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Colleges spar over war crimes court

MARIST DEBATE

The following are excerpts from the debate between Marist College and the University of Vermont regarding the merits of the International Criminal Court. The debate was conducted through video sent over the Internet.

Jacqueline Gamrat, junior business and finance major at Marist College:

Dr. William Aceves, a professor from the California Western School of Law, reveals that 270 minority groups are at risk of genocide. One billion people, or one-sixth of the world's population, stands the risk of being exterminated. These are the poorest of the poor and those who have been oppressed throughout history. The ratification of the International Criminal Court, commonly referred to as the ICC, is the only way to stop potential genocides from happening in the future and give these peoples a much-deserved sense of freedom.



Karl Rabe/Poughkeepsie Journal
Marist College students engage in a debate via the Internet against a team at the University of Vermont Jan. 29 at Marist in the Town of Poughkeepsie. Projected on the screen is University of Vermont student Jennifer Knopps. Seated under the Marist banner are students Jacqueline Gamrat, left, and Stephen Nocera. Sitting at far right is Marist professor Maxwell Schnurer.

Genocide is defined as the systematic extermination of a group of people based on their ethnic characteristics. The Jewish Holocaust is a clear example of how evil humans can really be to one another. We as members of the human race have a moral obligation to prevent genocide and do whatever possible to stop it. We must act now.

Despite the obvious need for the ICC, the lack of U.S. support undercuts its potential success from becoming an accepted body. The ICC is a body created by dozens of nations. Its main purpose is to prosecute crimes against humanity and bring its perpetrators to justice. The U.S. has not only spoken against the ICC, but has also refused any support or participation. The current strategy of the U.S. is to sabotage the ICC through their words and actions. The rejection of the ICC by the U.S. only makes it seem as if the U.S. supports the actions of the past. Without supporting the ICC, the U.S. is running the risk of allowing these genocides to happen in the future.

The U.S. needs to stop looking at itself as a single nation and more as a member of the global community. The U.S. stands on a cusp and has a choice. We can stand with or against those who want to exterminate 1 billion people. We can stand with or against those who believe that mass rape is not a crime against humanity. We can stand with or against those who believe that the U.S. should not ratify the ICC.

Today we urge and call for the ratification of the International Criminal Court. And stand up against genocide at all costs.

Jennifer Knopps, senior philosophy major from the University of Vermont:

The ICC will not solve genocide. The International Criminal Court cannot force people to

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change their views. While the affirmative team gives a compelling argument, talking about the 270 minority groups that are at risk of genocide, they don't ever address the root cause of the problems of genocide. They suggest advocating the ICC to create an effective deterrent atmosphere.

Our claim is that this deterrence will never be effective. There are corrupt leaders who exist in this world who will engage in actions regardless of the potential trials which might exist. A great example of the evidence of this is Pol Pot-induced genocide in Cambodia. This was post-Nuremberg, post-Holocaust. Pol Pot was not deterred by the notion of a trial which could compel him to address the wrongs of his doings. In fact, he felt he was so right that he felt compelled to engage in these actions. We have to recognize that these individuals commit genocide when they are positive that they are right and they commit genocide based upon a deep-seated racial or ethnic hatred that they have within themselves. The ICC can do nothing to eliminate this deep-seated hatred; it runs far deeper than an international statute or law can ever hope to address. Another illustration is: Even if the Nazis had known that Nuremberg would ever exist post the war, they still would have engaged in the extermination of the Jews and the other people who they killed.

There is no way the ICC can act as an effective deterrent regarding these issues. The ICC is even more problematic because there is no way for the International Criminal Court to obtain evidence for a fair and legitimate trial. So, even if the ICC were able to engage in an effective trial against somebody, like (former Yugoslav President Slobodan) Milosevic for instance, they would not be able to obtain the evidence from other states to justify that fair trial.

This is a significant monkey wrench in the constitution of the international criminal court. There is no factual legitimacy that can uphold the standards of western international law, which the ICC seeks to implement in the international community.

Stephen Nocera, sophomore political science major at Marist College:

Would we trust Hitler to stop discrimination of the Jewish people? Would we have trusted Pol Pot, the dictator of Cambodia, to keep safe the Cambodian people? Would we have trusted Milosevic to keep safe the women of Bosnia? Of course not; there must be a higher power of authority. Genocide happens because national leaders believe they can get away with it. Pinochet in Chile never gave a second thought to killing all those people simply because he knew that no one could stop him. This is why, today, Jacqui and I are advocating for a higher power that will deter acts of genocide.

The ICC can solve for genocide, especially with the involvement of the United States. The U.S. brings superior strength to the international community; we are the international heavyweight and one of the biggest players in the international community. Jenn references Pol Pot, arguing that Nuremberg was around when Pol Pot was killing people; however, this doesn't include the idea that the U.S. would be involved with the ICC. In the status quo, the U.S. has not ratified the International Criminal Court.

Then she argues that people will do these things because they think that they are on the side of right. However, I contend that the International Criminal Court putting up all these standards and showing people that they are wrong; that's where they will stop genocide. Set standards that show people that genocide is not the right way to go about politics and diplomacy.

Jenn's next point is that the ICC is unable to obtain evidence. However, Brian Concannon, who is a Haitian attorney who wrote in the *Columbian Human Rights Review* in 2000, says that the ICC has both the funding and support for every country to gather evidence. The ICC provides training for lawyers and officials and provides assistance for domestic collection, analysis, and preservation of evidence.

Secondly, the ICC provides protection and support as well as funding for witnesses and gathering evidence. Even if the ICC can't get evidence, it's still very valuable because it will encourage national prosecutions of dictators and sends a strong international signal, which it can only do with the involvement of the United States.

In conclusion, even if there are problems with the ICC it doesn't mean that we shouldn't participate. In fact, I would contend that it should encourage the United States to get involved

so that these problems can be fixed, and real change can begin to take place.

Brian Cole, senior political science major at the University of Vermont:

The problem in this debate is that we have failed to talk about the key issues. The key issues in this debate seem to come down to the idea of retributive justice vs. restorative justice. The affirmative's first point and Phillip Gourevitch's quote about Rwanda actually speaks to this point quite well. In fact, Rwanda is an excellent example of how retributive justice fails. In Rwanda, currently, the idea of retributive justice that is going on right now has led to fewer trials and fewer reconciliations for the crimes committed than would the concept of restorative justice in South Africa.

Additionally, the deterrence theory on which the ICC is based has been disproven historically. Megalomaniacs such as Pol Pot and Mr. Hussein for example, also Mr. Milosevic and leaders of countries who feel that they are right in what they are doing, have historically not been deterred by international bodies. There is no good answer to the argument of Pol Pot committing atrocities that he did against his own people after he saw the Nuremberg trials and what happened at Nuremberg. Obviously we can see that an international body, such as the ICC, is not the appropriate way to answer back the claims and the problems of genocide.

The ICC does not have subpoena power. Steve reads a quote talking about how it has the funding and support of the countries. But, if you look at Article 93 of the treaty itself, it specifically is faulty in that it does not allow for any sort of subpoena power. There is no standing army; there are no police officers of the court to go and obtain the evidence or to obtain those who have committed the atrocities. Meaning that there is no way to effectively guarantee that these people will be brought to trial. Meaning we'll have the exact same problem we've had for years with leaders running away to foreign nations or other places on the planet, where they are untouchable by this body. If this is to be our first major document of international law, to stop genocide, we need to get it right the first time. And the way that we need to get it right is to give the ICC some kind of subpoena power. The only way is to do that is to change the ICC, not to implement the ICC.

The current strategy of the U.S. is to sabotage the ICC through their words and actions.

The ICC will not solve genocide.

AT A GLANCE

INTERNATIONAL COURT

Dozens of nations have agreed to participate in the International Criminal Court, a permanent war crimes tribunal. It is designed to make those participating abide by an international standards of conduct and ensure that war crime perpetrators are brought to justice before the ICC when national courts are unable or unwilling to do so.

The United States strongly opposes the court, objecting to the notion that Americans -- particularly those involved in global peacekeeping missions -- would be subject to the court's international jurisdiction.

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