

AMSPECBLOG

The UN Investigates the US in Afghanistan

By Doug Bandow on 9.20.09 @ 7:42AM

If we needed a reminder why the International Criminal Court is a bad idea, we have one. The ICC plans on investigating U.S. actions in Afghanistan. Brett D. Schaefer and Steven Groves of the Heritage Foundation report:

the prosecutor for the International Criminal Court (ICC) stated that investigations into alleged war crimes and crimes against humanity in Afghanistan may result in the prosecution of U.S. policymakers or servicemen. The potential prosecution of U.S. persons by the court over incidents that the U.S. deems lawful is one of the prime reasons why the Bush Administration did not seek U.S. ratification of the treaty creating the court, rejected ICC claims of authority over U.S. persons, and sought to negotiate agreements with countries to protect U.S. persons from being arrested and turned over to the ICC.

The investigation is not complete, the prosecutor has not determined if he will seek warrants against U.S. officials or servicemen, and Afghanistan is constrained from turning over U.S. persons to the ICC under existing agreements. However, the potential legal confrontation justifies past U.S. policy, emphasizes the need to maintain and expand legal protections for U.S. persons against ICC claims of jurisdiction, and should lead the Obama Administration to endorse the Bush Administration's policies toward the ICC.

The Obama administration reportedly is prepared to increase cooperation with the ICC. Instead, President Barack Obama should reaffirm present U.S. policy, refusing both to be bound by the so-called Rome Statute and to acknowledge UN jurisdiction over American personnel.

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