Bolton Goes After the Illegitimate and Unaccountable ICC

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U.S. national security advisor John Bolton condemned the International Criminal Court (ICC) “as a free-wheeling global organization claiming jurisdiction over individuals without their consent.”  He announced in a major speech to the Federalist Society earlier this week that the Trump administration would consider strong steps to protect the American people if the ICC oversteps its bounds, such as imposing sanctions on any ICC judges and prosecutors who bring legal action against Americans and even pursuing prosecution in U.S. courts against such ICC judges and prosecutors.“Americans can rest assured that the United States will not provide any form of legitimacy or support to this body,” he vowed. “We will not cooperate, engage, fund, or assist the ICC in any way. This president will not allow American citizens to be prosecuted by foreign bureaucrats, and he will not allow other nations to dictate our means of self-defense. This administration will fight back to protect American constitutionalism, our sovereignty, and our citizens. No committee of foreign nations will tell us how to govern ourselves and defend our freedom.”

he United States is not a member of the ICC, thanks in part to Mr. Bolton’s strong opposition while serving in the George W. Bush administration. He pointed in his Federalist Society speech to the “potentially enormous, essentially unaccountable powers” granted to the ICC and its prosecutor under the Rome Statute that created it. The ICC claims “automatic jurisdiction” to investigate and prosecute individuals for alleged genocide, war crimes, crimes against humanity, and crimes of aggression even if their own governments have not recognized, signed, or ratified the Rome Statute treaty, so long as the alleged crime occurred within a state or territory that has joined the treaty. In other words, if a real country or a pretend-state like “Palestine” on whose soil the alleged crime was committed has ratified the Rome Statute, the accused may be tried and punished by the ICC whether or not that individual is from a country that ratified the Rome Statute. Mr. Bolton said in his Federalist Society speech that “alongside numerous other glaring and significant flaws, the International Criminal Court constituted an assault on the constitutional rights of the American people and the sovereignty of the United States.”

Mr. Bolton is especially concerned with the possibility that ICC prosecutors may move ahead with an investigation of alleged war crimes by U.S. personnel in Afghanistan. “In November of 2017, the ICC prosecutor requested authorization to investigate alleged war crimes committed by US service members and intelligence professionals during the war in Afghanistan - an investigation neither Afghanistan nor any other state party to the Rome Statute requested,” Mr. Bolton said. This could mean that Americans serving their country would be subject to the possibility of an investigation, possible arrest and even trial by a “global” court for any alleged involvement in a “war crime,” “crime against humanity,” or “aggression” as defined not by America’s elected officials or its federal judges, but by the ICC. In the hands of unaccountable ICC prosecutors and judges, these crimes can be made to include just about any act or consequences normally associated with warfare and imprisonment of enemy fighters, including ruthless terrorists who respect no rules of war or civilized behavior at all.

Meanwhile, the ICC judges, the ICC prosecutor, the deputy prosecutors and the registrar enjoy diplomatic immunity while in office and, even after the expiration of their terms of office, “continue to be accorded immunity from legal process of every kind in respect of words spoken or written and acts performed by them in their official capacity,” according to the Rome Statute. In plain English, the ICC claims the right to investigate and prosecute Americans for “war crimes” or other crimes defined as some imaginary violations of conjured-up ‘international norms.’  An ICC judge or prosecutor bribed to fix a case involving a genocidal dictator, on the other hand, would be immune from any legal consequences whatsoever for this flagrant transgression of his or her responsibilities!

Mr. Bolton’s critique of the ICC was aimed directly at its pretense of “global governance” and disrespect for the national sovereignty of “nation-states, even those with strong constitutions, representative government, and the rule of law.” He said that the “ICC is an unprecedented effort to vest power in a supranational body without the consent of either nation-states or the individuals over which it purports to exercise jurisdiction. It certainly has no consent whatsoever from the United States.” The ICC gets to make the final decision as a sort of “court of last resort” if a nation’s own courts are deemed unable or unwilling to adequately investigate and prosecute one of its own citizens accused of a crime within the ICC’s jurisdiction. If the ICC has the final say as to whether or not a nation has taken appropriate steps to prosecute perpetrators of such crimes, “the United States would manifestly be subordinated to the court,” Mr. Bolton argued. The ICC would be claiming “authority separate from and above the constitution of the United States.” Mr. Bolton called the ICC “the founders’ worst nightmare come to life.”

Unlike the U.S. Constitution’s fundamental principle of separation of powers among the three branches of the federal government, there is no separation of powers between the judiciary and the executive within the ICC structure. The Office of the Prosecutor and the ICC judges are all melded together under one roof where the prosecutor has a roving mandate to search out and investigate virtually any act he or she believes would rise to the level of a covered crime. Not satisfied with the crimes already within the ICC’s jurisdiction, States Parties to the ICC treaty are considering the possibility of expanding the ICC’s jurisdiction to include “ecocide,” environmental and climate-related crimes.

The Rome Statute has no provision for trial by jury—a basic Constitutional right under Article III and the Sixth Amendment that is afforded to persons accused of crimes in the United States. The International Criminal Court can convict a person of the most serious of crimes on a simple majority vote. If the ICC prosecutor loses a trial, he or she can appeal a verdict of acquittal, negating an accused American’s U.S. Constitutional protection against “double jeopardy.”

“Israel too has sharply criticized the ICC,” Mr. Bolton said. Israel has good reason to be vigilant. “While the court welcomes,” Mr. Bolton added, “the membership of the so-called ‘State of Palestine’, it has threatened Israel - a liberal, democratic nation - with investigation into its actions to defend citizens from terrorist attacks in the West Bank and Gaza. There has also been a suggestion that the ICC will investigate Israeli construction of housing projects on the West Bank.”

While the International Criminal Court is formalistically distinct from the United Nations, it is inextricably woven into the UN’s designs for global governance and so receives significant support from the Secretary General and various UN bodies.

In my book Global Deception: the UN’s Stealth Assault on America’s Freedom, I devote a whole chapter to the ICC charade and the dangers that the ICC potentially poses to Americans and U.S. sovereignty, including an example of how U.S. military actions in Afghanistan could be affected. I wrote the book when John Bolton was the U.S. ambassador to the UN and provided him with a copy at that time. Fortunately, President Trump, astutely guided by his national security adviser John Bolton, is wise to the globalists’ agenda and will fight the ICC tooth and nail.