

U.S. Fears Prosecution of President in World Court

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WASHINGTON (Reuters) - A senior U.S. official said a principal motive for U.S. opposition to the newly created International Criminal Court was fear that the court might prosecute the president or other civilian or military leaders.

"Our concern goes beyond the possibility that the prosecutor will target for indictment the isolated U.S. soldier. . . . Our principal concern is for our country's top civilian and military leaders, those responsible for our defense and foreign policy," Under Secretary of State John Bolton said in a speech released on Friday.

"A fair reading of the treaty (setting up the court) leaves one unable to answer with confidence whether the United States would now be accused of war crimes for legitimate but controversial uses of force to protect world peace," Bolton told the Federalist Society in Washington on Thursday.

"No U.S. presidents or their advisors could be assured that they would be unequivocally safe from politicized charges of criminal liability," he added.

That fear, which U.S. officials have rarely if ever articulated in public, explains why the United States opposed a compromise offered in September by the European Union, which is strongly in favor of the new court.

When Washington lobbied European governments this year for immunity for U.S. personnel, the Europeans suggested limiting liability to U.S. soldiers and officials sent overseas.

'Restrain American Discretion'

"There are many Americans that are not diplomats and troops," said State Department spokesman Richard Boucher, explaining why Washington thought the offer inadequate.

Bolton, a hawk who opposes international obligations which tie Washington's hands, said top U.S. civilian and military leaders ran the risk of prosecution in the international court "as part of an agenda to restrain American discretion."

He likened the international prosecutor to the U.S. independent counsels who have harassed U.S. presidents.

The most famous of those was Ken Starr, who led the investigation into the financial and sexual affairs of former President Bill Clinton, which led to his impeachment.

"That history argues overwhelmingly against international repetition. Simply launching massive criminal investigations has an enormous political impact.

"Although subsequent indictments and convictions are unquestionably more serious, a zealous independent prosecutor can make dramatic news just by calling witnesses and gathering documents, without ever bringing formal charges," Bolton said.

The international court came into being on July 1, with a mandate to prosecute genocide and crimes against humanity.

The United States has refused to cooperate with the court and is trying to persuade other countries to sign bilateral agreements giving U.S. personnel immunity from prosecution.

So far 13 countries have signed such agreements and Bolton said the United States would soon have negotiations on agreements with countries in the Middle East and South Asia.

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See Also

- The International Criminal Court
- Know The Truth About The International Criminal Court by Benjamin B Ferencz, prosecutor at the Nuremberg war crimes trials, July 2002
- Hijacking Justice - The Federalist Society, a Right-wing network of lawyers, judges and supporters, is undoing civil rights and other gains made through the courts, By George E. Curry & Trevor W. Coleman, *Emerge*, October 1999
- Rejecting the Foundations of International Law - U.S. "Unsigns" the International Criminal Court Treaty (from Broadening Our Perspectives of 11 September 2001) by David Ratcliffe, 9/02
- And from a review of Justice For Sale: Shortchanging the Public Interest for Private Gain:

Corporate money created the Federalist Society in 1982, helping it to gather 10,000 members at 120 law schools. "Dedicated to purging law schools and the legal system of the 'orthodox liberal ideology which advocates a centralized and uniform society,'" declares *Justice For Sale*,

the Society is now the principal organization for recruiting, educating and mobilizing conservative students on law school campuses and showcasing conservative legal scholarship. . . . The group's influence is perhaps best exemplified by the success of its three co-founders. As a member of the White House Office of Legal Counsel, Lee Liberman was considered the "ideological gatekeeper for the Bush Administration's process for selecting judges." David McIntosh served as Executive Director of Vice President Quayle's Council on Competitiveness, and Steven Calabresi, now a professor at Northwestern University School of Law, was a special assistant to Reagan Attorney General Ed Meese.

In sum, paying for and orchestrating law and economics professors and curricula at the nation's elite schools, sponsoring conferences, Continuing Legal Education workshops, legal research and theoretical writing, as well as for massive advertising and strategic litigation, these corporation initiatives "to make conservative economic theory the cornerstone of legal decision making," documents *Justice For Sale*, have set up an "institutional network that will advance and sustain their cause well into the future. Integrated and intergenerational, this infrastructure includes representatives from all segments of the legal establishment -- judges, scholars, practitioners, and young apprentices hailing from the Federalist Society."

Justice For Sale is a frightening report, meticulously documented with references to the professors, theorists, and foundations behind this campaign. "Intended to provoke debate" and "instigate true reform of the legal system," it should be a catalyst for public debate and strategizing. Read it.