

The “International Criminal Court”: Prosecuting Gaddafi With Questionable Evidence While Ignoring NATO-Israeli Atrocities

By [Andy Dilks](#)

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The International Criminal Court has requested an arrest warrant for Colonel Gaddafi and his sons for “crimes against humanity”, accusing them of ordering, planning and participating in illegal attacks on civilians. Luis Moreno-Ocampo, International Criminal Court Prosecutor, said, “Based on the evidence collected, the prosecution has applied to pre-trial chamber one for the issuance of arrest warrants against Moammar Muhamad abu Minyar Gaddafi, Saif Al-Islam Gaddafi and Abdullah al-Sanoussi.”

But what is the evidence? The [press release](#) on the website of the International Criminal Court makes frequent reference to “direct evidence” but fails to cite any of this evidence in detail. In order to try and clarify the grounds for the prosecution, I emailed the ICC:

I’m looking into the ICC Prosecutor allegations of war crimes against Col. Gaddafi and his sons and am struggling to find the evidence on which these accusations are based. Referring to the press release issued on 16th May 2011 (<http://www.icc-cpi.int/NR/exeres/1365E3B7-8152-4456-942C-A5CD5A51E829.htm>) there is frequent reference to “direct evidence” obtained by the ICC but nothing in the way of the actual evidence itself. Can you point me to a comprehensive analysis of this evidence so I can refer to it in my article?

A secondary point of which you could be assistance relates to the following passage: “The Office will further investigate allegations of massive rapes, war crimes committed by different parties during the armed conflict that started at the end of February, and attacks against sub-Saharan Africans wrongly perceived to be mercenaries” Given that some of the parties involved in these rapes and attacks against sub-Saharan Africans were armed and funded by Western powers via their proxies in Egypt and Saudi Arabia, will NATO-affiliated forces also be under investigation for their part in these atrocities? Are NATO forces being investigated for the deaths of civilians as a consequence of Operation Mass Appeal, in addition to covert actions carried out by special operations forces prior to the NATO-led bombing campaign?

I look forward to your response and clarification.

The ICC promptly responded, providing me with a document entitled, [PUBLIC REDACTED Version Prosecutor’s Application Pursuant to Article 58 as to Muammar Mohammed Abu Minyar GADDAFI, Saif Al-Islam GADDAFI and Abdullah AL-SENUSSI](#).

Needless to say, “redacted” is the operative word.

Sources backing up the frequent assertions in the document regarding crimes against humanity carried out by Gaddafi and his sons are notable by their absence. For example, the document states, “In the early days of the demonstrations, GADDAFI transmitted orders through his Secretariat to “discipline” civilians, by killing them and destroying their property, who had openly rebelled against the regime. Further, AL-SENUSSI, upon GADDAFI’s instructions, directed and coordinated the operation of the Security Forces in Benghazi and expressly ordered the shooting at civilians. Demonstrators were attacked by members of the Security Forces who opened machine gun fire on them in different areas of the city, such as the Juliyana bridge and Jamal Abdun Naser Street.” The sources for these alleged transmissions and subsequent attacks are not provided. Further, the report uses vague generalisations concerning the history of Libya in an attempt to bolster its case. “Direct evidence of the plan to use extreme and lethal violence is corroborated by the scale, scope and duration of the attacks; the pattern of the attacks in various cities; the speeches and statements of GADDAFI, SAIF AL-ISLAM and AL-SENUSSI; the history of the regime’s response to any political opposition within Libya; and the complete authority exercised by GADDAFI and his subordinates over all important security decisions.” Again, the “direct evidence” is not sourced, while appealing to a state’s prior human rights record is not proof by any measure of the current crimes of which they stand accused.

The report continues, stating, “On 20 February, SAIF AL-ISLAM spoke on Libyan state television, refusing to recognize the Libyans’ demands, blaming the unrest on “foreign agents” and threatening the country with a “civil war” “worse than Iraq and worse than in Yugoslavia” that would cause “thousands of deaths”. No mention is made of the presence of the SAS and CIA in the country prior to this point, validating the claim that “foreign agents” were in fact involved in the unrest. Nor does the report concede the rather obvious point that a “civil war” cannot by definition be waged without more than one party, thus implicating forces backed by foreign powers in the “thousands of deaths” that Saif Al-Islam hinted might follow.

The document again makes the claim that Gaddafi opened fire on peaceful protestors without providing any sources for this claim, stating, “During that night, massive demonstrations against GADDAFI took place in different areas of Tripoli after the sunset prayers. GADDAFI’s Security Forces opened fire as soon as they met groups of peaceful demonstrators that were walking towards the Green Square. Similar incidents were replicated throughout the day mainly in the areas of the Green Square and city center, Mojam’a Al-Mahakem Court compound and Al-Dribi. The protesters set on fire government buildings, including the General People’s Congress, and at least one police station and one ministry.” The report provides no video, photographic or any other evidence for these assertions. Perhaps the following point is intended to provide such evidence: “On 22 February GADDAFI spoke on State television from his headquarters in Bab Al-Azizia, Tripoli. He refused to acknowledge any legitimacy of the demonstrators’ demands and did not regret the crimes committed by his Security Forces. On the contrary, GADDAFI called the protesters “rats”, “garbage” and “mercenaries” and threatened “to clean Libya inch by inch, house by house, small street by small street, individual by individual, corner by corner until the country is clean from all garbage and dirt”. Clearly, threatening such actions is not proof by any measure that such actions were indeed carried out - if that were the case, one must present a prosecution for war crimes against the State of Israel, since shortly before Operation Cast Lead the deputy defence minister Matan Vilnai threatened a “shoah”. The

slaughter that followed proved that this was no empty threat – yet the ICC has made no effort to present a case for prosecution against Israel for the killing of Gazan civilians, which included over 300 children in the death toll.

The report continues with more unsupported assertions, stating, “On 25 February, Friday, one week after the beginning of the attacks and a day of prayer for the Muslim community, GADDAFI issued further instructions to attack civilians. He learned that demonstrations were scheduled that day after the prayers and instructed the deployment of Security Forces throughout the city. Snipers strategically placed awaited the crowds to leave the mosques. Multiple sources describe how civilians were shot at throughout the city when they were pouring from the mosques after the prayers. On this day alone GADDAFI’s forces killed up to one-hundred civilians in Tripoli in the areas of Green Square, Souq al-Jomaa, Arada, Zawyet al dahmani, Tajoura and Fashloom, among others.” Despite referring to “multiple sources” not a single one of these is cited.

The document then continues. “In sum, the evidence demonstrates that GADDAFI conceived a plan to quell the popular demonstrations of February 2011 by all means, including through the use of extreme and lethal violence.” Unfortunately, as appears to be self-evident from the frequent unsourced assertions combined with the proliferation of redactions throughout the document, it is perhaps fair to conclude there is very little evidence to demonstrate the central claims of the International Criminal Court’s prosecution against Colonel Gaddafi and his sons. [This is perhaps best highlighted on page 17 of the document: \(http://nifcrimes.com/Libya_redacted.pdf\)](http://nifcrimes.com/Libya_redacted.pdf)

E. SUMMARY OF THE EVIDENCE AND OTHER INFORMATION ESTABLISHING REASONABLE GROUNDS TO BELIEVE THAT MUAMMAR MOHAMMED ABU MINYAR GADDAFI, SAIF ALISLAM GADDAFI AND ABDULLAH AL-SENUSSI COMMITTED CRIMES WITHIN THE JURISDICTION OF THE COURT PURSUANT TO ARTICLE 58(2)(d) OF THE ROME STATUTE¹. REDACTED

2. REDACTED
3. REDACTED
4. REDACTED
5. REDACTED
6. REDACTED

Following on from this I emailed the ICC once again:

Many thanks – it would seem that the evidence is flimsy and circumstantial at best (that is, the evidence that hasn’t been redacted) – most of the key claims (use of snipers against civilians etc) appear to be completely lacking sources. Will a version of this be released for public consumption without the redactions?

Can you respond to my second point with regards to prosecuting NATO forces for civilian deaths/attacks on hospitals and civilian infrastructure and the repeated use of depleted uranium? Also, is a case going to be brought against Israel for the recent killing of protestors as well as the attack on the humanitarian ship Spirit of Rachel Corrie in international waters?

The evidence for these crimes against humanity is certainly overwhelming in comparison to the evidence provided by the ICC in their case against Gaddafi, yet the ICC has remained

steadfastly silent when it comes to the crimes committed by NATO and Israeli forces, both recent and historical. The crimes of which Gaddafi and his sons are accused by the ICC may indeed have occurred, although the paucity of evidence provided – at least, in the redacted public version cited above – seems to cast some doubts on this. No conclusive video or photographic evidence has been provided by either the ICC or the mainstream media who have made similar accusations. If it existed, there is little doubt that it would have been broadcast to the world constantly across the news channels.

Contrast this with the strong evidence of war crimes committed by Western powers such as the US, UK and Israel, and the corresponding absence of prosecutions against these nations by the ICC, and it seems fair to say that the institution has a conception of justice which appears to be one-sided at best.

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