

going in there and looking for Osama bin Laden; so we give the government of Pakistan money in the hopes that they will be helpful to us.

There is quite a bit of difference between the foreign policy of neutrality and friendship with everyone versus giving money and support to everyone. And if we look at our history, it has not worked very well. We have in the past given money to both sides of a lot of wars, and right now we try to be friends and we give money in support to both India and Pakistan. I do not bring this amendment up here to be pro either one or anti either one. I want to have a pro-American foreign policy and not say, well, I want to punish Pakistan and help India or vice versa.

We have helped people who have been arch enemies for years. Take Greece and Turkey. We helped both sides. But not only do we help both sides of a lot of these fights that have been going on for a long time, we literally help our enemies. Just think of the support we gave Osama bin Laden when he was fighting the Russians in Afghanistan and just think of our alliance with Saddam Hussein in the 1980s when we did provide him with a lot of destructive weapons. That type of policy does not add up. It does not make a lot of sense. It is not in our best interests, and my suggestion here is hopefully somewhere along the way, we will take a serious look at this and redirect our foreign policy.

But, specifically, is it a wise expenditure to put \$300 million into the government of Pakistan with the pretense that we are promoting democracy by supporting a military dictator at the same time our young men are dying in Iraq promoting democracy? It does not add up, and it suggests that there are other motives for some of these expenditures and some of our motivations around the world.

In the past we have been arch enemies of Libya, but now we have decided they will be our friends. And I am not against that in particular, but I am against giving them subsidies and helping them out.

There is such a difference between neutrality and friendship and that of giving weapons and arms and promoting antagonisms.

AMENDMENT NO. 6 OFFERED BY MR.  
NETHERCUTT

Mr. NETHERCUTT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. NETHERCUTT:

At the end of the bill (before the short title), insert the following:

LIMITATION ON ECONOMIC SUPPORT FUND ASSISTANCE FOR CERTAIN FOREIGN GOVERNMENTS THAT ARE PARTIES TO THE INTERNATIONAL CRIMINAL COURT

SEC. \_\_\_\_\_. None of the funds made available in this Act in title II under the heading "ECONOMIC SUPPORT FUND" may be used to

provide assistance to the government of a country that is a party to the International Criminal Court and has not entered into an agreement with the United States pursuant to Article 98 of the Rome Statute preventing the International Criminal Court from proceeding against United States personnel present in such country.

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Washington (Mr. NETHERCUTT) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Washington (Mr. NETHERCUTT).

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Mr. NETHERCUTT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I also want to say congratulations to the chairman of the subcommittee. He has done a fine job and has worked very hard to get this bill through. As a Member of the Committee on Appropriations, I will support this bill.

I do want to have a discussion about this amendment, because, 2 years ago, we enacted the Armed Service Members Protection Act as part of the fiscal year 2002 Supplemental Appropriations Act. ASPA was a response to the International Criminal Court entering into force, creating the very real possibility of unconstitutional, extraterritorial and politically motivated prosecutions against military service members. The U.S. is not a party to the ICC, but our troops could face prosecution under the treaty.

As a result, the administration has understandably been very concerned about committing troops to support U.N. peacekeeping operations around the world without some assurance that our troops would not face ICC prosecution. For the last 2 years, we have operated under Security Council resolutions blocking ICC prosecutions.

Unfortunately, 3 weeks ago, lacking the support of the Security Council, the U.S. was forced to drop its request for a third extension of this waiver, meaning that our troops are now subject to ICC jurisdiction. At the end of June, the administration pulled out of two small peacekeeping missions because of this concern.

ASPA created a powerful tool for protecting our troops by prohibiting military assistance to countries that had not signed bilateral Article 98 agreements with the United States, agreeing not to surrender U.S. nationals to the ICC. The Act also included all of the necessary waivers to protect the President's foreign policy prerogatives.

My amendment today would simply give the President an additional tool to protect our troops by prohibiting Economic Support Funding as well as military assistance to the government of countries that are both parties to the ICC and have not signed Article 98 agreements.

This distinction is important because traditional development assistance

through ESF typically is administered by a USAID contract to an NGO. Such assistance would not be restricted. Similarly, funding for the international Fund for Ireland and the Walsh Visa Program could continue, as funding goes to non-governmental entities.

I want to see the U.S. engaged around the world supporting international efforts to keep the peace. That is our responsibility and obligation as a superpower. But we should not have to risk the unconstitutional prosecution of our troops in the process.

A vote for my amendment is a vote for continued U.S. engagement and the continued protection of our personnel deployed around the world in support of multilateral peacekeeping efforts.

Signing an Article 98 agreement, as 90 other nations have done, is not too much to expect from nations receiving millions of dollars in U.S. assistance. We have an obligation to protect our Armed Forces from unconstitutional extraterritorial prosecution.

Moreover, this amendment sends a powerful message to the world community that when we commit U.S. troops overseas we will insist that they be protected by Article 98 agreements, if the Security Council will not do its part.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Does the gentleman from Arizona (Mr. KOLBE) claim the time in opposition?

Mr. KOLBE. Mr. Chairman, I do.

The CHAIRMAN. The gentleman from Arizona (Mr. KOLBE) is recognized for 5 minutes.

Mr. KOLBE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me just say that I agree with the motivations of this amendment, but I absolutely have to oppose the substance of it. The reason I do so is because I think it is going to accomplish exactly the opposite of the intent of this amendment.

Proponents of this amendment are, as the gentleman suggested, upset at opposition the U.S. faced at the United Nations Security Council in getting an extension of a U.S. exemption under the jurisdiction of the ICC. We were successful for some time in getting that, but now it has failed because we have faced a public relations nightmare in the United Nations and elsewhere around the world.

Do we have a right to be angry and upset and outraged that we have not gotten this extension? Yes, I think we should be; and we should continue to press for an extension.

Many times this Chamber has supported the American Servicemembers Protections Act, and I have been among its strongest supporters. I believe it is crucial that the U.S. negotiate Article 98 agreements with as many countries as possible to prevent the possibility that they may be tried in an international criminal court, with little or no political accountability.