

# Operating Outside the Rule of Law: Washington Pressures International Criminal Court

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*There is apparently no limit to what the United States and Israel can get away with without any consequences. The United States has been waging devastating economic warfare against Iran and Venezuela while also blaming China for a global health crisis that it is unwilling to help address [due to its withdrawal](#) from the World Health Organization. Israel meanwhile is planning on illegally annexing significant parts of the Palestinian West Bank in July, with a green light from the Trump Administration, and no one in Europe or elsewhere is even interested in initiating serious sanctions that might lead to the postponing of that decision. Israeli Prime Minister Benjamin Netanyahu has even stated flatly that the remaining Palestinians who would be annexed will not become Israeli citizens – they will instead be “subjects” of the Jewish state with no guaranteed rights or privileges.*

The American Establishment is totally committed to the principle that the United States and Israel should have a “free hand” in dealing with other countries in their respective spheres of influence. That effectively means controlling the narrative so that the U.S. and the Jewish state always appear to be victims of other nations’ unprincipled behavior and also creating an environment where there can be no effective legal challenges to aggressive action.

Indeed, the one organization that was specifically set up to deal with issues like aggressive wars and ethnic cleansing, the International Criminal Court (ICC) at the Hague, has been specifically targeted by both Washington and Jerusalem to deny it any jurisdiction in situations where either country is involved. Neither Israel nor the United States has recognized the ICC for the obvious reason that they are primary sources of egregious human rights and international law violations. Israel is particularly concerned over its numerous war crimes, to include its violation of the Fourth Geneva Convention which forbids “the transfer, directly or indirectly, by the Occupying Power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory.”

The ICC has, in fact, [been targeted recently](#) by both the Trump Administration and Congress. Two weeks ago, a bipartisan group of 69 United States senators submitted to **Secretary of State Mike Pompeo** a [letter](#) condemning the “dangerous politicization of the court” that “unfairly targets Israel.” The Senators urged Pompeo to continue his “vigorous support of Israel as it faces the growing possibility of investigations and prosecutions by the International Criminal Court.” The letter included the claim that “actions currently underway could lead to the prosecution of Israeli nationals...” even though “the ICC does not enjoy legitimate jurisdiction in this case.”

The assertion that the ICC does not have jurisdiction is questionable at best as the “Palestinian State” has observer status and is a member of international bodies at the United Nations. It is also a signatory to the [Rome Statute](#) that established the ICC. The Senate letter itself was predictably written by Ester Kurz, the legislative director of the American Israel Public Affairs Committee (AIPAC), which is the leading Israel advocacy group in the United States. A similar [letter](#) was also circulated in the House of Representatives, which added an “American issue” by criticizing the ICC’s intention to investigate United States war crimes in Afghanistan. It received 262 signatures.

Anticipating the threat to Israeli interests, the U.S. Congress has long made security and other assistance to the Palestinian Authority conditional, suspending all support if “the Palestinians initiate an International Criminal Court (ICC) judicially authorized investigation, or actively support such an investigation, that subjects Israeli nationals to an investigation for alleged crimes against Palestinians.” As Donald Trump has de facto cut off virtually all assistance, including the humanitarian aid given to refugees, the punishment for going to the ICC is essentially moot and the Palestinians have consequently moved ahead with their complaint in an attempt to upset the timetable for Israeli annexation.

The Senators’ letter surfaced at the same time as a warning was issued by Pompeo to the ICC that focused on Israel but was clearly intended to derail any attempts to look at [American war crimes in Afghanistan](#). He claimed that the ICC is a political body, not a legitimate judicial institution, and accused chief prosecutor Fatou Bensouda of maliciously investigating “Israeli war crimes in Gaza, the West Bank and East Jerusalem.” His complaint paralleled the Senatorial letter, which is perhaps no coincidence, in claiming that the court has no jurisdiction and the Palestinians are not “sovereign” and therefore have no standing to go to the court in the first place.

And Pompeo concluded with a threat:

“A court that attempts to exercise its power outside its jurisdiction is a political tool that makes a mockery of the law and due process. If the ICC continues down its current course, we will exact consequences.”

Israel has also claimed, as does the United States, that it is not subject to ICC “trial” because it has a functioning court system that is capable of punishing war criminals. Of course, the fact is that Israel does not do so and the U.S. only does so when embarrassed. The most recent American war criminal was convicted by military courts and then pardoned by President Donald Trump. He was even feted at the White House.

Bensouda announced in November 2017 that she would proceed with an investigation of alleged U.S. war crimes in Afghanistan. The Trump Administration expressed its anger by criticizing her in tweets, canceling her visa to the United States, and threatening legal action against her, her staff and even ICC judges. The White House warned that if the ICC even dares to detain an American citizen the United States would use military force to release him or her. President Trump, Pompeo, and John Bolton all called the ICC “political, corrupt, irresponsible, unaccountable, and lacking transparency, and therefore illegitimate.” The critique sounded oddly enough like an accurate description of the Trump Administration itself.

Bensouda, who has been [timid about confronting Israel in the past](#), is now reportedly

proceeding with the Palestinian complaint. She has also been authorized to proceed with her investigation of American crimes in Afghanistan. If there is to be an actual trial, high-level politicians, officials, and military officers from both Israel and the U.S. could be summoned for questioning. If the summonses are ignored, which is probable, the prosecutor could then issue international arrest warrants, meaning that they could be arrested and extradited to the Court if they were to travel to any of the 123 countries that are parties to the Rome Statute.

So, one can expect both the United States and Israel to continue their defamation of the ICC, to include the threats of armed response coming from Washington. An attack on The Hague might be unimaginable in the real world, but the past three years have demonstrated that Donald Trump is capable of almost anything. Until then, one hopes that Bensouda will continue her work to expose the crimes that continue to be committed in both Palestine and Afghanistan. Embarrassing the United States and Israel in a very visible and highly respected public forum might be the only way to wake up the citizens of those two countries to the terrible things that have been and continue to be done in their names.

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