

An American ICC Dilemma – Our Caribbean

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THE NORMALLY low-profile Barbados-based United States (US) ambassador to the Eastern Caribbean Mary Kramer, chose last weekend to make a spirited media intervention on a controversial, high-profile issue – defence of the refusal by the George Bush administration to have the United States under the jurisdiction of the International Criminal Court (ICC).

So far as the region and member states of the Caribbean Community (CARICOM) in particular are concerned, however, the Kramer intervention would have come as quite a surprise, to say the least.

Primarily, for its regurgitation of an old, defensive position by the Bush administration, that was originally designed still being covertly enforced, to get various countries of the global community, including CARICOM states, to sign bi-lateral agreements that would exempt from extradition American nationals who may be wanted by the ICC for war crimes and crimes against humanity.

For a start, it is a position with which a number of CARICOM states, among them Barbados, Trinidad and Tobago and St Vincent and the Grenadines, strongly disagree. Consequently, their refusal to be persuaded by the argument to enter into bilateral agreements, within the context of Article 98 of the Rome Statute governing the powers and jurisdiction of the ICC, to facilitate what is solely an American demand.

Of course, there has been surprising somersaults by three other CARICOM states – Antigua and Barbuda, Belize and Dominica. They were among six regional countries previously blacklisted by Washington against receiving any further US military aid because of their failure to enter into, by July 1, 2003, bilateral extradition pacts.

So far as other CARICOM states are concerned, such as Jamaica, Guyana and St Lucia, they have signed the Rome Treaty recognising the independence and jurisdiction of the ICC, but are yet to complete the relevant legislative ratification process. The disengagement of Grenada and St Kitts and Nevis, has been such, that it is of academic interest at this stage whether they would ever ratify the Rome treaty.

If it is not the arrogance of power that has led the Bush administration into its holier-than-thou attitude against the ICC, then it can hardly be flattering to America's pride that it stands in a very minority position against the ICC.

In March 2002, as noted by international legal and human rights experts, President Bush took the unprecedented decision, in the history of treaty-making, when he authorised the unsigning of the Rome treaty to disconnect the US from the ICC to which it was made a signatory by his predecessor, Bill Clinton.

That unique development came virtually on the eve of the formal inauguration of the ICC and with the US, under President Bush, in the company then of strange bedfellows – Iraq, China, Russia, Libya and, of course, Israel.

As Kenneth Roth, director of Human Rights Watch – America’s best-known internationally human rights organisation – has observed: “In unsigned the [ICC] treaty, the Bush administration has put itself on the wrong side of history . . .”

By September this year, 97 countries had ratified the Rome treaty, 37 more than required, and with over 140 as signatories. Against the backdrop of rising international outrage at the degradation, gross abuses of political prisoners in Iraq and at Guantanamo Bay in Cuba, the US felt compelled to abandon on June 23, its bid for renewal by the UN Security Council of a two-year exemption from prosecution of US troops on UN peace-keeping duties. This American dilemma is all the more pronounced for the Bush administration's stubborn refusal to reconnect with the ICC.