

The US Administration and the ICC **By Congressman Dennis Kucinich**

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Common Dreams

The ICC derives from the principles and purposes of the United Nations, specifically that all states shall refrain from the threat or use of force against the territorial integrity or political independence of any state

Each and every member of the community of nations under the United Nations Charter, Article 51, has an undisputed right to self-defense. That right is express. Any nation may claim it. As a matter of record, I assert here and now that the United States has a right to defend itself. I also assert, for the record, that our US Administration has confused the difference between defense and offense.

In order to fully understand the determination of the current US Administration to stand outside the ICC, thus remaining unaccountable for violations of international law, one must understand the difficult situation the Administration finds itself in for ordering a preemptive attack upon Iraq, without prior authorization of the UN Security Council.

The Administration's case against Iraq, if it ever had a credible one, has fallen apart: Iraq had no weapons of mass destruction (WMDs). Iraq was not attempting to get uranium from Niger. According to our own intelligence, Iraq did not have the capability, or the intention of attacking the United States. Iraq had nothing to do with the tragedy of 9/11.

Unfortunately, there is an abundance of evidence which suggests the Administration used the tragedy of 9/11 as an excuse to attack Iraq, and had, indeed, been planning an attack on Iraq from the earliest days it came to power.

Unable to establish a justification for its war, unable to find the WMDs, and with its doctrine of preemption in collapse, the Administration switched its *causis belli* for the attack on Iraq to . . . regime change - - and made the ouster of Saddam Hussein the reason for the attack on Iraq. It is well understood that, under widely recognized international law, no nation has an inherent unilateral right to breach the sovereignty of any nation and to relieve people of any nation of their leader or government.

In the wake of the attack on Iraq, questions have been made regarding the responsibility of members of the Administration and their contractors, for authorizing torture, for the destruction and appropriation of property, unlawful confinement, attacks on civilians, attacks on civilian objects, exacting excessive incidental death, injury or damage, destroying or seizing the enemy's property, employing poisoned weapons, and outrages upon personal dignity, all of which constitute war crimes or crimes against humanity under the International Criminal Court statute, which entered into force on July 1, 2002.

Given the public record of its conduct in Iraq, is it any wonder that the Administration, in order to avoid accountability under the ICC for the results of its own directives, would go to

extraordinary efforts to weaken and even destroy the ICC, and to threaten nations which support it with economic reprisals?

The Administration has told the American people that it refuses to participate in the ICC in order to protect our troops from being brought to the Hague. One might ask should troops be held accountable and those who sent them not be accountable? In fact, all troops are protected because there is a specific provision in the ICC in which all military personnel have the right to be returned to their home country for trial. The ICC gets involved only if a suspect is being "shielded from criminal responsibility."

It is more likely that those whose protection the administrators seek wear not the uniform of our nation, but the business suits of top civilian government officials who wrap themselves in the flag and hide behind the troops while insisting upon impunity for the deadly consequences of their own political decisions.

Unfortunately, the cascading effects of bad decisions necessitate that the current US Administration construct a wholesale revision of the role of the United States in the world community, making in our own nation a religion of unilateralism. How else to cloak blatant violations of the UN Charter, the Geneva Conventions, the Hague Conventions and our own US Constitution, which under Article I, Section 8 reserves war-making power to the US Congress? How else to escape the legal and moral requirements of the rule of law and the establishment of justice which the very founders of the United States saw as having transcendent meaning?

There are many in our United States government who do understand that Peace can only be obtained through international cooperation and adherence by all nations to high principles. We know that, as a matter of the survival of the human race, unilateralism must yield to multilateralism. The American electorate may experience a sharp partisan division. Today that division has been translated into policies which set the United States apart from the rest of the world on matters of the International Criminal Court, the nuclear Non Proliferation Treaty, the Kyoto Climate Change Treaty, the Biological Weapons Convention, the Chemical Weapons Convention, the Small Arms Treaty, and the Land Mines Treaty.

In times when principles of international unity are under attack, it is urgent for all those of us who appreciate the endless ways in which the people of the world are interrelated and interconnected to stand up, to assert and to enact principles which respect, assert and codify the imperative of human unity. Each of us has the responsibility and the gift to work within our sphere to construct a world where all may survive and thrive in peace and justice.

We must work tirelessly for ratification or accession to the Rome Statute. That is why we must remind our constituents of the urgency of having a sustainable system of international justice. 9/11 remains a crime against not only this nation, but a crime against humanity. The perpetrators of 9/11 must be brought to justice. But no one nation can or should meet the task alone. International cooperation is mandatory. Only the ICC presents a workable framework for the functioning of an international justice system which will affirm the basic human rights of all people of all nations and will deliver the world from a so-called war on terror which ends up producing terror of its own.

We must do this work regardless of who is or isn't abusing power, regardless of who stands apart from the process or who is trying to wreck the process. We must focus on our own task, and reach out to all those who believe, as we do, that we can create a new world by international standards of justice.

The power of human unity is as inexorable as the power of human love. No matter how challenging things may seem in the moment, with compassion and patience we will create the world we seek, and those who today stand at the periphery of that world must continue to be welcomed inside, without fear. Thanks to each of you for truly being parliamentarians for global action.

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