

The Honorable Condoleezza Rice
Assistant to the President, National Security Affairs
The White House
1600 Pennsylvania Avenue NW
Washington DC 20050

Dear Dr. Rice:

It seems that our military efforts against the terrorist threat to our country are having some success, but I am concerned about another aspect of the struggle against terrorism, the long-term need to reduce the number of people who want to become terrorists against the United States. Undoubtedly different persons have different reasons for feeling antagonistic toward us, but some of the animosity against this country is due to the perception that we assume that we don't need to follow the rules we expect other nations to follow and that sometimes we don't even act in accord with our own generally esteemed principles.

A particular example of this exempting ourselves from the rules and acting contrary to our own principles is our opposition to the creation of an International Criminal Court (ICC) and reluctance to ratify the Rome Statute of 1998 which establishes it. My understanding is that when the creation of this court was first discussed at the United Nations we were supporters of it. The principle that individuals, even leaders of nation-states, should be held accountable for genocide, war crimes, and crimes against humanity, is in accord with the precedents our country supported in the Nuremberg and Tokyo Trials after World War II. If such a principle could be realized not only in theory but also in actual practice, it not only could deter the committing of such crimes but also might prevent some wars. Yet this country now opposes the ICC.

Why? Apparently, the Department of Defense is concerned that some American servicepersons might be brought before such a court for their actions. I believe that this is not a good reason for opposing the ICC. First, the Rome Statute indicates that national governments have the primary responsibility for enforcing international law against such crimes and that the ICC will get involved only when national governments do not carry out that responsibility. Second, if some of our military personnel do commit such crimes, I want them prosecuted, and if our national government doesn't do that I want an international court to do it. At the same time, if our military personnel are NOT guilty of such crimes, it will be preferable to have them tried by an impartial international court providing due process protections equivalent to those in the Bill of Rights rather than by a potentially hostile foreign government. Third, it is a basic principle of all ethical thinking that one cannot exempt oneself from the rules one expects others to follow. We rightly expect others to refrain from committing these horrendous crimes. We cannot claim that Americans should be exempt from these rules and from the jurisdiction of the ICC. It is just this kind of hubris on our part that motivates some people to be anti-American. Please recommend to the President that our country begin supporting the ICC.

Sincerely,