

55. The United Nations

Congress should

- refuse to ratify or fund the proposed International Criminal Court,
- be wary of defining away sovereignty as a barrier to military intervention,
- oppose granting the United Nations war-fighting functions or establishing an on-call UN army, and
- withhold payments to the UN until the secretary general demonstrates clearer progress in eliminating inefficiency, mismanagement, and corruption.

Since the end of the Cold War, the United Nations has steadily sought to increase the scope and strength of its authority. Recent UN initiatives have been aimed at forming a standby UN army, creating an international criminal court, subordinating national sovereignty to humanitarian concerns, establishing UN protectorates, introducing a global tax on international commerce, redefining human rights to encompass wealth redistribution, and promoting an environmental agenda that could trump private property rights. That raft of proposals is not only contrary to the American tradition of limited government but could well pave the way for the United States to become mired in still more internecine and far-flung conflicts that have nothing to do with U.S. national security.

That is not to say, however, that the UN shouldn't have any role in international affairs. The organization did help to end the armed conflicts in El Salvador and Mozambique and to supervise elections that brought independence and democracy to Namibia. But it must be remembered that the UN is an association of the world's *governments*—not an association of the world's peoples. As such, it should not be granted the decisive authority on the global stage.

The Proposed International Criminal Court

In July 1998 government officials and human rights activists from around the world concluded a five-week UN conference in Rome aimed at producing a treaty establishing a permanent international criminal court. The stated mission of the proposed court is to prosecute persons charged with the most serious international crimes, such as war crimes, crimes against humanity, genocide, and aggression. With 128 articles and an open-ended amendment process, however, the International Criminal Court treaty is a virtual Pandora's box of alarming possibilities. Specifically, the ICC threatens to grow into a jurisdictional leviathan. Already, some supporters of the court want to eventually give it the authority to prosecute drug trafficking and "Internet crime," as well as such vague offenses as "serious threats to the environment" and "committing outrages on personal dignity," whatever that might entail.

The ICC also threatens to become an arbitrary and highly politicized form of "international justice." That possibility became abundantly clear with Spain's two-year effort to persuade the British government to extradite former Chilean dictator Gen. Augusto Pinochet to Madrid to stand trial for acts of terrorism and murder committed under his rightist regime. At the same time, Spanish authorities allowed communist dictator Fidel Castro to freely roam around Spain, and no one there has clamored for Mikhail Gorbachev's arrest next time he travels outside Russia so that he can stand trial for his role in the bloody war in Afghanistan or for the KGB's cruel excesses during his rule. Nor did Italy extradite Abdullah Ocalan, the captured Marxist leader of the Kurdish Workers' Party, to Turkey, where he was wanted as a terrorist, and the German government did not demand Ocalan's extradition to Germany where a number of his alleged murders took place. Given that recent history, it already appears that "international justice" depends more on the politics of the accused than on the impulse to do right by the victims.

The ICC also threatens to diminish many of the due process standards that Americans hold sacred. Indeed, looking at the ICC treaty and its precursors, it appears that many of the legal safeguards Americans enjoy under the Bill of Rights would be unavailable if Americans were brought before the International Criminal Court. For example, the Fifth Amendment to the U.S. Constitution states, "No person shall . . . be subject for the same offense to be twice put in jeopardy of life or limb." The ICC, however, will be empowered to try people a second time for the same crime if it is not satisfied with a country's own trial. The ICC statute also

does not recognize the Sixth Amendment guarantee to a “trial by an impartial jury.” Instead, the accused will face a panel of three court-appointed judges. All the judges, moreover, could come from countries in which there is no concept of an independent judiciary or a presumption of innocence until proven guilty. Indeed, a defendant’s fate could one day hang on the judgments of jurists from such oases of civil liberties as Indonesia, Angola, and Saudi Arabia.

It is common for proponents of the ICC, however, to argue that it is unlikely that Americans will be brought before the court. That may be true, but to say it will not happen is an assertion of faith, not an assertion of law. Moreover, proponents of the court like to argue that the ICC is not meant to replace, but to “complement,” every country’s national criminal justice system. In theory, they contend, the court will take action only when national courts are absent or ineffective. But the determination of what constitutes “effective” is one of the gray areas where the argument for the ICC breaks down. Indeed, if the ICC is empowered to decide what constitutes an “effective” vs. an “ineffective” trial, it will exercise a kind of judicial review power over all national criminal justice systems. In other words, the ICC will have *de facto* supreme judicial oversight. That is a severe erosion of the traditional notion of national sovereignty.

The prospect of diminished sovereignty, however, does not bother most advocates of the ICC. For example, Judge Gabrielle Kirk McDonald, an American judge and proponent of the court, admits that the court would create tension between “state sovereignty and world order,” but she insists that the ICC must do so to “redress gross violations of human rights and international law.” She also says that the ICC treaty “should be one of principle and not of detail. . . . [It should] be a flexible statute based on principles which may be developed by the court as the circumstances require.” But how is the U.S. Congress to reasonably weigh the merits of the ICC if its proponents, like Judge McDonald, do not want to explain the details, especially given the fact that so many advocates of the court do not want to limit the ICC’s purview to the offenses currently under consideration? For that reason and the others described above, Congress should refuse to ratify or fund the proposed International Criminal Court.

Humanitarian Intervention

Since the end of the Cold War, the UN has slowly tried to do away with the concept of national sovereignty as a barrier to humanitarian intervention. Former UN secretary general Javier Pérez de Cuellar identi-

fied that trend early on, noting in 1991, “We are clearly witnessing what is probably an irresistible shift in public attitudes toward the belief that the defense of the oppressed in the name of morality should prevail over frontiers and legal documents.” Whether or not that trend is “irresistible,” however, is debatable. Yet it is certainly a popular refrain in UN circles. The UN’s special representative for displaced persons, for example, says: “Sovereignty is being reinterpreted as a concept of responsibility to protect one’s own citizens. . . . The sovereign has to become responsible or forfeit sovereignty.” Similarly, the executive director of the Academic Council on the United Nations System says that over “the past 10 years, the concept of sovereignty has become infused with the notion that governments must act responsibly toward its citizens or lose the rights of sovereignty.”

Meanwhile, UN secretary general Kofi Annan has recommended that the UN not limit itself to peacekeeping but expand into the area of coercive peacemaking, “including full combat.” Others have recommended that the UN establish an on-call army made up of soldiers from member countries. Such policies, however, constitute one more way the United States can be drawn into irrelevant regional squabbles, which needlessly sap the combat readiness of the U.S. military. Moreover, if the UN takes on the task of shooting its way into conflicts, weaker and insecure countries around the world may be encouraged to acquire weapons of mass destruction as an insurance policy against the would-be interventionists. Congress should therefore be wary of defining away sovereignty as a barrier to military intervention and oppose granting the UN war-fighting functions or establishing an on-call UN army.

Long-Overdue Reform

For years the UN has been plagued by problems of inefficiency, mismanagement, and corruption. When Kofi Annan assumed the post of UN secretary general nearly four years ago, he promised to reform the institution and said he was committed to stabilizing the UN budget, reducing personnel, and tightening audit and management practices. Today, the UN remains opaque, secretive, and without a truly independent inspector general. The UN payroll, after a brief freeze, is again increasing, and the UN remains an inefficient bureaucracy with unacceptable levels of corruption.

What is clear, however, is that no serious or permanent reforms will be made unless Washington uses its financial leverage to force the UN bureaucracy and the General Assembly to reexamine their practices. It is

therefore not unreasonable for Congress to withhold America's contributions to the UN until the organization develops and implements new operating procedures and rids itself of chronic inefficiency, waste, and corruption.

Inefficiency

The UN continues to pay its midlevel accountants and computer analysts about twice the salary of their private-sector counterparts, and each of the UN's assistant secretaries general is paid more than the mayor of New York City. Despite specific and sustained criticism of salary levels by most of the 14 member nations whose contributions provide 84 percent of the general budget, those inflated salaries do not reflect the full disparity between UN employees and those who work in the real world. Salaries of nearly all UN diplomats are tax-free, and salaries of administrative staff members are adjusted to offset tax liability in most cases, making them effectively tax-free as well. In addition, UN employees receive monthly rent subsidies that can exceed \$3,500 and annual education grants that can exceed \$12,000 per child. Even with those benefits, however, productivity has not markedly improved since Boutros Boutros-Ghali's stunning remark seven years ago that "perhaps half the UN work force does nothing useful."

Mismanagement and Corruption

Corruption and mismanagement have also been a chronic problem for the UN. Nearly \$4 million was stolen from UN offices in Mogadishu, Somalia, in the early 1990s, and more than \$360,000 was paid for fuel never delivered during UN peacemaking efforts there. On the West Bank, a project director of the UN Relief and Works Agency kept \$100,000 of agency money in his own bank account. And in Nairobi the UN Center for Human Settlements was implicated in nearly \$100,000 of fraudulent loans. The UN has thus far provided no proof that missing funds have been returned.

Matters seem not to have improved. In 1997 UN inspector general Karl Paschke uncovered widespread waste and incompetence at the administrative headquarters of the UN's Rwanda war crimes tribunal in Arusha, Tanzania. He also cited neglect of the problems by UN officials in New York. Paschke concluded that the tribunal was dysfunctional in nearly every administrative area. Among his findings:

- The cash fund at the tribunal's offices in Arusha and in Kigali, Rwanda, sometimes totaled as much as \$600,000, but there were no written rules for disbursing that money.
- Payroll procedures were so erratic that, while some staff went months without receiving their wages, others were paid twice for the same work. One staffer had his contract extended while he owed the UN \$34,000 for improper pay.
- Administrators routinely hired employees who failed to meet UN requirements, including a finance director who had no degree in finance, accounting, or administration and a procurement chief who had no experience in UN procurement procedures.
- The tribunal's chief administrator spent half of his time on duty traveling in the region on official business, which drew him away from the woes at the tribunal.
- A plane chartered at a cost of \$27,000 went to pick up suspects detained in a West African country but had to return empty because no agreement had been reached in advance for that country to turn over the prisoners.

In May 1998 Paschke released a report describing widespread corruption and cronyism among UN purchasing officers in Angola that wasted millions of dollars. "The audits disclosed serious management deficiencies and apparent breaches of financial regulations and rules as well as improprieties and irregularities in the procurement process," explained Paschke. Among his findings:

- UN officials tried to issue more than \$15 million in unnecessary purchase orders to middlemen who would have reaped huge commissions.
- Several unnecessary "rush" buying trips to South Africa cost more than \$1 million each.
- UN buyers paid nearly \$7 million for substandard equipment and then had to pay an additional \$1 million to make it usable.

American taxpayers, who have historically footed 25 percent of the UN's general operating budget and have spent as much as \$15 billion supporting UN operations around the world, deserve better. The U.S. Congress should therefore continue to withhold contributions to the UN until the secretary general demonstrates clearer progress in eliminating inefficiency, mismanagement, and corruption.

Suggested Readings

Carpenter, Ted Galen, ed. *Delusions of Grandeur: The United Nations and Global Intervention*. Washington: Cato Institute, 1997.

Dempsey, Gary. "Reasonable Doubt: The Case against the Proposed International Criminal Court." Cato Institute Policy Analysis no. 311, July 16, 1998.

Halper, Stefan. "A Miasma of Corruption: The United Nations at 50." Cato Institute Policy Analysis no. 253, April 30, 1996.

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Kincaid, Cliff. "The United Nations Debt: Who Owes Whom?" Cato Institute Policy Analysis no. 304, April 23, 1998.

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