?

High Court (2012):

On 8 May 2012, Judge Hans Fabricius in the North Gauteng High Court delivered a groundbreaking judgment in favor of SALC and ZEF.[36] The court held that the decision of the SAPS and NPA not to investigate the torture allegations was "unlawful, inconsistent with the Constitution and therefore invalid." Judge Fabricius set aside the authorities' refusal and ordered them to reconsider the matter and initiate an investigation, acting in accordance with their obligations. This was the first time a South African court had interpreted the ICC Act in a substantive way, effectively giving judicial confirmation that South African law required action on extraterritorial international crimes in appropriate circumstances. In his reasoning (as reported in case notes and the court record), Judge Fabricius emphasized that the ICC Act and international law impose duties on South Africa to prosecute or extradite perpetrators of

international crimes, and that these duties are not confined to crimes committed on South African soil.[37] The judgment made clear that where credible evidence suggests an international crime like torture (as a crime against humanity) has occurred, and the suspected perpetrators might be found in South Africa (even in the future), the police must at least investigate the case the territorial borders are not a barrier to preliminary investigative steps. The court also implicitly rejected the argument that such an investigation would violate Zimbabwe's sovereignty or the principle of non-intervention, noting that investigating a crime from afar (without sending agents into Zimbabwe without permission) would not usurp Zimbabwe's territorial authority. Additionally, concerns about "political sensitivity" could not override the clear legal mandate to act against impunity for heinous crimes.[38] In sum, the High Court's message was that South African authorities had a duty in law to "seek justice for victims of international crimes, even if those crimes occurred beyond our borders."

The High Court's decision was hailed by human rights groups as a major victory for accountability and the rule of law. However, it was met with resistance from the authorities. The National Commissioner of Police (representing SAPS) and the NPA sought to appeal, perhaps wary of the diplomatic fallout and the practical burden of investigating crimes in a neighboring state. Judge Fabricius refused leave to appeal, but the authorities then petitioned the Supreme Court of Appeal (SCA) directly. The SCA decided to hear the case, indicating the importance of the issues at stake.

Supreme Court of Appeal (2013):

In late 2013, the Supreme Court of Appeal upheld the High Court's ruling. In National Commissioner of SAPS v Southern African Human Rights Litigation Centre [2013] ZASCA 168.[39] The SCA delivered a unanimous judgment (by Navsa JA) affirming that South African law enforcement has the competence and in fact the duty to investigate alleged crimes against humanity committed outside South Africa, at least in circumstances where the suspects may eventually enter South Africa and the state where the crimes occurred is not taking action. The SCA agreed that the ICC Act obliged South Africa to act against international crimes and that an investigation could lawfully proceed even if the suspects were not currently present in the country, so long as their future anticipated presence was plausible and the other state was unable or unwilling to prosecute. The SCA's confirmation solidified the precedent that the ICC Act has direct domestic effect requiring law enforcement action on international crimes beyond South Africa. The case thus moved to the final level of appeal.[40]

Constitutional Court (2014):

The South African Police Service, on behalf of the government, persisted to the Constitutional Court, which heard the matter in May 2014.[41] On 30 October 2014, the Constitutional Court handed down a unanimous judgment (Majiedt AJ) dismissing the appeal and unequivocally reinforcing the principle of universal jurisdiction as applied in South African law. The case is reported as National Commissioner of SAPS v Southern African Human Rights Litigation Centre and Another [2014] ZACC 30, 2015 (1) SA 315 (CC).[42] In this landmark decision, now the final word on the matter, the Constitutional Court held that South African authorities are obliged under both domestic and international law to investigate crimes against humanity (in this instance, torture) committed outside South Africa's borders, provided certain conditions are satisfied. The Constitutional Court's judgment is rich in its consideration of international law and the limits of universal jurisdiction.

Legal, Political and Practical Challenges

Despite the robust legal framework and the landmark jurisprudence affirming South Africa's ability to exercise universal jurisdiction, significant challenges remain in practice. Implementing universal jurisdiction is not straightforward it involves navigating complex legal issues, political considerations, and practical constraints. The South African experience highlights several key challenges:

1. **Enforcement vs. Presence a Legal Dilemma:**

One challenge inherent in South Africa's approach is the presence requirement for enforcement jurisdiction.[43] While the SALC case confirmed that an investigation can proceed in the absence of the suspect, to actually arrest, charge, and put the person on trial in a South African court, the suspect must eventually be physically present (or extradited) to South Africa. This means that South Africa cannot hold trials in absentia for international crimes a limitation in common with many legal systems. As a result, even after thorough investigation, a case may remain dormant until the accused is found within reach. This dependence on the suspect's presence can impede justice if the suspect avoids travel or if diplomatic complications prevent extradition. For example, if the Zimbabwean officials identified in the torture docket never travel to South Africa again, the case might never proceed to prosecution, no matter how much evidence has been gathered. The legal framework thus has to grapple with the gap between asserting jurisdiction and actually being able to enforce it. Some commentators argue that this

can lead to a perception of "impunity gaps" where known perpetrators remain at large simply because they stay outside the reach of states willing to prosecute.[44] The South African legislature has so far not authorized trials in absentia for these crimes, likely due to fair trial rights considerations, but it means universal jurisdiction will only be as effective as the ability to physically apprehend suspects.

2. Resource and Capacity Constraints:

Investigating and prosecuting international crimes is a resource-intensive endeavor. Such cases often involve incidents that occurred years ago in foreign countries, large numbers of victims and witnesses (often abroad), complex evidentiary issues (including needing forensic, historical, or military evidence), and legal novelty that requires specialized expertise. South Africa established a Priority Crimes Litigation Unit (PCLU) in the NPA to handle ICC Act offenses, but questions remain about whether it is adequately resourced and empowered.[45] The Torture Docket case itself revealed a reluctance or inability by authorities to commit resources the initial refusal to investigate cited difficulties in gathering evidence in Zimbabwe. Even after the Constitutional Court's order in 2014, progress was slow. As of 2020 (six years later), the investigation into the 2007 Zimbabwe torture allegations had still not resulted in any prosecutions; in fact, it was reportedly still ongoing with little to show.[46] The Mail & Guardian noted an "inordinate delay" and described the investigation's pace as "lethargy," explicitly calling out the SAPS's disappointing tardiness in following through. Such delays can critically undermine a case evidence can deteriorate, witnesses' memories fade or they become unavailable, and political contexts change. The Constitutional Court itself had warned that "an expedited investigation is of paramount importance as the unearthing of evidence may become more difficult with time".[47] Yet, the warning went unheeded. This suggests systemic issues: perhaps a lack of political will, but also capacity issues. The PCLU and police may simply not have had the manpower or expertise (or priority mandate) to pursue foreign crimes vigorously. Moreover, these cases might rank low relative to South Africa's pressing domestic crime problems, contributing to inertia. There is also the question of evidence collection: obtaining evidence from Zimbabwe required cooperation that may not have been forthcoming, and sending South African investigators to Zimbabwe could raise sovereignty issues. Mutual legal assistance treaties or informal cooperation would be needed, which are not always successful when the target is the foreign state's own officials[48]. Thus, even with a court order, practical obstacles abound in assembling a

case that can stand up in court, especially without direct access to crime scenes or the ability to compel testimony from foreign witnesses.

3. Political Will and Diplomacy:

Perhaps the most significant challenges are political. Universal jurisdiction cases often have diplomatic ramifications, since they involve one country's legal system scrutinizing the officials or military personnel of another country.[49] In the African context, this can be particularly sensitive due to regional solidarity and the legacy of external interventions. The Zimbabwe Torture Docket case, for instance, put South Africa in a position of potentially investigating and prosecuting high-ranking Zimbabweans (who were allies of then-President Robert Mugabe). This carried the risk of diplomatic fallout between Pretoria and Harare. Indeed, South Africa's government showed clear hesitation the initial decision not to act was likely influenced by concerns about straining relations with a neighbor and infringing on Zimbabwe's sovereignty.[50] Similarly, when it came to executing ICC arrest warrants against a sitting head of state like Omar al-Bashir of Sudan, South Africa's government prioritized political considerations (such as the African Union's position and solidarity with Sudan as a fellow African nation) over its legal obligations. The al-Bashir incident in June 2015 is telling: despite South Africa's own courts issuing an order compelling the government to detain al-Bashir (who was attending an AU Summit in Johannesburg) pursuant to the ICC Act, the government facilitated his departure, in direct contempt of the court order.[51] It took the High Court and SCA to subsequently declare the failure to arrest unlawful, and the ICC's Pre-Trial Chamber later found South Africa in breach of its Rome Statute obligations. The episode prompted the South African government to announce (in 2016) an intention to withdraw from the ICC, perceiving its international obligations as conflicting with its diplomatic interests, especially regarding immunity for sitting heads of state. The willingness to investigate might exist on paper, but when it comes to arrests and trials, political authorities may quietly resist or slow-walk the process to avoid international incidents. This tension is an ongoing challenge laws alone cannot eliminate political calculations, and where the accused are powerful figures (often the case in atrocities), the political costs of prosecution can be high.[52]

Conclusion

In conclusion, South Africa's experience illustrates that universal jurisdiction is a powerful but delicate tool. The country's courts and laws have solidified the principle

that there can be no safe haven for perpetrators of the worst human rights violations, echoing the idea that accountability for such crimes is a responsibility shared by all nations. At the same time, using this tool requires navigating a minefield of diplomatic sensitivities and ensuring adequate legal and institutional preparedness. For South Africa to fully realize the promise of universal jurisdiction, continued commitment is needed not only in the judiciary but also from prosecutors, law enforcement, and the political branches to prioritize the fight against impunity over short-term political interests. The Zimbabwe Torture Docket case has set an important precedent, and it remains a test of South Africa's resolve to follow through. As the global context evolves, with other states (like Germany) actively pursuing universal jurisdiction cases, South Africa has both an example to follow and an opportunity to reassert leadership in this area, consistent with its human rights ethos. The nation's journey with universal jurisdiction thus far underscores a key lesson for all states: enshrining international criminal justice principles in national law is a vital first step, but the true measure of commitment lies in their implementation. In the words of the Constitutional Court, the goal must be to ensure that grave crimes "do not go unpunished" and that "the consciousness of humanity" is upheld by refusing safe haven to those who violate its most fundamental norms.

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