

The ICC and Afghanistan: The “War Crimes Game” Continues

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*A few days after Burundi, South Africa and The Gambia announced their intention to withdraw from the International Criminal Court an article appeared in the American journal, Foreign Policy, stating that the ICC is considering investigating allegations of war crimes that may have been committed in Afghanistan. **The allegations are spread among the Afghan resistance to the western invasion and occupation of the country, the puppet government installed by the United States, and the United States itself.***

This has caused some surprise among observers of the ICC who have correctly criticised the tribunal as an asset of the US and its allies since it has only gone after certain African leaders who stand in the way of western interests while providing complete immunity to other leaders who are useful agents of those interests. Some of have accused it of racism, a charge difficult to refute but misses the point that the objective is the projection of imperial power.

The United States, though not a member of the ICC, has established its dominating influence in the staff of the tribunal so that it and its Canadian and EU allies effectively control its machinery, most importantly the prosecution, the administration and the selection of judges. It is because of this influence that the ICC falsely accused Muammar Gadhafi with crimes in 2011 thereby helping it excuse the NATO aggression against Libya and also provoking and excusing his murder.

The ICC is meant to prevent war crimes and war but it has been used in fact to overthrow governments and throw their leaders in prison, or in the tragic case of Muammar Gadhafi, provoke war and excuse murder; just as the ICTY in The Hague was used to justify the NATO aggression against Yugoslavia and the arrest and death in NATO hands of President Milosevic. The ICC continues in that criminal tradition.

But is this announcement a surprise, a hopeful step that the ICC may live up to its claims? The answer is a clear no. The timing of the announcement and its delivery are interesting. It comes within a few days of the disastrous blows to its prestige and credibility with the withdrawal of the African countries. Something needed to be done to try to restore some credibility, some appearance of impartiality; and that is what the announcement does, or tries to do because it will soon be realised that it is a cheap trick, a charade, designed to save the ICC so that the United States and its allies can continue to use it as they see fit, as a means of control, not justice.

It is not a surprise in the first place because the ICC made public its Report on Preliminary Examination Activities on November 12, 2015. In that report there is a section on Afghanistan setting out more or less the contents in the Foreign Policy Report. It makes interesting reading and starts off with a lie that indicates where we can expect this investigation to go.

On page 26 the document states,

113. *“After the attacks of 11 September 2001, in Washington D.C. and New York City, a United States-led coalition launched air strikes and ground operations in Afghanistan against the Taliban, suspected of harbouring Osama Bin Laden. The Taliban were ousted from power by the end of the year. In December 2001, under the auspices of the UN, an interim governing authority was established in Afghanistan. ”*

This is a lie because the Taliban government, a government installed by the United States in the first place, was not “harbouring” Bin Laden. They stated to the US government, when it demanded they turn him over in 2001, that he was in the country but by law they were required to demand that the US provide them with evidence that he was involved in the events in New York. The US flatly refused to provide any evidence to form the basis of a legal extradition so the Afghanistan government refused to hand him over. Any country would have been required by law to do the same. Instead of a file containing evidence they received cruise missiles and exploding bombs. Bin Laden of course was just the excuse, not the reason for the war. So for the ICC to state a lie that serves the narrative of the United States and then to continue with the joke that instead of the US overthrowing the Afghan government, (they were “ousted from power” they say, but how and by who is not said), they in fact helped to reestablish government, with the help of the peace loving UN, is to give the United States immunity from prosecution of the ultimate crime of aggression against Afghanistan that still continues today and all the war crimes that have flowed from that aggression. They bear the ultimate responsibility. But since the ICC sees fit to rewrite history in favour of the United States in its investigation of the war how can we expect it to ever prosecute that nation for the crimes it has committed?

Most of the document discusses allegations of crimes and some attention is paid to allegations against US forces and Afghan government forces but most of it is concerned with crimes of the Taliban. Where it discusses war crimes allegedly committed by the United States it points out that the US is investigating those allegations and has taken disciplinary action against those responsible in hundreds of cases. The question then is whether the United States is properly investigating and then prosecuting those cases in its military discipline system. For if the United States were in fact properly investigating and actively prosecuting soldiers and officials then the ICC cannot step into the situation. Only if this is not being done and cases appear to be sham cases can the ICC claim jurisdiction. This writer cannot imagine the United States ever accepting a finding from the ICC that it is not acting correctly, and having regard to its rewriting of history, I do not expect it to make such a finding.

That this is a public relations exercise is supported by the source of the article, Foreign Policy, which is owned by the Washington Post; and the writer, David Bosco, who lectures on international law and the ICC at the Washington College of Law, in Washington D.C. has an

interesting career. After graduating from Harvard he worked on “refugee issues” in Bosnia, first for an “ngo” then the UN and NATO and interned at NATO Military Headquarters in Belgium, then went to the State Department, and has largely been an editor at the journal and law lecturer ever since. You can understand my doubts of the bone fides of their intentions when you know that.

Why is it that this information had to come from this source and not the ICC itself? The answer is that if it came from the ICC no one would believe it. Its credibility is in tatters. It would look like the face-saving action it is. So it had to be made to look like a revelation of something daring that the ICC was reluctant to make it public, a bold step for mankind, all hush hush, so the US cannot get in the way of justice. But instead of a revelation it looks like a manipulation, a propaganda action to support the ICC as a tool of domination by the west against the rest of the world. And so, the game continues.

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