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A prosecution too far ? : reflections on the accountability of heads of states under international criminal law / Steven Freeland

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Abstract:	<p>The recent issue by the International Criminal Court (ICC) of an arrest warrant against Omar Al Bashir, the President of Sudan, for alleged war crimes and crimes against humanity, represents the first time that the ICC has acted in such a way against an incumbent Head of State. It has renewed the debate about the potential international criminal responsibility of Heads of State and has led to strong opinions both for and against such actions. Yet, the prosecution of Heads of State is by no means a new phenomenon, and its continued use represents an important element in the internationalisation of justice that has gained renewed emphasis over the past two decades. This article offers some thoughts and reflections on several key issues associated with this debate, focusing particularly on the political, legal and historical dimensions that have combined to allow for the prosecution under international criminal law of any person, irrespective of their official capacity. It also examines the important role in this regard for the ICC, the world's first permanent international criminal tribunal, as well as the increasing range of prosecutions now taking place within national jurisdictions, as the period of impunity in relation to the commission of international crimes that had existed for several decades up to the 1990s has come to an end.</p>
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