

Congressman Ron Paul House International Relations committee February 28, 2002 Statement on the International Criminal Court

Mr. Chairman: Thank you, Mr. Chairman, for holding this hearing on the important topic of the International Criminal Tribunals for the former Yugoslavia and Rwanda. For Americans, the most important aspect of these international criminal tribunals is that they are the model for the UN's International Criminal Court. Indeed, it is the perceived need to make these *ad hoc* tribunals permanent that really led to the creation of the ICC in the first place. This permanent UN court will attempt to claim jurisdiction over the rest of the world within the next few weeks, as it has claimed that ratification by 60 countries confers world jurisdiction upon it.

This means that even though the United States has not ratified the treaty- though it was signed by President Clinton's representative at midnight on the last day- the Court will claim jurisdiction over every American citizen, from President Bush on down. The Bush Administration has admirably stated its opposition to the International Criminal Court, but it unfortunately has taken no proactive measures to "unsign" Clinton's initial signature or to make it known that the United States has no intention of cooperating with, providing funding to, or recognizing any authority of this international court. The clock is ticking, however, and the day of reckoning is close at hand.

This court is every American's worst nightmare. Currently, there are no protections for either US military personnel or civilians from the tentacles of this International Court. This means when it claims jurisdiction, you, I, or any of our 240,000 military personnel stationed across the globe can be kidnapped, dragged off a foreign land and be put on trial by foreign judges, without benefit of the basic protections of the American legal system, for crimes that may not even be considered crimes in the United States.

Pro-life groups in America have already expressed concern that the Court's claimed jurisdiction over "enforced pregnancy" could make it criminal for groups to work to restrict access to abortions- or even reduce government funding of abortions. The pro-ICC Woman's Caucus for Gender Justice has already stated that countries' domestic laws may need to be changed to conform to ICC Statutes. Former Assistant to the US Solicitor General, Dr. Richard Wilkins, said recently that the ICC could eventually be used to try "the Pope and other religious leaders," because issues such as abortion and homosexuality would ultimately fall within the Court's jurisdiction.

Supporters of the International Criminal Court are quick to say that the Court is modeled on the Nuremberg tribunal set up after World War II, but nothing could be further from the truth. Nuremberg was a trial initiated and prosecuted by sovereign nations. It was a reassertion of national sovereignty over the crimes of a regime that disregarded the concept, that saw other sovereign countries as merely "living space" for their own people. As one analyst recently wrote, "the Nuremberg tribunal, unlike the Hague tribunal, was not really an international tribunal at all. The judges quite specifically stated that the act of promulgating the Nuremberg charter was 'the exercise of sovereign legislative power of the countries to which the German Reich unconditionally surrendered.' There was no pretense that the 'international community' was prosecuting the Germans."

The International Criminal Court is to be modeled after the tribunals dealing with Rwanda and Yugoslavia, that is a fact. Knowing how these tribunals operate should therefore terrify any American who loves our Constitution and our system of justice. In the Yugoslav and Rwandan tribunals, anonymous witnesses and secret testimony are permitted; the defendant cannot identify his accusers. There is no independent appeals procedure. As one observer of the Hague in action noted, "the prosecutor's use of conspiracy as a charge recalls the great Soviet show trials of 1936-1938. In one case, the Orwellian proportions of the Prosecution mindset was revealed as the accused was charged with conspiring, despite the admitted lack of evidence. It is not the destruction of evidence but its very absence which can be used to convict!"

Indeed in the showcase trial of the ICTY, that of former Serb leader Slobodan Milosevic, chief prosecutor Carla del Ponte told the French paper *Le Monde* last year that no genocide charge had been brought against Milosevic for Kosovo "because there is no evidence for it." What did the Court do in the face of this lack of evidence? They simply disregarded a basic principle of extradition law and announced that they would try Milosevic for crimes other than those for which he had been extradited. Thus they added two additional sets of charges- for Bosnia and Croatia- to the indictment for Kosovo. The Kosovo extradition itself was nothing more than bribery and kidnapping. Milosevic was snatched up off the streets of Serbia after the United States promised the government it had helped install millions of dollars in aid. That national sovereignty was to be completely disregarded by this international tribunal was evident in its ignoring a ruling by the Yugoslav Constitutional Court that extradition was illegal and unconstitutional. Yugoslav officials preferred to put Milosevic on trial in Yugoslavia, under the Yugoslav system of jurisprudence, for whatever crimes he may have committed in Yugoslavia. The internationalists completely ignored this legitimate right of a sovereign state.

Supporters of the International Criminal Court, like the World Federalist Association, claim that ICC procedures are in full accordance with the Bill of Rights. They aren't. One pro-ICC website sponsored by the World Federalist Association, attempting to dispel "myths" about the Court, perhaps unintentionally provided some real insight. In response to the "myth" that the ICC is

unconstitutional, the website argues that "The Rome Treaty establishing the International Criminal Court provides *almost* all the same due process protections as the U.S. Constitution. Every due process protection provided for in the Constitution is guaranteed by the Rome Treaty, with the exception of a trial by jury." Since when is "almost all" equal to "all"? Either the Rome Treaty provides all the protections or it does not provide all the protections, and here we have by its own admission that the ICC is indeed at odds with American due process protections. So what else are they not telling the truth about? Another claim on the World Federalist Association website is that the ICC is that the rights of the accused to a presumption of innocence is guaranteed. Interestingly, on the very same website the accused Slobodan Milosevic is referred to as a "criminal." Not very reassuring.

It is very convenient for supporters of this International Criminal Court that the high profile test case in the Yugoslav tribunal is the widely reviled Slobodan Milosevic. They couldn't have hoped for a better case. Any attack on the tribunal is immediately brushed off as a defense of Milosevic. It is illustrative for us to take a look at how the Milosevic trial is being prosecuted thus far. After all, today it is Milosevic but tomorrow it could be any of us. And with the Milosevic trial, the signs are very troubling. We have all seen the arrogance of the judge in the case, who several times has turned off Milosevic's microphone in mid-sentence. Thus far, the prosecution has attempted to bring as witnesses people who are on the payroll of the tribunal itself, as in the case of Besnik Sokoli. Other witnesses have turned out to have been members of the Kosovo Liberation Army, which is the armed force that initiated the insurgent movement within Yugoslavia. Remember, Milosevic was extradited for Kosovo and for Kosovo only, but the weakness of the case forced the Court to add other charges in other countries. Now, after Milosevic has shown himself adept at cross-examination, the prosecution is seeking to have the judge limit Milosevic's ability to cross-examine the prosecution's witnesses. This in itself flies in the face of our system of evidence law, which allows the defendant nearly unlimited ability to cross-examine a witness as long as it is relevant to testimony.

Mr. Chairman, these international tribunals and the International Criminal Court that they spawned are bad for America and bad for the rest of the world. The concept of a permanent criminal court, run by unelected bureaucrats, third rate judges, and political hacks, and answerable to no one, undermines everything that free peoples should hold dear. It is about American sovereignty, the sovereignty of our American legal system, but that is not all. It should also be important for Americans that the sovereignty of the rest of the world be maintained as well, as when sovereignty is undermined anywhere by an un-elected international body, it is under threat everywhere.

