

## **The US Assault On World Criminal Court**

By Eric Schwartz

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TODAY the world reaches a milestone in the effort to punish perpetrators of some of the worst human rights abuses - genocide, war crimes, and crimes against humanity. A treaty to establish the first permanent international criminal court comes into force today, and the court should be up and running by the middle of next year.

The International Criminal Court, or ICC, is the product of many years of discussions among dozens of governments. It will serve as a living monument to the millions of victims of killings and torture over the past several decades, from Cambodia to Congo, who never obtained justice against the perpetrators of such abuses.

The ICC will also inherit the legacy of ad hoc international war crimes tribunals established after World War II, as well as those more recently established for the Balkans and Rwanda. The court will be composed of judges and a prosecutor chosen by states that have ratified the 1998 Rome Statute of the ICC and will have jurisdiction over the most heinous abuses that result from international conflict.

One might expect that the US government would be organizing celebrations for today, or at least planning to ensure that the ICC be made part of this year's Independence Day activities. After all, the goals of civil rights, due process, and basic justice that are imbedded in our Constitution are the central elements of the ICC Treaty.

Instead, the Bush administration has renounced the Clinton administration's signing of the treaty and has set out to cripple this new institution. Last month, US officials brought their offensive against the court to the United Nations, where they are seeking a Security Council resolution that would exempt from the jurisdiction of the court member-state officials participating in all UN peacekeeping operations. The issue has come to a head in Security Council debate on a resolution to extend the UN mission in Bosnia.

No matter how the Bosnia issue is resolved, the Security Council - most of whose members have signed or ratified the treaty - will resist a broad exemption for all UN peacekeeping missions, as such an exemption would conflict with the text of the treaty and its principle of accountability. In turn, the Bush administration has threatened to bring home US peacekeepers from around the world if it does not get its way.

The Bush administration says it is acting to insulate US officials from the risk of unfair and politicized prosecutions by the ICC, but US actions are wildly out of proportion to any such threat against Americans.

For one thing, the ICC is not permitted to initiate a prosecution against any individual if the person's country of nationality is prepared to investigate the case. Even if the administration does not believe the ICC will respect that requirement, the Treaty permits the Bush administration to negotiate agreements with other governments against surrender of US citizens to the ICC.

Rather than an assault on the court, the Bush administration should become involved in the development of this institution to ensure that it effectively promotes justice.

Senior officials at the State Department do support a less confrontational US approach toward the court, but they have been run over by a Defense Department juggernaut not only against the ICC, but also against US involvement in peacekeeping generally. This is unfortunate for several reasons.

First, if the United States makes good on its threat to pull out of peacekeeping missions, we will damage our own security interests. From the Balkans to the Iraq-Kuwait border, US soldiers and civilians have played critical roles in keeping the peace and ensuring against instability.

Second, at a time when we are depending on the leadership of others in peacekeeping in Afghanistan, the Balkans, and East Timor, our disengagement will be an affront to allies whose support in the war on terrorism and other issues will be crucial in the years ahead.

Finally, the administration's hardline posture will inevitably encourage its friends on Capitol Hill to seek to eliminate US financial support for UN peacekeeping, making a mockery of US protestations of support for the United Nations at a time when the president is asking so much of the institution in Afghanistan and elsewhere.

It is probably far too much to ask Bush to embrace the International Criminal Court. But it is certainly reasonable to expect his administration to abandon an arrogant and self-defeating campaign against the ICC, which will serve only to antagonize valued allies and undermine US leadership around the world.

**Eric Schwartz**, *a former senior White House adviser on UN issues during the Clinton administration, is a visiting lecturer of public and international affairs at Princeton University.*