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REMARKS AT DARTMOUTH COLLEGE; HANOVER, NH
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Excerpt

International Criminal Court

An event of major importance in the evolution of international humanitarian law occurred this past summer in Rome, where more than 160 nations met to craft a treaty that would result in the creation of a permanent international criminal court. The international community sought a noble and worthy objective whose time has clearly arrived. That objective is to hold accountable and bring to justice the perpetrators of the most egregious crimes against humankind: genocide, crimes against humanity, and serious war crimes. At the diplomatic conference in Rome we deliberated as to how that objective could be accomplished in a world comprised of sovereign governments, each with its own penal system but each bound together with the cords of customary international law, reflected both in international treaties and in common practice. The treaty that emerged from the Rome conference has many provisions that we support and the United States can be proud of the many significant contributions by the U.S. delegation to the treaty text. We in the U.S. Government, however, have reluctantly concluded that the treaty, in its present form, contains flaws that render it unacceptable. Most problematic is the extraordinary way the court's jurisdiction was framed at the last moment. A country whose forces commit war crimes could join the treaty but escape prosecution of its nationals by "opting out" of the court's jurisdiction over war crimes for 7 years. By contrast, a country that does not join the treaty but deploys its soldiers abroad to restore international peace and security could be vulnerable to assertions that the court has jurisdiction over acts of those soldiers. Consider this scenario: A State not a party to the treaty launches a campaign of terror against a dissident minority inside its territory. Thousands of innocent civilians are killed. International peace and security is imperiled. The United States participates in a coalition to use military force to intervene and stop the killing. Unfortunately, in so doing, bombs intended for military targets go astray. A hospital is hit. An apartment building is demolished. Some civilians being used as human shields are mistakenly shot by U.S. troops. The State responsible for the atrocities demands that U.S. officials and commanders be prosecuted by the international criminal court. The demand is supported by a small group of other states. Under the terms of the Rome treaty, absent a Security Council referral, the court could not investigate those responsible for killing thousands, yet our senior officials, commanders, and soldiers could face an international investigation and even prosecution. Clearly, such a scenario is not acceptable to a country such as ours with its unique responsibilities for the maintenance of international peace and security. Having considered the matter with great care, the United States will not sign the treaty in its present form. Nor is there any prospect of our signing the present treaty text in the future. Just yesterday I was in New York discussing the international criminal court and the treaty text in a meeting of the U.N. General Assembly's Sixth Committee. As I said there in New York, it is our view that governments must be afforded the opportunity to address their more fundamental concerns. The advantages that would derive from strong United States support for the international criminal court should not be sacrificed for a concept of jurisdiction that may not be effective and even runs the risk of dividing the international community on an issue-international justice -- that will be difficult enough to achieve if the international community is together. The international community's willingness and ability to prevent and, where necessary, respond effectively to atrocities is of fundamental importance. The opportunity remains for the international criminal court to achieve its full potential. The U.S. holds the stakes for international peace, security and justice to be too great to accept anything else.

Conclusion

I have not touched upon other atrocities we are focusing on, including those in the Democratic Republic of the Congo, Sierra Leone, Burundi, Afghanistan, and elsewhere. It is a very large agenda, but one that we cannot walk away from. I have not spoken of our emerging efforts to build a better system of early warning and prevention of genocide, a goal President Clinton is determined to see addressed. But I hope I have given you some idea of the challenges that confront us. I hope that some of you, in the future, will have the opportunity to help the international community address these challenges. We must make every effort to ensure that the worst crimes of the 20th Century are not repeated in the 21st century.

Thank you.