

AMNESTY INTERNATIONAL

Open Letter

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UN Security Council: No double standards in international justice

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Open letter to members of the Security Council

Dear Ambassador,

I am writing to you on the eve of the debate in the Security Council on the extension of the mandate of the United Nations Mission in Bosnia and Herzegovina (UNMIBH) to express our deepest concern about the proposal of the United States of America (USA) which would undermine the Rome Statute of the International Criminal Court (Rome Statute). The USA proposal would give immunity in the International Criminal Tribunal for the former Yugoslavia and in national courts of states, other than the contributing state, to United Nations peace-keepers who are nationals of states not party to the Rome Statute.

Statements last Wednesday in the Preparatory Commission for the International Criminal Court by or on behalf of at least 116 states opposed the USA proposal. As these states affirmed, the US proposal is contrary to international law, including the Charter of the United Nations, by permitting the Security Council to rewrite multilateral treaties. Indeed, the Secretary-General stated on 3 July 2002 that the proposal "flies in the face of treaty law since it would force states that ratified the Rome Statute to accept a resolution that literally amends the treaty". Furthermore, by giving blanket immunity from international justice to peace-keepers, the Security Council would establish double standards of justice when the same standard should apply to everyone for the worst possible crimes under international law.

As the states emphasized last Wednesday in the Preparatory Commission, there are ample safeguards in the Rome Statute against frivolous or politically motivated prosecutions - all of which were strongly supported by the USA. Under the principle of complementarity in the Rome Statute - also included with the strongest support of the USA - the ICC will not exercise its jurisdiction unless states are unable or unwilling genuinely to investigate or prosecute the worst possible crimes under international law. We appeal to you to remain firm in your commitment not to allow the Security Council to undertake any action that could undermine international criminal justice and the integrity of the ICC, which stands as a landmark in international law demonstrating the commitment of the international community to end impunity.

We urge you to reaffirm that there is no conflict between justice and international peace and security and that they are fully complementary. Adoption of the US proposal would do great harm to the Council's credibility as the pre-eminent international organ entrusted with upholding the principles of international law embodied in the Charter of the United Nations.

Yours sincerely,

Irene Khan
Secretary General

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