An Imperial Criminal Court

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In refusing to confirm the establishment of an imperial form of International Criminal Court (ICC), the U.S. government recently made the right choice, even though it had acted out of the wrong motive. It was an error by former President William Clinton, not to have blocked the ICC before his leaving office. Unfortunately, many other nations supported that Court, on obviously different, but dangerously mistaken premises.

The thing to be feared more than either war or crimes against humanity, is the establishment of an imperial form of "world rule of law," a form of law which, in practice, would condemn all mankind to the kind of horrors suffered under the Roman Empire and the ensuing Dark Age which that Empire brought down upon Europe and neighboring regions. The antics of "Transparency International," are only typical of the imperial impulse permeating the current use of all such proposals for a "world rule of law."

It is to be emphasized, that without the existence of the proposed International Criminal Court, there already exists the recognized right and obligation of nations to establish courts, under the same authority of natural law as the law of justified warfare—courts which do not breach the principle of national sovereignty. The Nuremberg court was convened to address Nazi war crimes and other capital crimes against humanity. Such courts are convened ad hoc under the same type of authority as a justified declaration of an act of war. Thus, a court such as the ICC is arguably unnecessary, in addition to being judged even an odious venture on other premises.

There are two principal grounds for refusing the establishment of a court such as the ICC, at this time. The first, overriding consideration, is a matter of several interconnected issues of principles of practice of natural law. The creation of such an international court returns civilization to the ancient and feudal state of affairs, in which a head of state of a participating nation, or several such nations, is subject to the overreaching control of an ultramontane, hence imperial authority.

That state of affairs would, in and of itself, constitute a monstrous crime against humanity, since it would deprive humanity of that institution of the sovereign nation-state, on which the liberation of subjects from the de facto status of human cattle was accomplished by Europe's Fifteenth-Century Renaissance and subsequent development of the promotion of the general welfare through the institution of the sovereign nation-state.

The second, practical consideration, is the fact that no court such as the ICC, were likely to carry out its implied obligation, were one or more leading powers, such as today's English-speaking powers, determined to obstruct honest application of the ICC statute for that case. This would degrade the court axiomatically to the role of a mere agent of an overreaching particular, imperial power.

I address the latter objections first.

Notably, at this time, major crimes against humanity are being perpetrated, in fact, against the Palestinian population of a territory being occupied by the Ariel Sharon government of Israel. Were the proposed new ICC in operation currently, that ICC would be implicitly obliged to act promptly, now, against that Israeli government's relevant officials. Would such an ICC be likely to act promptly in this case? If not, then the proposal for establishing an ICC were a piece of hypocrisy which would define such a court as a corrupt one from its outset.

Typical is a relevant case of a travesty of law currently in progress in Arusha, Tanzania. The hoax currently being perpetrated by an international ad hoc tribunal, in that proceeding so far, is typical of the kind of monstrous abuses likely to be expected from the actual constitution of an International Criminal Court established under the proposed provisions of the Nov. 10, 1998 and July 12, 1999 re-draftings of the relevant Rome Statute for such a court. In this case, the court has arbitrarily adopted a ruling, contrary to the essential facts of the case, exempting the culpable *external* powers from their responsibility for the state of civil warfare forcefully introduced, from outside, to the nation whose affairs are being scrutinized. We can not assume that an ICC would be better than that self-tainted ad hoc court in Arusha.

Those two cases are merely typical of the systemic hypocrisy, which is to be seen in both experienced precedents, and in types likely to occur under an international tribunal such as the ICC, on similar or analogous accounts. It were better that there be no judge, and no court, except ad hoc courts created by sovereign states for cases of war or kindred overriding issues, rather than one which supplies the imperial cloak of legality to a continuing practice of the type shown in such exemplary cases.

There is an escalating pattern of actions, involving relevant non-governmental organizations (NGOs) as cats-paws, to destroy the remaining vestiges of the existence of the sovereign nation-state, by creating and expanding upon novel, and dubious precedents to outlaw all forms of credible resistance to an imperial "world rule of law" controlled by utopian influential circles of the English-speaking powers. Typical of the included intent behind these so-called "environmentalist" and kindred initiatives by NGOs and others are the pro-genocidal provisions of U.S. National Security Advisor Henry A. Kissinger's 1974 ***National Security Study Memorandum 200***, and the pro-genocidal ***Global Futures*** and ***Global 2000*** introduced under U.S. National Security Advisor Zbigniew Brzezinski. The presently overreaching practice of power of such policies, already consti-

tutes, in and of itself, a class of crime against humanity.

Whatever the naive enthusiasts for the proposed ICC imagine, that imperial "world rule of law" is the actual intention behind the push for the ICC at this time. Those who care for the general welfare of humanity, must move now, to prevent that evil intent from being realized. Any contrary estimate is no better than an abominable sophistry in law.

Now, turn to the matter of principle of natural law.

1. The Matter of Natural Law

The natural-law principle of national sovereignty was introduced to modern Europe in the course of the Fifteenth Century, in such expressions as Nicholas of Cusa's ***Concordantia Catholica***, as a reformulation of the issues previously considered in such locations as Dante Alighieri's ***De Monarchia***. From these precedents, Europe derived the concept of the sovereign nation-state republic as a postulate of *natural law*, as opposed to the quasi-Locke-Bentham kind of *merely positive law* on which the present Rome Statute chiefly relies. From that time, to the present, the progress of modern civilization has been intertwined with the objective of uprooting all relics of Roman and like imperial authority, in the process of establishing a community of natural-law principle among a growing assembly of perfectly sovereign nation-states, nations subject to no higher authority than the natural law as such.

The kernel of the relevant, ecumenical notion of natural law, is that which is commonly specific to Christianity, Judaism, and Islam, in particular: the Mosaic teaching, that man and woman are set apart from, and above all beasts, created equally in likeness to the Creator of the universe, and thus accorded the ability and authority to manage all living and nonliving things in the universe. On this account, the quality of personality is attributed only to the Creator and to human individuals. All such personalities are to be regarded as naturally endowed with that sublime quality, under any reasonable law.

However, until the establishment of modern forms of sovereign nation-states, beginning with France under Louis XI and England under Henry VII, political society had, as in ancient Rome and feudal Europe, predominantly reduced large masses of humanity to the status of variously hunted or herded human cattle, treated as property, or subject to the caprices of what the cruelly errant U.S. Justice Antonin Scalia and his like have defined as "shareholder value." The greatest danger to human rights, world-wide today, is a product of the effort to impose a radically positivist form of rule of law, like that of Scalia, a form derived from the same doctrine of John Locke on which the Constitution of the anti-U.S.A. slaveholder tyranny, known as the Confederate States of America, was premised.

The establishment of the modern sovereign form of nation-state republic, as typified by the U.S. Declaration of Independence and the Preamble of its Federal Constitution, depends upon an anti-Locke principle of natural law, called *agapē* by Plato and Christian Apostles such as John and Paul. This principle, as argued in ***I Corinthians*** 13, is expressed in modern usage by the principle of the *general welfare*—as in the Preamble of the U.S. Constitution—or as, the same thing in effect, the *common good*.

On those accounts, like competent physical science, all proper, durable law is governed by a principle of truthfulness, rather than mere opinion. The definition of principles of law must be governed by the same notion and standard of truthfulness properly required for defining an experimentally proven, universal physical principle.

For example, as the example of scientist Vladimir I. Vernadsky's experimental proof of the existence of a Noösphere, illustrates that point, the fact that the individual human person represents a living species like no other, is not only a principle of the referenced monotheistic religious professions, but a provable universal physical principle. It is proven thus, that this principle of human cognition, dominates increasingly both the abiotic and biotic domain which it efficiently inhabits, and over which it must reign.

This distinction between man and beast is thus an ecumenical, universal physical principle, which rightly forbids us from treating any persons as we treat wild or cultivated species of beasts. Moreover, this also obliges us to promote those qualities of human cognitive behavior which express the universal difference between man and beast. The function of society, therefore, is to protect and promote those qualities of all persons which express that universal distinction of man and woman from all other creatures.

Since such government of society must be provided by mankind, and for mankind, the agency by which society is governed must be the perfectly sovereign agency of that society itself. To that purpose, prudent societies establish republics which are each a creation of the governed, to serve as the principal agent by which all of that society governs itself. To that end, prudent societies adopt principles of legislation and political-economy which have the intent and method of implementation of principles which have the same specific characteristics of scientific certainty, by means of which a people controls both its government and itself.

Such is the intent of a constitution of a true republic, such as the circles of Benjamin Franklin intended the U.S.A. to become. It was intended to become, as the Marquis de Lafayette perceived it, a temple of liberty and beacon of hope for all mankind.

The most suitable form of such a republic is the institution of the sovereign nation-state. Since self-government is possible only through a common intention and the common use of related language and political culture, that combination of intention and culture, is the mechanism by means of which the people of a republic may govern itself. Hence, an efficient form of republican self-government were not possible, unless the nation were independent and perfectly sovereign, within

the bounds of those common universal principles of humanity which qualify in practice as truly universal principles.

The Case of the U.S.A.

The American Revolution has been often described, either rightly or wrongly, as "an historical exception." Rightly seen, it was such an exception.

It was that period of religious warfare which Britain's Trevor-Roper and other historians have described as a "Little New Dark Age," between 1511 and the 1648 Treaty of Westphalia, which created the circumstances in which the resumption of the political intent of the Fifteenth-Century Renaissance had to be relaunched from English-speaking North America, rather than Europe itself. As a result, post-1648 Europe's escape from the relics of feudalism, came chiefly as reforms of feudal forms of parliamentary government, rather than actual republican forms of constitutional government. These, reforms used so-called "basic law" as a utopian substitute for a republican constitution based on principle, and often used what was known as "customary" or "common" law as a substitute for the exercise of reason, in the ordinary practice of law.

The U.S. Constitution, as understood by the followers of Benjamin Franklin, and, typically, by Presidents John Quincy Adams, Abraham Lincoln, and Franklin Roosevelt, is, philosophically, a thoroughly European Classical-philosophical creation, introduced into North America at a time such principles of law could not be established in any other place. Indeed, the greatest principled improvements in government and law since 1776, have been inspired by the influence of the founding of the U.S.A., its Constitution, and the achievements of what U.S. Treasury Secretary Alexander Hamilton defined as the American System of political-economy.

Admittedly, there has been a perpetual conflict within the U.S.A. between what President Franklin Roosevelt, among others, described as, respectively, American Patriots and American Tories. This conflict in mutually exclusive philosophies, profoundly moral in character, has been the principled cultural-political division within North America since 1763. However, despite that, the U.S. Constitution, as read by anti-Tory U.S. patriots such as Presidents Abraham Lincoln and Franklin Roosevelt, is a unique constitution. Excepting those few, tainting compromises made for the sake of strategically needed unity with the Tory faction, it is the truest reflection of republican constitutional law known in history thus far.

From this standpoint, a government of the U.S.A. is absolutely obliged, morally and otherwise, to reject absolutely and defy any attempt to create a world-order cohering with the proposed ICC presented to us at this time. The grounds for U.S. rejection of the proposed court, illustrate the kindred reasons prudence should impel every reasonable sovereign nation to join with the U.S.A. in rejecting the proposed, extra-constitutional court; an ICC premised upon no clear and defensible principle of law; an ICC whose plausibly useful functions, respecting war-crimes and crimes against humanity, were all properly conducted by ad hoc courts created under the principle of the law of justified warfare.

The Faults of the U.S.A.

We must recognize two general types of motives behind the effort to establish the ICC. One is a widespread, irrational form of expression of an otherwise justified resentment against the present English-speaking powers of the U.S.A. and the British monarchy (the United Kingdom, Canada, Australia, New Zealand, most notably); a resentment comparable to a conspiracy by mice to bell the cat. The second, is the product of the intention of certain powerful, imperialistic factions among those English-speaking powers, to impose a new, globalized form of Roman Empire upon the entirety of a post-Soviet world. In the politically and historically purblind eyes of most of today's poorly educated world, the lurking intention is to destroy that United States which they have come increasingly to choose as the principal focus of their hatred.

The likely result of such anti-U.S. impulses, were they temporarily successful, would be something like a Jacobin Terror, or worse, followed by something worse than the first fascist tyranny in modern history, the imperial reign of Napoleon Bonaparte.

The sane approach to those real problems which evoke mounting rage around much of today's world, is to recognize the implications of the distinction between the founding, Constitutional party of the U.S.A., and what President Franklin Roosevelt denounced as the American Tory party.

It must also be recognized, that the rise of the U.S.A. to a status of being, for a time, the only power in the world at large, in 1945, was chiefly a result of those continuing failures of the combined imperial British monarchy and continental Europe which are associated with the two so-called "world wars" of the 1894-1945 period. The combination of the Prince of Wales and later King, Edward VII; the follies of the cabal assembled around Clemenceau; and each emperor—of Germany, Austria, Russia—a bigger, worse fool than the other; and the role of British-allied Japan in launching war against China, Korea, and Russia; reflected an organic rottenness at the top-most level of European political society which set into motion the succession of wars of the 1894-1945 interval, from which Europe has not recovered to the present day. It is precisely the type of intellectual bankruptcy which brought about Europe's and Japan's self-destruction during that interval, which has come again to the surface in such instances as the attempted ICC coup against the principle of the sovereign nation-state.

To focus upon Europe itself, for the moment, the rottenness which misled Europe into the wars of the 1894-1945 interval, was chiefly the failure of Europe to free itself of the legacy of ancient imperial Rome and its feudal aftermath. Inside Europe, the relevant conflict has been expressed chiefly as recurring struggle for supremacy between a Romantic and a Classical tradition. The United States' Constitution, for example, is chiefly

the product of the European Classical tradition, as marked by the Fifteenth-Century Renaissance, the Treaty of Westphalia, the leading influence of Gottfried Leibniz during his adult lifetime and later, and the great Classical movement of J.S. Bach, Lessing, Mendelssohn, Gauss, Mozart, Beethoven, Schiller, Lazare Carnot, Scharnhorst, Gauss, the Humboldts, et al.

The relics of the Caesar tradition such as the Habsburg reign, the British monarchy, the German Kaiser, and Russian Czar, and the tradition of Louis XIV, Napoleon Bonaparte, Napoleon III in France, are typical of the top-down and other influences of the Romantic tradition which led Japan and Europe into the series of devastating wars of the 1894-1945 interval.

Within the mainstream of European Romanticism, a special variety, called empiricism, was introduced to the Netherlands, England, and elsewhere by the sometime de facto lord of Venice, Paolo Sarpi. This influence was expressed, most notably, in the political form of the Anglo-Dutch philosophical liberalism. The most typical of these liberals are John Locke and the radical utopian key figure of the British Foreign Office, Jeremy Bentham. The imprint of Locke and Bentham is the most characteristic expression of what might pass for a philosophy of law within the overriding Romantic characteristics of the Rome Statute as presented.

Meanwhile, inside the U.S.A. itself, the most extremely objectionable developments within the practice of domestic and foreign policies of practice, are typified by the ugly spectacle of U.S. Federal Associate Justice Antonin Scalia, who typifies a current in U.S. law into a radically positivist, even dictionary-nominalist version of Locke. The combined effect, radiating from Scalia and his like, is a fascist degeneration in law worse than that associated with the legacies of Hegel, Savigny, and Carl Schmitt in the emergence of the Hitler dictatorship in Germany.

Today, the root cause of the objectionable roles by the U.S.A., is the spread of the types of corrupting liberal and other Romantic influences which I have referenced here, from the British monarchy and continental Europe, into the Americas. Since the 1689 suppression of the constitution of the Massachusetts Bay Colony by the liberal tyranny of the India Company's William of Orange, and, most notably, since the 1763 division of the North American population between patriots and American Tories, all those impulses contrary to the intent of the leading founders of the republic, including slavery, were imported afflictions imposed by the British monarchy and such as drug-trafficking Britain's slave-trading lackey, the Spanish monarchy.

It is from those same European Romantic and liberal influences, that every justly objectionable practice of the U.S.A. has obtained its motivation. The kind of argument in law, prevalent in the frankly utopian Rome Statute, is itself an expression of the same philosophy of law which Europeans and others have sought to introduce, contrary to the intent of the Constitution of the U.S.A.

2. The Fate of the Rome Statute

A world which might seek to implement the Rome Statute, is a world whose governments have lost the moral fitness to survive the perilous state of global affairs into which civilization as a whole is being plunged today.

The "crash" of the present world-monetary-financial system is imminent. Conditions, inside the U.S.A. itself and around the world, have entered a state of accelerating turbulence which must be brought to an end, very soon, one way or another. Among literate circles, only a few idiots, here and there, actually believe in a prospective recovery of this world system in its present form.

There will never be a recovery of the present world monetary-financial system in its present form. Any attempt to enforce collection of present accumulations of nominal debts, would ensure a relatively immediate collapse of the entire planet into a chain-reaction-like plunge into a New Dark Age far worse than the Lombard-banking-driven New Dark Age of Europe's 14th Century, and comparable to, or far worse than the Dark Age of Europe created by the inevitable downfall of the rotten Roman Empire.

Already, the amount of debt-service required, to roll over the existing mass of world debt, exceeds the allowable margin of deductions from total output of the world's economy as a whole. Most of the financial debt of nations and their essential banking and other institutions must be summarily cancelled, or frozen, if a plunge into a Dark Age is to be avoided. If that decision is not implemented, civilization will have failed to muster the moral fitness to survive.

In the event that nations are sane, that debt-cancellation, that reorganization will occur, both within nations, and among nations. The organization of a recovery will depend upon reversing promptly recent decades' trends toward deregulation and globalization. Only an earlier and most emphatic return to the standards of sovereign nation-state regulation of economy, could rescue mankind from an otherwise inevitable debacle.

As I have had occasion to explain, repeatedly, on sundry recent occasions, the relevant English-speaking powers behind the present intent to launch a war of virtual extermination against Islam, reflects the intent of certifiable creatures such as Bernard Lewis, Zbigniew Brzezinski, Samuel P. Huntington, and others, to exploit the aftermath of the collapse of the Soviet system, to establish an English-speaking new Roman Empire world-wide. There is a notable element of farce in those intentions. The Romans launched their empire at the height of their power; today's utopian fools are committed fatally to launch a new Roman Empire at the fag-end of its existence.

Therefore, the danger in each of sundry attempts at imperial globalization, such as the ICC project, is doomed to be buried soon in its own ashes, one way or another. Were the attempt successful, only temporarily, it would carry all civilization into those ashes with it.

The Rome Statute will therefore either die quietly amid the growing contempt it deserves, or it will end soon like Belshazzar's Feast.