

THE U.S. IN CONTEMPT OF COURT; INTERNATIONAL TRIBUNAL TAKES A CRIPPLING HIT

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Opinion by ALISA NEWMAN, Alisa Newman is an attorney working for the United, Nations in East Timor.

In the battle of the U.S. versus the International Criminal Court, which ended recently with a compromise agreement, the Bush administration proved that you can blink with your eyes already closed.

After weeks of disregarding the contempt of the international community at U.S. arrogance toward principles of international law and justice, the Bush administration stepped down from its insistence that American peacekeepers receive wholesale immunity from the ICC, the world's first permanent war crimes tribunal.

Under the compromise deal, countries that oppose the court--such as the U.S.--would be exempt from investigation and prosecution for one year, rather than be given a blanket exemption. However deplorable the likely outcome of the Bush administration's intransigence--the crippling of an institution dedicated to providing justice to victims of heinous and universally condemned acts--its tactics were even more so.

As part of its hard-sell negotiating strategy, the administration played a dangerous game of brinkmanship with U.N. peacekeeping missions around the world. It threatened at the eleventh hour to block the renewal of the U.N. mission in Bosnia and yanked out the three U.S. soldiers who were assigned to the U.N. mission in East Timor. The decision of the administration to use peacekeeping missions as pawns in the struggle over the ICC was as ironic as it was cruel.

With one blow, the administration struck at the heart of the world's two most effective institutions that address genocide and war crimes.

The advantages to humankind of a permanent international war crimes tribunal have received much ink in recent weeks. But the peacekeeping mission also fulfills important roles in post-conflict societies--as interim government in countries whose civil administrations have collapsed, as border security, as trainer of nascent police forces and armies. Both the war crimes tribunal and the peacekeeping missions are necessary to prevent wobbly postwar, post-genocidal societies from descending into chaos.

The biggest losers in the battle over the ICC are, of course, the war-torn, genocide-plagued nations of the recent past and the near future. Take, for example, East Timor, the tiny half-island nation that lost as much as one-third of its population under brutal Indonesian occupation from 1975 to 1999. A country such as East Timor would have been doubly punished had the U.S. succeeded in killing off both the ICC and the peacekeeping mission. This is because, to date,

the international community has not mustered the political will needed to establish an international war crimes tribunal (such as those for the former Yugoslavia and Rwanda) for East Timor, which has the misfortune to be small, impoverished and not in Europe.

Had the ICC been established in time, the East Timorese could have redressed their grievances before it. Instead, they had to settle for the second-best alternative: The U.N., as part of its peacekeeping mission, has created and funded a special "serious crimes" prosecutor's office and court that are part of the Timorese national justice system and responsible for trying crimes against humanity.

For the time being at least, the threat to justice and peace in East Timor, Bosnia and other post-conflict nations has abated. One hopes that when it comes time for the inevitable round two between the U.S. and the ICC, the Bush administration will choose from its arsenal a weapon other than the peacekeeping missions.