

Global cop insists on being above the law

human rights
Dawson
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THE United States of America evidently believes that if there was any justice in the world, it would find itself in the dock on a fairly regular basis. There can be no other reasonable explanation for the vehemence of its opposition to the International Criminal Court, which was born last week after an extended gestation period. Uncle Sam was not among the midwives, and his brazen attempt to strangle the institution in its infancy may have scarred the ICC for life.

The ostensible cause for Washington's extreme displeasure is the suspicion that motivated prosecutors from Third World states may seek to indict US citizens on flimsy grounds. It must be aware, however, that the risk of such behaviour is, in practice, negligible. Built-in safeguards would act as a deterrent against frivolous prosecutions that would undermine the court.

The effectiveness of the ICC cannot, of course, be prejudged. Nothing of the sort has existed before. Nuremberg and the trials of Japanese officers in the aftermath of the Second World War were essentially examples of victors' justice; a similar claim could also be made about the tribunals on Rwanda and the former Yugoslavia. The new court can only proceed against suspected war criminals and human rights abusers if the legal systems in their own countries are unwilling or unable to take them to task. Its proponents hope that the existence of the ICC will make the would-be practitioners of such crimes think twice before they act.

WORLD VIEW

By Mahir Ali

lagers, many of them children, in cold blood in 1969. It was not the Pentagon by the American press that revealed the My Lai atrocity, and an international outcry necessitated a court-martial. Calley claimed to have been following orders, but none of his superiors was ever at risk of being answerable. The lieutenant was found guilty. An indisputable crime against humanity of My Lai proportions ought to have been rewarded with at least a life sentence. Calley spent about a year in prison.

It could be argued, of course, that the American war against Vietnam was in itself a massive and perhaps unprecedented crime against humanity, and it

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accept that the US has any right to decide whom Palestinians should or should not elect as their leader. At the recent G-8 summit in Canada, Bush was surprised to discover that none of the other leaders was willing to sign up to a Middle East policy dictated by Ariel Sharon.

One of the profoundest signs of lopsidedness in world affairs has been the flippant manner in which the UN has been sidelined. The US has for more than a decade been able to bully the international organization into falling into line with Washington's wishes. This was demonstrated, for example, in 1990-91, when Iraqi forces were bombed out of Kuwait and Iraq was invaded by a predominantly Anglo-American force under UN aegis. However, no such pretence was deemed necessary before the assault against Afghanistan. And it is unlikely that the planned second war against Iraq — although the first one has never been called off, with US and British aircraft regularly carrying out attacks that generally go unreported — will involve any UN role.

The Security Council has been reduced to a handmaiden of the US State Department: on the increasingly rare occasions that the US wants UN cover for its actions, it virtually dictates its terms; more often, the council and Kofi Annan are simply ignored, despite the fact that Annan was Washington's choice for secretary-general, after it found the decidedly un-radical Boutros Boutros-Ghali too hard to handle.

The UN General Assembly receded into irrelevance long ago: its resolutions, no matter how overwhelmingly they are passed, lack any binding force. The Security Council appears to be headed the same way; no other power has come close to using its veto power as frequently as

This may be a vain hope, but there can be little question that the idea deserves a chance. Nor can there be any doubt that chances of the court's success are directly proportional to the number of countries that throw their weight behind it. It has been ratified by nearly 80 nations, including most members of the European Union — American allies such as Britain and France apparently have few qualms about misuse of the ICC.

Russia, China, Israel and Turkey are among the states that have thus far withheld ratification, but the US is the only one to have thrown a spectacular tantrum. The United Nations peacekeeping operation in Bosnia could end within days, because the US intends to veto the United Nations Security Council resolution on its renewal — unless other powers agree that every case brought before the ICC will require Security Council approval. Not surprisingly, this is unacceptable to most other countries, because such an obstacle would defeat one of the court's chief purposes.

As things stand, governments are able to prevent their citizens from being hauled before the ICC by putting them on trial in national courts. A right to veto prosecutions would guarantee that no American citizen, at least, could ever be proceeded against at The Hague.

In the absence of congressional ratification, no US citizen suspected of human rights abuses within the country can be indicted by the ICC. The problem, as far as Washington is concerned, is that this indemnity does not extend to US citizens held responsible for such abuses outside American borders.

In the six decades since the Second World War, American citizens' invariably in an official capacity, have been complicit in genocide and a whole raft of crimes against humanity. Virtually none of them has ever had to answer for his excesses, either in the US or anywhere else.

Lieutenant William Calley was one of the few exceptions. He was in charge of the American troops who slaughtered hundreds of South Vietnamese vil-

was the victorious Vietnamese who were penalized afterwards. The point, however, is that Americans involved in the abuse of human rights overseas have thus far run little risk of being brought to justice. And Washington is determined to keep it that way, particularly during the open-ended and ill-defined "war against terrorism". If a wedding celebration in rural Afghanistan is reduced to a bloodbath, it's best if no awkward questions are asked.

The Pentagon's response in such instances is brazenly to "downsize" the incident and, once evidence to the contrary becomes overwhelming, to put it down to "collateral damage". In international law, the validity of the latter defence would presumably depend on whether or not the US is at war against Afghanistan. That's murky territory. And, with or without a spot of assistance from Al Qaeda, things are bound to get a good deal murkier in the months and years to come.

It is therefore vital for the rest of the world not to give in to American blackmail on the ICC as well as on other counts. The US needs to be disabused of the notion that international relations are a free-for-all in which it can always have its way. The preponderance of American military and economic power militates against a less inequitable world order, but of late there have been a few signs that significant allies of Washington are unwilling to always acquiesce in its wishes.

Britain and Australia have of late been the least critical of America's friends, with prime ministers Tony Blair and John Howard keen to demonstrate their loyalty to the Bush administration at every conceivable opportunity. It is therefore notable that London and Canberra have both decided to throw their weight behind the ICC despite American objections.

More significantly, Blair and George W. Bush have disagreed in public over the US decision to write off Yasser Arafat. It could, of course, prove to be no more than a lovers' tiff. But Blair hasn't been alone in refusing to

stranglehold is no longer enough for the crew currently in charge of Washington. Last week a stern missive from Annan to Secretary of State Colin Powell won a brief reprieve for UN peacekeeping in Bosnia; it is highly unlikely that a similar letter to Donald Rumsfeld or Dick Cheney could have elicited a courteous response. The UN could do with thoroughgoing reform, but not according to American specifications (Much the same, incidentally, could be said about the Palestinian Authority.) The General Assembly needs to be empowered to a respectable degree, with binding force attached, for example, to resolutions passed by a two-thirds majority. The potency of permanent-member vetoes needs to be watered down, at the very least, accompanied by an expansion of the Security Council's permanent membership: it should, for example, be possible for solitary vetoes to be overridden by unanimity among the council's remaining members.

The US would not approve of any moves in this direction, but complete disengagement from the UN would only help confirm the pariah status Washington already deserves.

It needs to be made clear to the US that a global policeman who considers himself above the law is unacceptable to the rest of the world. That a rogue state par excellence can offer no remedy against terrorism or disorder. That unrestrained hypocrisy and unadulterated self-interest are an inadmissible way of spreading the free-market gospel.

A long-term collective effort by the rest of the world (or most of it anyway) will be required for such an endeavour to have any chance of success, and even then it is unlikely that the US can be tamed without a substantial movement from within. Although Congress has authorized Bush to attack The Hague in the event of any US citizen being produced before the ICC, it is hard to see it sanctioning the wholesale invasion of Western Europe. Not for the time being, at least. The time to act is now — else there may be no tomorrow.