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Letter to the Editor

According to Robert Ehrenfreund (2007), Robert H. Jackson envisioned a permanent court that would bring belligerent heads of state to justice.

“[Jackson] saw the Nuremberg trials as a forerunner to an international court that did not need to be set up on an ad hoc basis every time a high government official was accused of committing war crimes or crimes against humanity.” (173)

In fact, just months before the start of the Nuremberg tribunal, Justice Jackson delivered a speech to the American Society of International Law in Washington, D.C., in which he advocated for a permanent international court.

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| Excerpt from **The Rule of Law Among Nations**  Justice Robert H. Jackson, April 13, 1945 | |
| Text | Definitions & Annotation |
| I am not one who expects the world to be remade by a single document or a single conference, or in a single decade, or even in a single century. One who contemplates the slow and evolutionary nature of all advancement in the field of law will expect no miracles now.  [When the matters of international law and international courts are raised] governments [often express opposition because they fear the] “impairment of sovereignty” [or the] “submission to foreign control”.  It is futile to think, as extreme nationalists do, that we can have an international law that is always working on our side. And it is futile to think that we can have international courts that will always render the decisions we want to promote our interests.  We cannot successfully cooperate with the rest of the world in establishing a reign of law unless we are prepared to have that law sometimes operate against what would be our national advantage.  In our internal affairs, we have come to rely upon the judicial process to settle controversies [between individuals and even between states of the Union] not because courts always render right judgments, but because the consequences of wrong or unwise decisions are not [as] evil as the anarchy that results from having no way to obtain any decision of such questions; in which case each [side] will take the law into his own hands.  [Therefore,] in a somewhat similar sporting spirit, we must look upon any international tribunal not as one whose decision always will be welcome or always right or wise.  But the worst settlement of international disputes by adjudication … is likely to be less disastrous to the loser and certainly less destructive to the world than no way of settlement except war.  The spirit in which disputes between states [of the Union] and disputes between individuals [are] decided, and the spirit in which [such] decisions [are] accepted, [must be extended to disputes between nations] if the world is ever truly to be ruled by law instead of by the wills of men in power. | Define **contemplate**:  Define **impairment**:  Define **sovereignty**:  Define **futile**:  Define **render**:  Define **anarchy**:  Define **tribunal**:  Define **adjudication**:  Define **dispute**: |

Jackson’s hopes were realized in 1998 when the Rome Statute established the International Criminal Court (ICC). The ICC, located at The Hague in the Netherlands, became the world’s first independent, permanent court. It is responsible for prosecuting individuals for genocide, crimes against humanity, and war crimes when national courts are either unwilling or unable to investigate such crimes.

Currently, 122 states have signed the Rome Statute. However, the United States has yet to approve the treaty and is thus not subject to the jurisdiction, or legal authority, of the ICC.

Some of the concerns regarding the International Criminal Court are expressed in the editorial below.

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| **No to a World Court**  Omaha World-Herald, December 20, 2000 | |
| Text | Annotation |
| America's political leaders are being wooed with a siren song they would do well to resist.  Foreign governments, political activists, and academics are sounding that song with the aim of enticing the United States into ratifying a treaty to create an International Criminal Court.  The song goes something like this: Turn away from your antiquated allegiance to national sovereignty. Recognize that if nations are to promote true justice, they must swallow their pride and bow to a higher authority, a court, which will decide questions of war crimes and genocide and see that wrongdoers receive the punishment they deserve.  But behind the high-minded sentiments lies an agenda hostile to U.S. interests.  Foreign governments and activist organizations have sent strong indications that they envision the court largely as a tool for reining in the assertion of U.S. power.  Through its ability to prosecute American officials and military people, the court would give anti-American critics a powerful new instrument for undermining [current] U.S. military operations and intimidating U.S. leaders from launching future ones.  The appropriate course for the U.S. would be to continue supporting international courts on an ad hoc basis, to meet the needs of particular situations. Such bodies have powers far more modest than that of the [International Criminal Court].  A chorus of foreign governments, advocacy groups and commentators … are urging the United States to sign and ratify the treaty creating the ICC.  But the siren song ought to be resisted. Otherwise, the United States would be handing its … critics the very chains with which they would bind this country.  [By] restricting U.S. military options, [due to the] threat of international prosecution, we would lose some of our ability to defend not only our own interests but also the freedoms of others. | Define **siren song**:  Define **antiquated**:  Define **sentiments**:  Define **prosecute**:  Define **ad hoc**:  Define **modest**:  Define **ratify**: |

**Directions**: Please pretend you are Justice Robert H. Jackson. Write an editorial that argues the United States should ratify the International Criminal Court treaty. Your editorial should:

* be between 250 – 300 words in length
* be single-spaced with a 12 point, Times New Roman font
* state your opinion in the first sentence
* present both sides of the argument
* utilize the concepts regarding the Pacifist’s Dilemma and the purpose of government covered in class, Justice Jackson’s speech, and the Omaha World-Herald editorial to support your position