

COMMERCE, JUSTICE, STATE AND THE JUDICIARY SUBCOMMITTEE, HOUSE
HEARING ON FISCAL YEAR 2002 STATE DEPARTMENT BUDGET REQUEST

April 26, 2001

(excerpts)

SEN. WOLF: Welcome, Mr. Secretary.

I'd like to ask you about the UN War Crimes Tribunal funding, and also how you see us going forward if we do not end up ratifying the important agreement, the Rome Statute that former President Clinton signed on December 30.

SEN. KENNEDY: And I'd like to ask you what you see as our role in helping develop a legitimate judicial process internationally so that we can address these issues going forward. That would be my first question, if you could.

And I would like you to mention a word, if you would, given that there is a war crimes tribunal that's needed in East Timor and in Indonesia to address the problem that the Indonesian government has seemed to fail to do in terms of war crimes that have been committed there. And I'd ask you to comment on what steps you are taking to pressure Indonesia to address these war crimes, but also to disarm and disband the militias and arrest their leaders who are continuing to perpetrate many of these war crimes.

And finally, I'd like to ask you to comment on a statement that was made by Admiral Barbara McGann who's provost of the U.S. Naval War College in my state, who said that the impact of global poverty and inequity is going to have as significant a role in U.S. security interests in the future as military threats. And what that says about our role, you coming from the military and now in your new role as secretary of state, to address this new challenge that we have in global instability that demands a strong response, but as you and the president have said, a considered response on the military side, but nonetheless a strong response.

How do we put that in place if we aren't to use our military so that we can mitigate instability that comes from these crises that very much are a result of global poverty and instability within a given area?

So those are the three points that I'd like you to address if you could.

COLIN L. POWELL, U.S. SECRETARY OF STATE: With respect to war crimes, as you know, I do have a special person and office on my staff that is interested and follows such matters. It's an office that was created in the previous administration and after reviewing it, we found it was doing very, very good work and we have retained the office. And I have appointed somebody to head the office, so we're very taken with that problem.

KENNEDY: And I thank you for the increase in funding that you've associated to that.

POWELL: Yes.

With respect, however, to the International Criminal Court, which President Clinton signed, but he signed it and at the same instance said he did not think it would be going up for ratification, and that is the position of the Bush administration, because of concerns we have, frankly, about the constitutional rights of our service men and women who might be overseas and somehow become subject to the risks associated with such a court.

It was a problem that the previous administration had with the ICC, and it is certainly a problem this administration has with the ICC concept. And frankly, it was a problem I had with it when it first became an issue in the early '90s when I was chairman of the Joint Chiefs of Staff and realizing that we might be subjecting young men and women who volunteered to serve for their nation under the laws of their nation under the Constitution that we all hold so dear, suddenly finding themselves as a result of being sent somewhere to execute American foreign policy, coming under the dictates of the International Criminal Court. And it concerned...

KENNEDY: If I could, just for a second, I know this is a big issue, but I also know that this Rome Statute makes it very clear that U.S. soldiers would be subject to U.S. original jurisdiction before being subject to the International War Crimes Tribunal.

KENNEDY: I have a tough time thinking that our own judicial system would not meet the requirements and criteria of a sound judicial process by the international criminal court.

So I appreciate your point and, believe me, coming from a state that has a heavy investment in our men and women in uniform, I know of your concern and I share that. But I do think that clearly as a world community, a small global village that is getting smaller by the day, we need to press forward and continue to be the leaders. And I know we've had a major stake in making sure our interests are represented in this accord, given the fact that our people have been the ones that have drafted many, many provisions within this accord.

I just wanted to say that, because I know of your need to make the administration's policies understood, but I also appreciate that that can't be in a vacuum of our leadership toward this endeavor, of getting an international criminal court.

POWELL: It isn't in a vacuum of our leadership responsibility. That's why we support international tribunals for specific instances and specific cases, such as the International Tribunal for the Former Yugoslavia and similar international tribunals.

And notwithstanding what you've just said, apparently the kind of protections you suggest are in the ICC were not enough to satisfy the military leaders and the political leaders of both the previous administration and this administration. And this administration feels more strongly about it, I think, than the previous administration. Because President Clinton did sign it in order to protect our ability to influence the deliberations that were involved in such a court, but did not have sufficient confidence that it protected our interest that he would say in the signing statement, "By the way, we're going to send this up for ratification," because he felt the same obligation to the men and women in uniform that President Bush feels to the men and women in uniform.

So it is still and will remain the position of the administration that we will not be sending the ICC up to the Senate for advice and consent to ratification.