

International justice

From the Editors in the [January 17, 2001](#) issue

In his late December decision to support the establishment of a permanent International Criminal Court, President Clinton did the right thing—though it was also a relatively easy thing. Most of the heavy lifting on behalf of the ICC treaty remains to be done. That’s because the ICC won’t come into existence until 60 nations ratify the founding documents, and ratification by the U.S. requires a two-thirds approval from the U.S. Senate, which is far from assured. Jesse Helms, chair of the Senate Foreign Relations Committee, immediately stated, “This decision will not stand.”

Still, Clinton gave the ICC an important boost, and he also made it more difficult diplomatically for the Bush administration—which will include some sharp critics of the ICC—simply to renounce it. At the least, Clinton’s action should ensure that the ICC proposal receives some focused debate.

The goal of the ICC treaty is to create a permanent court to investigate and bring to justice those who have committed serious violations of international law—genocide, war crimes, and crimes against humanity. As it stands, such crimes have been addressed only on an ad hoc basis, as with the establishment of international tribunals to examine recent atrocities in Rwanda and Yugoslavia. A permanent court promises to have greater credibility, and therefore it also promises to serve as a more effective deterrent. The idea for a permanent court of this sort has been around since 1945, when the Nuremberg trials sought—in their own ad hoc manner—to bring Nazi leaders to justice.

Though supportive of the ICC in theory, the U.S. has from the start been uneasy with the details of the plan. The U.S. fears that its soldiers will be faced with frivolous and politically motivated charges. The Pentagon also worries that the ICC will become a forum for challenging U.S. military decisions. Critics point out, for example, that during the Kosovo crisis, some Russian and Serbian leaders suggested that the U.S. should be brought to trial for its bombing campaign. U.S. negotiators have sought to specify more closely the nature of the cases the court can consider, and they have argued that the United Nations Security Council (where the U.S. holds a veto) should

have a decisive role in referring charges to the court.

The ICC proposal has already incorporated several U.S. recommendations. If it becomes a founding member of the ICC, the U.S. will doubtless play a key role in developing court procedures and, eventually, in selecting the justices themselves. One of the strongest reasons for the U.S. to participate in the ICC is that it can thereby help ensure the court's credibility and effectiveness.

Since Nuremberg, the U.S. has been instrumental in developing international law on genocide and war crimes. Its foreign policies and rules on military engagement are all aligned with the goal of the international court, which is to ensure that those who perpetrate mass rapes, nonjudicial executions and other gross violations of human rights be held accountable. If the U.S. ends up turning its back on the ICC, it will be a sad betrayal of its own best traditions.