

THE INTERNATIONAL CRIMINAL COURT; IN DUTCH WITH AMERICA

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The scenario goes like this: American warships speed through the North Sea toward the Dutch coast, launching an invasion of the Netherlands from the beaches of Scheveningen in The Hague. The Dutch, meanwhile, prepare for battle against their bigger NATO ally: They are busy digging trenches and deploying their newly purchased American fighter jets to the coast.

A kinder, gentler scenario also is making the rounds: President Bush storming a windmill on horseback.

What have the Dutch done to incur the wrath of the mighty U.S.?

They've agreed, not for the first time, to be the host for the world's latest attempt at global justice: the International Criminal Court.

Since the stroke of midnight on July 1, anyone in the world who commits a war crime, crime against humanity, or genocide risks being hauled before the first-ever permanent international criminal court, set up to try those accused of the worst crimes.

The court itself (to be temporarily housed in the former home of troubled Dutch telecom giant KPN) won't be functional for at least a year, but its jurisdiction kicked in July 1.

In response, the U.S. seems poised to enact what's known in the Netherlands as The Hague Invasion Act (the American Servicemembers' Protection Act to those on the other side of the Atlantic), which will allow Bush to use "all means necessary" to liberate the citizens of the U.S.--and those of allies--from the clutches of the court.

The measure, passed by the House and Senate, is now before a conference committee, part of a much larger counterterrorism bill. Bush supports it.

"Suddenly, they know in the United States where The Hague is," mused one member of the Dutch parliament.

"Americans Not Yet on the Beach," one Dutch newspaper informed readers after the bill's passage in the Senate.

Dutch feeling betrayed

No one here actually thinks the U.S. will invade, but jokes aside, the Dutch are shocked, furious and feeling betrayed that one of their closest allies, the country that liberated them from the Nazi occupation of World War II and that now has their full support for its war on terror could possibly have such a law on its books.

"It's really, really, really absurd, and I could say ridiculous, to hear that the only one superpower that we have, a member of NATO, passes a law against another country which is also a member of NATO," said Farah Karimi, a member of parliament from the Green Left.

It's not only absurd, she argues, but illegal.

"We know, for example, Article V of NATO means if one of the members of NATO is attacked by another country, then NATO as a whole has to defend the country. That means that the United States has to defend us against the United States. This is really ridiculous."

And symbolic.

Unilateralist approach

Karimi said it shows how far the U.S. is willing to take its new unilateralist approach to world affairs, one that has Europe concerned. From disarmament to the environment to trade, the U.S. seeks to go it alone.

International law is no exception, and the U.S. protection act, in fact, is just the congressional part of the all-out U.S. war on the International Criminal Court: The Bush administration went from completely rejecting the court to demanding Security Council exemption from the court's jurisdiction for all Americans involved in UN peacekeeping missions. On Friday, the Security Council unanimously adopted a resolution that effectively gives American peacekeepers a year's exemption from prosecution.

The U.S. seems determined to undermine the court.

Why?

Most legal experts agree that the chances of an American ever ending up before judges here are extremely remote. The ICC will be a court of last resort, springing into action only when national jurisdictions are unwilling or unable. The U.S. should have nothing to fear.

Amy Ross, a professor geography at the University of Georgia who has studied war crimes and truth commissions, says the Bush administration is purposely misrepresenting the new court as going after the common man, or the soldier, when in fact it will focus on world leaders. And that, she said, is what really has the administration running scared.

Bush could be choosing judges

"It's ironic in a certain way that President Bush is objecting to the ICC at this stage when he could be right in there--choosing the judges, selecting the prosecutor, making a real impact on the character and the personality of this court," Ross said.

"It's ironic that he's not doing that because one would have thought that President Bush would have recognized the importance of having a court stacked in his favor," she added, referring to U.S. Supreme Court involvement in the presidential elections of 2000.

But unless the U.S. comes around, not one of the court's 18 judges, not one of its senior trial attorneys, and no high-level registry officials will be American. The U.S., which for half a century has, at least in word, promoted the international rule of law, will be on the wrong side of the justice issue, standing apart from most of the world's democracies and many of its own closest allies, all 15 members of the European Union included.

One can only wonder whether the U.S., which says it won't extradite war crimes suspects on its soil to the court, will become the next pariah state, the next haven for war criminals.

Eerie similarity

The words of congressional leaders opposing the court are strikingly similar to the words of former Yugoslav President Slobodan Milosevic. He's on trial at a different international criminal court in The Hague, the Yugoslav war crimes tribunal, a one-off court set up in the days before supporters of the permanent court could even dream it would ever become a reality.

Milosevic totally rejects the court that is trying him. He calls it "false," "illegal" and "monstrous."

Compare his words to those of Sen. Jesse Helms, co-sponsor of the protection act in the Senate: The International Criminal Court, he says, should be called the "International Kangaroo Court."

Then there's Republican Whip Tom DeLay in the House, who talks about Americans being "snatched by this rogue court."

Milosevic says U.S. justice is selective; America's leaders are, unfortunately, proving him right.

The Yugoslav dictator has now been in The Hague for one year, a truly significant event in which the U.S. played such a crucial role.

As Milosevic sits in his jail cell, he may be able to take some small comfort in the fact that his powerful archenemies, the Americans, may not go after someone like him again for a very long time.