ICC investigating Israel for war crimes means US could be next - opinion

February 24, 2021

By Yaron Buskila

The Jerusalem Post

<https://www.jpost.com/opinion/icc-investigating-israel-for-war-crimes-means-us-could-be-next-opinion-660099>

Two weeks ago, the International Criminal Court of The Hague ([ICC](https://www.jpost.com/tags/icc)) approved “Palestine” as an official state so that the Palestinian Authority can sue Israel for war crimes.

Most American citizens, unaware of the critical implications this decision will have for future American soldiers, barely glanced at this headline, nor gave it a second thought. This is a mistake.

The ICC, established in 2002, was intended to prosecute and punish those who commit the most egregious crimes – including genocide, crimes against humanity, [war crimes](https://www.jpost.com/tags/war-crimes) and other acts of aggression – when governments fail to do so themselves. Establishing such a court, and supporting its actions, was presumably important, given the many unstable regimes around the world, led by fanatic dictators oppressing, imprisoning, murdering, and torturing their own citizens – and those of neighboring countries. And given the Court’s stated purpose, we should also presume that the ICC will facilitate the safety of all the world’s citizens, and protect the fundamental freedoms enshrined and upheld by countries like the United States, and Israel.

However, as time has passed, it seems that the stated purpose of the ICC is merely a cover for a prejudiced court purporting to protect those they have most certainly passed by.

In a world where the ICC was in fact adhering to its stated goals, enemies of the United States – including state sponsors of terror and their terrorist proxies like Iran and North Korea, Hamas and Hezbollah – would fear repercussions and sanctions from the Tribunal at The Hague. However, there has been unsurprising disregard on behalf of the ICC and its associated United Nations committees for the inhumane cruelty of leaders and government officials in Syria, Venezuela, Iran and Gaza – among others – who commit war crimes against their citizens.

The very fact that the ICC has determined  to prosecute Israel for war crimes – ironically initiated by the ICC’s chief prosecutor, Fatou Bensouda, who previously served as Minister of Justice for Gambia (a dictatorial regime in its own right, whose systematic violation of human rights is well documented) – reveals as much about the ICC’s moral compass as is needed to be said.

It appears even to the least passive observer that the core purpose of the Tribunal is not to investigate illegal acts, but rather to fight against the moral values that both the US and Israel cherish and champion, and for which they send their sons to battle to carry forth. As such, this decision sets a precedent for all democratic countries who fight for freedom, including the United States.

At first glance, one would think that the US in general and American soldiers in particular, have little to fear from The Hague Tribunal. After all, the US – like Israel – is not a signatory of the Rome Statute, and therefore, is not bound by any ICC decisions. And it is also clear that the citizens of the United States – including its soldiers, military officials and government leaders – are not war criminals, but rather individuals of high moral standards who seek to protect and defend the US from all forms of terrorism directed against its citizenry, as it did after September 11, 2001.

However, in choosing to prosecute Israel – a country that, like the United States, is not a member of the ICC but who also chooses to operate on a higher moral standard than most states that are members of the Court – the United States no longer has any guarantee that it can escape the grasp of the ICC’s grip.

While it is true that the battlefield is not a place of purity nor perfection – and from time to time stories emerge of soldiers or commanders that err in judgment or action – there are, however, few countries in the world that strive as high – both in theory and in practice  to preserve such an exalted standard of morality on the battlefield as do the United States and Israel.

Nonetheless, the United States and Israel are constantly condemned by totalitarian regimes, who have no respect for the rule of law nor human rights, and whom use The Hague Tribunal as yet another tool in their fight against the fundamental values of the enlightened democratic states.

With The Hague Tribunal’s conscious choice to be a political body rather than a judicial one, it has fundamentally forgone its right to exist as a fair court.

Therefore, lest any parents, friends, family members, or representatives of American soldiers at the local, state or federal level forget: this political ruling against Israel is a precedent for your son or daughter to similarly be arrested, interrogated, and charged with war crimes. But only – and just because – he or she fulfilled his or her duty to defend his or her nation.

If we are to fix this injustice, the US Congress must condemn the ICC decision and demand from prosecutor Karim Khan its repeal. The US must then stipulate that it will only cooperate with those countries that pledge to not provide any information to the Court until its decision is reversed. And finally, the US must rally the state signatories of the Rome Statute to demand the Tribunal engage only in those matters for which it was established – professionally, honestly and objectively, and most importantly, without further prejudice.

The state of Israel would be the very first to support an international court that applies severe and significant judicial consequences to those convicted of humanity’s worst crimes. Because throughout its history, the Jewish people have been the primary victims of the very crimes for which the court was meant to prevent against, or punish for. And Israel stands firmly against any government, individual or country that commits such crimes.

However, Israel has the legitimate right to defend its citizens. And if the State of Israel, the United States, its allies, partners, and all those whom share our values of freedom and democracy do not fight against the judgment of The Hague now – fight against those who believe the right to self-defense is a war crime – Israeli soldiers will not be the only soldiers who find themselves on the defense as they fight to protect and defend freedom and liberty on the battlefield.