The vindication of John Bolton

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By David Hoile

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[John Bolton](https://www.washingtontimes.com/topics/john-r-bolton/) is not the first and nor will he be the last observer to point out the contradictions and dangers inherent in trying to impose a universal legal regime.

The doyen of international jurists Georg Schwarzenberger, writing in the late 1940s, observed that international lawyers suffered from a “professional disease against which other members of the legal profession are remarkably immune.” He said they suffered from an over-zealous legal evangelism that failed to distinguish between commendable values and existing realities; the most mistaken lawyers, he observed, were those who believe in the existence of an “international criminal law.”

[John Bolton](https://www.washingtontimes.com/topics/john-r-bolton/)’s recent critique of the [International Criminal Court](https://www.washingtontimes.com/topics/international-criminal-court/) ([ICC](https://www.washingtontimes.com/topics/international-criminal-court/)) has led to a predictable frenzy of outrage among the Western political and legal glitterati and the non-governmental organizations they fund, outraged perhaps that the [ICC](https://www.washingtontimes.com/topics/international-criminal-court/) has already vindicated so much of what [John Bolton](https://www.washingtontimes.com/topics/john-r-bolton/) has previously warned about the [court](https://www.washingtontimes.com/topics/international-criminal-court/).

In 1998 he warned that the [ICC](https://www.washingtontimes.com/topics/international-criminal-court/) would be powerless, ineffectual, overbearing and unaccountable. While this may have seemed a contradictory combination, the [ICC](https://www.washingtontimes.com/topics/international-criminal-court/) has indeed managed to be all four. The [ICC](https://www.washingtontimes.com/topics/international-criminal-court/)’s first chief prosecutor, Luis Ocampo, promised, for example, to have Ugandan rebel leaders indicted by the [ICC](https://www.washingtontimes.com/topics/international-criminal-court/) and on trial by mid-2005. The rebels in question are still at large.

In yet another example, Sudan’s President Omar al-Bashir, under [ICC](https://www.washingtontimes.com/topics/international-criminal-court/) “indictment” for almost a decade, continues to travel widely internationally, including to [ICC](https://www.washingtontimes.com/topics/international-criminal-court/) member states.

The [ICC](https://www.washingtontimes.com/topics/international-criminal-court/) has failed across the board. Its claims to international jurisdiction and judicial independence are institutionally flawed and the [court](https://www.washingtontimes.com/topics/international-criminal-court/)’s reputation has been irretrievably damaged by its racism, blatant double standards, hypocrisy, corruption and serious judicial irregularities in the years following [Mr. Bolton](https://www.washingtontimes.com/topics/john-r-bolton/)’s warnings.

While claiming to be the world’s court, this is simply not the case. China, Russia, the United States, India, Pakistan and Indonesia are just some of the many countries that remain outside of the [court](https://www.washingtontimes.com/topics/international-criminal-court/)’s jurisdiction. A court is only as credible as its independence, yet the [ICC](https://www.washingtontimes.com/topics/international-criminal-court/)’s own statute grants special “prosecutorial” rights of referral and deferral to the Security Council — by default to its five permanent members (three of which are not even [ICC](https://www.washingtontimes.com/topics/international-criminal-court/) members).

Political interference in the legal process was thus made part of the [court](https://www.washingtontimes.com/topics/international-criminal-court/) from its inception — as seen in the cases of Syria and Myanmar.

[Mr. Bolton](https://www.washingtontimes.com/topics/john-r-bolton/) noted that “the [ICC](https://www.washingtontimes.com/topics/international-criminal-court/) has almost no political accountability.” The reality is that the [court](https://www.washingtontimes.com/topics/international-criminal-court/) appears to be accountable only to its political and financial godfather, the European Union. The [court](https://www.washingtontimes.com/topics/international-criminal-court/) is inextricably tied to the EU which provides up to 70 percent of its funding. Instead of impartially enforcing the Rome Statute internationally, the Europeans have chosen to focus the [court](https://www.washingtontimes.com/topics/international-criminal-court/) exclusively on Africa. In this respect, the [ICC](https://www.washingtontimes.com/topics/international-criminal-court/) is self-evidently racist in that it treats one race of people differently to all others.

Despite having received more than 10,000 formal complaints about alleged crimes in at least 139 countries, the [ICC](https://www.washingtontimes.com/topics/international-criminal-court/)has chosen only to indict 41 black Africans, and its actions are increasingly being seen as recolonization by spurious legal diktat.

[Mr. Bolton](https://www.washingtontimes.com/topics/john-r-bolton/) warned that the [ICC](https://www.washingtontimes.com/topics/international-criminal-court/)’s authority is vague and excessively elastic. This has been seen to be true. Set up as a court of last resort to deal with crimes such as genocide, crimes against humanity and war crimes, the [ICC](https://www.washingtontimes.com/topics/international-criminal-court/) cannot resist attempts to micromanage, seeing fit to intervene in riots, electoral violence in Kenya and arson in Mali.

Even [Mr. Bolton](https://www.washingtontimes.com/topics/john-r-bolton/) probably could not have foreseen just how much of an institutional farce the [ICC](https://www.washingtontimes.com/topics/international-criminal-court/) would become. It is hard not to see the [ICC](https://www.washingtontimes.com/topics/international-criminal-court/) as the Keystone Kops meets “Alice in Wonderland,” starring, for example, a chief prosecutor who clearly did not believe in the presumption of innocence.

As early as 2002 [Mr. Bolton](https://www.washingtontimes.com/topics/john-r-bolton/) warned of the dangers of vote-trading in [ICC](https://www.washingtontimes.com/topics/international-criminal-court/) judicial appointments — warnings also echoed by Human Rights Watch and Amnesty International. Vote-trading self-evidently produces mediocrity. The [ICC](https://www.washingtontimes.com/topics/international-criminal-court/) has appointed as judges dealing with the most complex of legal issues people who have never been inside a courtroom before.

There has been crass prosecutorial misconduct and ineptitude on an industrial scale — including prosecutors hiding hundreds of items of exculpatory evidence. The [court](https://www.washingtontimes.com/topics/international-criminal-court/) has also produced witnesses who recanted their testimony the moment they got into the witness box, admitting that they were coached by non-governmental organizations as to what false statements to make.

In 2002, [Mr. Bolton](https://www.washingtontimes.com/topics/john-r-bolton/) also pointed to the misguided view of [ICC](https://www.washingtontimes.com/topics/international-criminal-court/) deterrence. Yet again, he was proved right. The [ICC](https://www.washingtontimes.com/topics/international-criminal-court/) is currently involved in 11 situations — up from one in 2004 — something which would seem to indicate that the much-heralded deterrent effect is noticeably absent.

Far from deterring conflict the [ICC](https://www.washingtontimes.com/topics/international-criminal-court/)’s double standards and autistic legal blundering in Africa has derailed delicate peace processes across the continent — thereby prolonging devastating civil wars. The [court](https://www.washingtontimes.com/topics/international-criminal-court/) is itself responsible for the death, injury and displacement of many thousands of Africans.

The [ICC](https://www.washingtontimes.com/topics/international-criminal-court/) is an inept, corrupt, political court that does not have international justice at heart, only the furtherance of European foreign policy and its attendant human rights industry and, of course, its own bureaucratic imperative — to exist, to employ more Europeans and where possible to continue to increase its budget. Justice and the law comes distant third just as [John Bolton](https://www.washingtontimes.com/topics/john-r-bolton/) predicted two decades ago.