

U.S. Trying To Escape International Criminal Court

Aid Could End For Nations That Don't Exempt U.S.

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The Bush administration is adding an economic punch to its campaign to escape the jurisdiction of the International Criminal Court.

The administration fears that Americans could be brought before the tribunal by foreign countries. That concern has led to the U.S. policy to undermine the court's work.

The ICC is the first permanent international body set up to investigate and prosecute individuals accused of crimes against humanity, genocide and crimes of war. It could possibly apply to the modern-day genocides in the Sudan and the Congo or Rwanda.

It replaces the ad-hoc war crimes tribunals set up by the United Nations, such as the court trying former Yugoslav president Slobodan Milosevic at the Hague.

The treaty creating the court was adopted in 1998 at an international conference in Rome after intense negotiations. Its purpose was avoid a repeat of the tragedies of what Human Rights Watch has called "the bloodiest century in human history," the 20th century. The pact was approved by 120 nations.

From the court's inception, the Bush administration has loudly proclaimed that American service members won't be subject to its jurisdiction, a theme that coincided with the U.S. invasions of Afghanistan and Iraq.

Two years ago, Congress passed the American Servicemembers' Protection Act, which ended military aid to countries that refused to grant amnesty to U.S. nationals suspected of committing war crimes abroad.

Now comes a provision in the 2005 omnibus federal spending bill -- obviously part of the administration's foreign policy agenda -- that would bar economic assistance to any country that does not grant amnesty to U.S. citizens.

Administration lobbying and the threats of an aid cut-off have paid off. Some 96 countries have signed immunity agreements with the United States. Notable refusals have come from major U.S. allies Britain, France and Germany, who oppose these exemptions on grounds that they undermine the treaty. They also have blocked U.S. efforts to win immunity from the U.N. Security Council for Americans in U.N. peacekeeping operations.

The irony is that American officials were very much involved after World War II in initiatives to build a more humane world under international law. But that is old history for an administration that seems intent on ripping up the past.

The administration's adamant position about keeping Americans out of the ICC shows a sad disregard for our traditional respect for equal justice under the law. We seem to be saying, "We don't have to follow the rules, but we insist that everyone must do so." How soon we forget.

Is it any wonder that we have become the image of the arrogance of power to the rest of the world when we seek to exempt ourselves from the laws that we helped create?

The treaty has now been signed by 139 countries and ratified by 97. Former President Bill Clinton signed the pact in December 2000. President George W. Bush renounced it in May 2001.

Bush expressed concern that an international prosecutor might conduct frivolous investigations and trials against American officials, troops and foreigners who work for the United States overseas. He also said the court -- based at the Hague -- was made up of "unaccountable judges and prosecutors" who "could pull our troops (and) our diplomats up for trial."

Actually, the United States does not have much to worry about because there are built-in safeguards. First, all military personnel involved in U.N. peacekeeping have the right to be returned to their home countries for trial. The ICC can get involved only if the home country is unable or unwilling to get involved or if the home-country legal proceedings were fraudulent and intended "to shield the suspect from criminal responsibility."

Defenders of the court say it was created for mass killers, such as Germany's Adolf Hitler, Cambodia's Pol Pot and Uganda's Idi Amin.

Of course, the United States would have no worries if it played by the rules of international behavior and had its military and civilian personnel serving overseas understand what is at stake.

As it stands, the Bush administration's posture confirms the global perception that Bush views himself as the lone gunslinger protecting the town from bandits.