

Latin America: justice or impunity?

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(LADB, NA) Dec 12 -- Plans for the International Criminal Court (ICC) are moving ahead even though the United States has rescinded its signature on the treaty and is pressuring countries around the world to grant the U.S. military and civilian personnel immunity from prosecution in the court. Nine jurists from Latin America and the Caribbean are among 45 nominees for judges for the court, which is scheduled to begin operation during the first half of next year in The Hague, Netherlands.

The ICC, the world's first permanent tribunal to prosecute cases of war crimes, genocide and other crimes against humanity, is the culmination of a campaign that began with trials for German and Japanese war criminals after the Second World War. The court's governing body held its first meeting Sept. 3 at UN headquarters in New York.

U.S. President George W. Bush's May decision to rescind the U.S. signature on the Rome Statute of the ICC could have repercussions in Latin America. Washington has threatened to cut off aid to countries that do not sign bilateral immunity agreements.

According to Jose Antonio Guevara, Latin America and Caribbean co-ordinator for the Coalition for the International Criminal Court, Honduras and the Dominican Republic, have reportedly signed such accords. "All other countries have put off signing agreements, looking for arguments like the one Colombia used, that existing agreements already offer this type of protection," Guevara said. Colombia, which has received \$1.7 billion US in mostly military U.S. aid in the past two years, is a focal point for the debate in the region. U.S. troops are already in the country as military advisers and trainers, and the United States has pledged to protect the Ca[Symbol Not Transcribed] [similar]o Limon-Cove[Symbol Not Transcribed] [similar]as pipeline that carries oil pumped by the U.S.-based Occidental Petroleum.

If U.S. troops became more deeply involved in the Colombia conflict and there were accusations of war crimes, "under an impunity agreement, those crimes could not be judged by Colombian courts, let alone the International Criminal Court," Guevara said.

Colombia's Constitutional Court approved the legality of the ICC on July 30. Judge Manuel Cepeda said the decision would ensure that those guilty of genocide, crimes against humanity and war crimes would not enjoy impunity. But on Aug. 5, two days before President Alvaro Uribe took office (LP, Sept. 9), the administration of outgoing President Andres Pastrana (1998-2002) quietly exercised its right under the Rome Statute to obtain a onetime, seven-year exemption from ICC jurisdiction.

According to human-rights experts, the decision effectively grants immunity for war crimes to any U.S. soldiers or contractors working in Colombia. Guevara said there have

been reports that Uribe is considering withdrawing its request for an exemption. "That would be very beneficial for avoiding impunity," he said, adding that it would probably lead to increased U.S. pressure for a bilateral immunity agreement.

Argentine officials dismissed the possibility that the country would grant immunity to U.S. soldiers participating in training exercises in Argentina. Foreign Minister Carlos Ruckauf said on Sept. 3 that the government's answer to a U.S. request for immunity would be "negative." The Argentine press had reported that Washington had asked Argentina to sign a bilateral agreement.

On Sept. 4, Brazil rejected U.S. Ambassador Donna Hrinak's request to sign such an accord. "Brazil is not going to sign any immunity pact with the United States," Defense Minister Geraldo Quintao said. Some Brazilian military analysts suggested that U.S. officials want to be able to pursue Colombian guerrillas in Brazilian territory, if necessary. Brazilian government and military officials are concerned that the Colombian conflict could spill over the countries' shared border (LP, Oct. 16, 2000).

If other countries do sign agreements with the United States, Guevara said, they could follow the lead of the European Union, which approved conditions that would extend immunity only to people such as diplomats, who are already covered by current treaties, and require the United States to judge the accused in its own courts.

Most Latin American countries have signed and ratified the Rome Statute of the ICC. Ratification is pending in El Salvador, Nicaragua, Guatemala and Mexico, as well as Guyana, Haiti, the Dominican Republic, Jamaica and a handful of other Caribbean island nations.