

Date: Wed, 17 Dec 1997 15:49:08 -0500
From: Philip Heymann <heyman@law.harvard.edu>
To: msm@wjh.harvard.edu

DRAFT

December 17, 1997

Mark Richard
Deputy Assistant Attorney General
of the Criminal Division
958 Pennsylvania Ave., NW
Room 2113
Washington, D.C. 20530

Dear Mark,

Under the leadership of Professor Matthew Messelson of Harvard's Department of Molecular and Cellular Biology, a number of us have been working on a treaty to make it a universal crime to participate in a variety of ways in the manufacture, stockpiling, or use of biological weapons. The treaty and the crime would reach those working at supervisory levels for a government such as Iraq as well as terrorists working with or without the assistance of such a government. It would add a sanction to the less than perfect ones we are now using through the UN and would add the only sanction for terrorist groups as opposed to nations. Coupled with a large and public reward for information to deal with the extreme difficulty of detecting biological weapons facilities, it would substantially increase the limited power of the enforcement regime.

Now seems like an ideal time for the United States to press such an initiative. We might even be able to accompany it by a U.S. statute that preceded the adoption of the treaty and was based on either the universal crime principle (insofar as the present treaty forbids states from developing biological weapons and an individual working in a supervisory level to assist in such a violation might be held to be committing a universal crime or it might be supported by the protective principle since the weapons would likely be directed at the U.S. or its allies.

I am enclosing a copy of the present draft of the suggested treaty, but the idea is more important than the details for now. The President could propose it in concept before the specifics were fully vetted.

I would appreciate your sharing it with Charles Ruff and _____ Clark of the N.S.C. staff.

Sincerely,

Philip B. Heymann
James Barr Ames Professor of Law