

Interview with Secretary Powell by the South African Broadcasting Corporation
July 10, 2003

QUESTION: I want to move on to the issue of the International Criminal Court. The United States has been very vocal in its defense of democracy and some international oppressors. How then does it justify its decision to punish about 35 African leaders, including South Africa, for refusing to exempt it in terms of the ICC?

SECRETARY POWELL: The United States is not a participant in the Rome Statute -- the treaty that came out of the Rome Statute. But we have no reason to apologize for that because we hold our soldiers and our public officials to the very highest levels of accountability and responsibility. And we also have a constitutional system that says when one of our individuals who is serving overseas has done something wrong, we expect that individual to be dealt with under the Constitution of the United States.

QUESTION: But the ICC does provide for that.

SECRETARY POWELL: The ICC still provides, says you can do that, but it also says if we don't like the results of that, then an international tribunal will speak up and try to bring an American soldier or an American official before the tribunal. The tribunal answers to no parliament, to no legislature, and we found this to be an unacceptable situation for us.

Because we, more than any other nation in the world, find ourselves with troops deployed around the world with peacekeeping missions and rescue missions, and we tend to become a target for this kind of charges -- this kind of charge against us, and so we did not enter into the ICC. And we asked the countries in which we might have troops serve, if they would be willing to sign one of these Article 98 agreements.

It is not something that is outside the Rome Statute. Article 98 is provided for in the Rome Statute. So we use the Rome Statute to say, "If U.S. troops are in your country, and they're responsible for something that is improper, or they are charged with something, we will deal with them under U.S. law. And you, as a condition of us working with you, we ask that you not in any way try to put them before the ICC."

And our Congress felt so strongly about this because of our democratic constitutional system that they passed a law, the American Serviceman's Protection Act that says, "Look, if there are friends of ours who cannot go along with this Article 98 agreement, then, as a matter of law, you will have to take another look at the assistance that's being provided to them -- military assistance."

In this case, there is nothing on the table that is heading in the direction of South Africa right now, so there is no penalty that South Africa is paying at the moment. But it is a problem for the future.

QUESTION: You dispel positions that the United States is afraid of something?

SECRETARY POWELL: We are afraid of something? We are not afraid of the ICC. We are not a party to the ICC. And we will only put our troops in places where we believe that they will be subject to U.S. constitutional procedures and U.S. military discipline and the laws of our land. And we recognize that there are needs for other kinds of courts.

We support the tribunal of Yugoslavia, of Sierra Leone, and other places, but the ICC was so sweeping in nature and without any legislative underpinning to it, that we believed it was inappropriate for us to subject our personnel to the court.