

Misgivings on the International Criminal Court

Another self-inflicted wound creeps nearer. On November 7 the Minister of State in the Foreign and Commonwealth Office (Mr Peter Hain) made a statement concerning the establishment of an international court to try war criminals and others who gravely transgress canons of civilised behaviour. He told the House of Commons that twenty-two countries have ratified the Rome treaty, out of the sixty needed for establishing the court. Naturally those ratifying do not include any states, like Libya, Yugoslavia, Iraq, Rwanda or Burma, from which the vilest such criminals emanate. Nor do they include the country with by far the largest of the world's populations, China. Nor, very significantly, do they include the most powerful country in the world, the United States. President Clinton is too wily a political animal to entangle his country in such a nightmare scenario. His successor, though perhaps not quite so wily as Clinton himself, is likely to be of the same mind.

Mr Hain banged away at his drum: "We encourage all countries, including Libya and China, to sign up to the international criminal court. In our bilateral diplomacy with all countries in the world, we consistently pressure them to do so. We are committed to the court. It is a way of catching war criminals and ending the situation whereby the Pol Pots, Pinochets and all the dictators of the world continue to act with impunity. It is part of our agenda for human rights, of which we are proud."

Dr. Julian Lewis (New Forest, East): When the war crimes tribunals sit, there should be retribution for the past and a deterrent to obscene atrocity in future. I express some concern that it is taking as long as it is for Britain to ratify the process and to get it under way.

Mr. Hain: We are committed to achieve ratification as quickly as possible. I am delighted that we shall have the hon. Gentleman's support. It is a unique experience for me, but I am delighted to agree with virtually everything that he said.

Every MP who spoke in the debate expressed support for the Bill which Mr Hain indicated would soon be introduced into Parliament to enable us to ratify the Rome treaty (it was indeed included in the Queen's Speech). Mr Huw Edwards (Labour) was sure this Bill would have cross-party support, and incredibly it seems he is right. He urged the United States to "take a greater role and ensure that those who commit crimes against humanity are brought to justice". To this there was not a note of dissent in the whole brief debate. One longed for the good old days of University seats (Oxford and Cambridge only), and the salty common sense that an A P Herbert would have injected.

What common sense do I mean? How dare I impugn this obviously worthy project? It may seem worthy to the likes of Peter Hain, but there are other viewpoints on our planet. What we in the west think of as canons of civilised behaviour are not shared elsewhere. What we regard as obvious cruelty, others elsewhere dismiss as commonplace. We seek to impose as a universal standard a code others reject. In the planetary context, our endeavour is flawed.

An international criminal court should not be set up before an agreed international criminal code is in place. The function of a court is to administer law. If there is no law, there should be no court (unless we want the court to invent the law). Mr Hain's enterprise, backed by Amnesty International, puts the cart before the horse by seeking to establish a court before establishing an agreed system of law for that court to apply.

As stated above, Dr Julian Lewis (Conservative) said in the debate that when the war crimes tribunals sit there should be retribution for the past and a deterrent to obscene atrocity in future. The trouble with this is that one person's justified action is another's obscene atrocity. Gerry Adams and Martin McGuinness would say that many routine British military operations in Northern Ireland constituted "obscene atrocities". If they insisted on taking this claim to the International Criminal Court they could not be stopped, and then where would our brave soldiers be? Are we happy at that thought?

I close with the question of the past. We have recently seen Tony Blair and others apologising on behalf of the nation for so-called crimes and misdemeanours committed long before they were born. When Hain's new regime comes into effect shall we see the Queen as head of state indicted on some foreign state visit for alleged atrocities committed by the British on past occasions in India, Cyprus, or anywhere else in the dead British Empire? It might even happen to the much-travelled Tony Blair.

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