

111TH CONGRESS  
1ST SESSION

# H. CON. RES. 97

Calling on the President to support United Nations Security Council referrals of situations involving genocide, war crimes, and crimes against humanity to the International Criminal Court, to cooperate with investigations and prosecutions conducted by the International Criminal Court, and participate as an observer at meetings of the Assembly of States Parties to the Rome Statute.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 2, 2009

Mr. KENNEDY (for himself, Ms. LEE of California, Mr. LANGEVIN, Mr. GRIJALVA, and Ms. SCHAKOWSKY) submitted the following concurrent resolution; which was referred to the Committee on Foreign Affairs

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## CONCURRENT RESOLUTION

Calling on the President to support United Nations Security Council referrals of situations involving genocide, war crimes, and crimes against humanity to the International Criminal Court, to cooperate with investigations and prosecutions conducted by the International Criminal Court, and participate as an observer at meetings of the Assembly of States Parties to the Rome Statute.

Whereas the preservation of international peace and security rests on adherence to the rule of law and the principles of justice by the nations and peoples of the world;

Whereas international peace and security are threatened by the commission of the most serious international crimes,

including war crimes, genocide, and crimes against humanity;

Whereas the prosecution of individuals suspected of committing the most serious international crimes is often impeded by domestic, political, and legal obstacles;

Whereas the inability of local and national court systems to prosecute those individuals responsible for the most serious violations of international criminal law demonstrates the need for a permanent international mechanism for ensuring that such violations are investigated and prosecuted;

Whereas while ad hoc tribunals have demonstrated the success of international courts in addressing the atrocities committed in specific conflicts, they have significant limitations;

Whereas the ability of ad hoc tribunals to punish and deter the most serious international crimes is severely limited by the difficulty of creating and sustaining them;

Whereas, on July 1, 2002, the Rome Statute of the International Criminal Court entered into force and the permanent International Criminal Court (ICC) was created;

Whereas the ICC has jurisdiction over only the most serious violations of war crimes, crimes against humanity, and genocide committed by individuals after July 1, 2002;

Whereas these are the most serious and horrendous crimes imaginable, and the failure to systematically punish such crimes offends universally accepted standards of law and morality and threatens the establishment of peace and security;

Whereas the ICC follows universally accepted international law in defining war crimes, crimes against humanity, and

genocide, including the Convention on the Prevention and Punishment of the Crime of Genocide (1948) and the Geneva Conventions (1949), but it does not create any new international crimes;

Whereas the ICC was designed as a court of last resort, not as a replacement for national judicial systems;

Whereas the ICC only has jurisdiction if national courts are too weak, too damaged, or too biased to try those responsible for the most serious violations of international criminal law;

Whereas the ICC guarantees the right to a fair trial, including the right to counsel, a prohibition on trials in absentia, the right to cross-examine witnesses, protection against double jeopardy, and protection from self-incrimination;

Whereas more than half the countries of the world, 108, have ratified the Rome Statute and become members of the ICC;

Whereas the democracies of the world have overwhelmingly embraced the ICC, more than 70 percent of the world's democracies are already members of the ICC and many more have indicated a desire to join;

Whereas almost all of the most significant allies of the United States are already members of the ICC, including the United Kingdom, Canada, Australia, France, Germany, Italy, Japan, New Zealand, South Korea, and many others;

Whereas new democracies in Eastern Europe, Latin American, and Africa are also strong supporters of the ICC, joining the ICC helps them strengthen the rule of law

and respect for human rights, protecting against a return to tyranny;

Whereas the ICC has investigated crimes against humanity, war crimes, and genocide in the Democratic Republic of the Congo, Central African Republic, Uganda, and Darfur, Sudan, and has issued arrest warrants in all four situations;

Whereas in the Democratic Republic of the Congo, government forces and rebel militias have killed hundreds of thousands of civilians and devastated large portions of the country;

Whereas in Uganda, more than 20,000 boys and girls, some as young as 9, have been abducted by the Lord's Resistance Army to serve as child soldiers and sex slaves;

Whereas the ICC issued an arrest warrant for Omar al-Bashir, President of Sudan, for war crimes and crimes against humanity;

Whereas in the Darfur region of Sudan, government-backed forces have conducted a campaign of ethnic cleansing and genocide that has killed nearly 400,000 people; and

Whereas none of the individuals responsible for the atrocities in the Democratic Republic of the Congo, Central African Republic, Sudan, or Uganda are likely to be prosecuted by the local court systems, the ICC is the only hope for punishing those responsible for the worst atrocities: Now, therefore, be it

- 1       *Resolved by the House of Representatives (the Senate*
- 2 *concurring)*, That it is the sense of Congress that the
- 3 President, acting through the Secretary of State and the

1 permanent representatives of the United States to the  
2 United Nations, should—

3 (1) support United Nations Security Council re-  
4 ferrals of situations involving genocide, war crimes,  
5 and crimes against humanity to the International  
6 Criminal Court (ICC), except where such a referral  
7 would not be in the national interest of the United  
8 States;

9 (2) include as stated policy of the United States  
10 Government to support the mandate and purpose of  
11 the Rome Statute of the ICC, and in support of that  
12 policy reactivate the United State signature of the  
13 Rome Statute by a note to the United Nations Sec-  
14 retary-General;

15 (3) cooperate with investigations and prosecu-  
16 tions conducted by the ICC, except where such in-  
17 vestigations or prosecutions are not in the national  
18 interest of the United States;

19 (4) exercise the right of the United States to  
20 actively participate as an observer in meetings of the  
21 Assembly of State Parties to the Rome Statute so as  
22 to ensure that the ICC develops in a manner con-  
23 sistent with the national interest of the United  
24 States; and

1           (5) invoke in the interest of the United States,  
2       waivers of provisions in United States law that re-  
3       strict or limit assistance and cooperation with the  
4       ICC.

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