

Sens. Jesse Helms and Zell Miller

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NO COURT DATES FOR AMERICA

The United Nations will interrupt its schedule this week to celebrate the launch of yet another international entity - the new International Criminal Court (ICC). Nonetheless, this event should not cause Americans to break out the party hats and kazoos.

This court is intended, its supporters claim, to bring justice where - supposedly - none currently exists, and to prosecute war crimes that could otherwise escape scrutiny. No other country has done more than the United States to minimize harm to innocent civilians when military action has been necessary.

It needs to be understood, however, that the ICC is without supervision or oversight. And, most alarmingly, this new court will claim jurisdiction over citizens of countries that have not agreed to be members of it. The ICC's jurisdiction will not be controlled or limited by any country's constitution or legislature. It will answer only to itself. This is not responsible government.

History teaches us that unchecked power is quickly and inevitably abused. Our Founding Fathers correctly identified limits on government power as the key to protecting individual liberties. This is a bedrock norm that should be applied to all international and national institutions.

The only means to keep the ICC in its proper place is the American Service Member's Protection Act, which we have introduced. The new court may very well run amok, but with passage of our bill, American men and women in uniform will be protected.

Since we introduced, and the Senate overwhelmingly approved our legislation, the world has changed. The so-called International Criminal Court is now a reality. The Middle Eastern flames of conflict have risen higher. The American military is pursuing organized and vicious international terrorists in a war of an unprecedented nature.

This is a war demanding our presence in many countries unfamiliar to most Americans, countries that are, or will be, members of this new court. While these brave American men and women protect us and others, risking injury and death in the process, they will also be at risk of prosecution because the necessary steps to protect them have not been taken. So it is only a matter of time until some nations, seeking to divert attention from their prior support of terrorist

groups, will be trying to use the court to blur the distinctions between the terrorists and U.S. counter-terrorist efforts by trumping up charges against members of the armed forces of the United States.

The recent history of United Nations activities (such as the Conference Against Racism in South Africa last September) has made clear that nations with ill intent will manipulate international institutions by trying to turn them into lap dogs. This has become so obvious that even B'nai B'rith International, a leading activist for human rights and a staunch supporter of the concept of an international tribunal, has come to the reluctant conclusion that this court will not fulfill its intended purpose and, thus, can no longer be supported.

Others, we are confident, will follow the example set by B'nai B'rith. Recent protests over the treatment of captured al Qaeda terrorists at Guantanamo Bay, Cuba are an indication of future international hypocrisy. These protests came while, just outside that American base, Fidel Castro unjustly imprisons human rights-advocates under vastly worse conditions.

The American Service Member's Protection Act is not yet law, but it must be enacted without further delay. U.S. counter-terrorist operations must continue. We must guarantee that Americans who are undertaking those operations at the lawful direction of our national authorities will bear no risk from a politicized ICC that is unsupervised and unaccountable.

We hope President Bush will take advantage of the opportunity coming in August - when the United States assumes the U.N. Security Council presidency - to unsign the Rome Statute, thereby divorcing the United States, finally and definitively, from the court.

Critics of the U.S. position mutter that the United States should remain involved in the structure of the court. Baloney. Just as the United States avoided membership in the ill-constructed League of Nations nearly a century ago, the United States should keep this new international travesty as far away from the American people as possible.

Sen. Jesse Helms is a Republican from North Carolina. Sen. Zell Miller is a Democrat from Georgia.