Justified contempt for the International Criminal Court

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It’s the sort of thing that infuriates those who have been complaining for three-and-a-half years that the Trump administration has no respect for the norms and traditions of international diplomacy. By placing sanctions on two top officials at the International Criminal Court, U.S. Secretary of State Mike Pompeo bluntly rejected the notion that multilateral institutions deserved the respect and the deference of the American government.

This contempt for the international court roughly sums up the administration’s attitude towards the United Nations and a host of other world bodies. Critics see this as the embodiment of everything they hate about President Donald Trump’s “America First” foreign policy. Instead of embracing the internationalist tradition that has largely guided the American approach to world affairs since the end of the Second World War, Trump judges international institutions by whether or not they serve the interests of the United States and its allies.

But the U.S. attack on the ICC is a long overdue dose of reality. The court and the entire network of global entities that Trump scorns operate as parodies of the postwar idealism that created them. Trump’s critics in the foreign-policy establishment, the media and those who are poised to reshape American foreign policy if former Vice President Joe Biden wins in November are blasting the decision. But they should realize that Trump’s approach to the issue is not merely popular but far more realistic than their blind faith in multilateralism.

The particular targets of the U.S. sanctions may claim to be defenders of international law but are, in fact, exactly the kind of individuals that specialize in engendering disrespect for the concept.

Gambian attorney Fatou Bensouda is the ICC’s chief prosecutor, and Phakiso Mochochoko heads the prosecutor’s office in The Hague. Since assuming office in 2012, Bensouda—a former operative in her own country’s tyrannical government, which is widely considered among the world’s worst human-rights offenders—has presided over an organization that has mostly specialized in trying to pick fights with democratic countries and done little to advance the cause of justice in places where there is none.

In particular, Bensouda has sought to target Israel and to prosecute the Jewish state for alleged “war crimes” during the various campaigns conducted to stop Hamas terrorists from attacking Israel from their Gaza stronghold. As outrageous and false as that charge might be, it was telling that she also claimed to be investigating Israeli crimes committed in Jerusalem and the West Bank, making it clear that hers was a political agenda intended to delegitimize Israeli self-defense, rather than just the bogus claims against its military actions in the Gaza Strip. The fact that she later expressed a vague willingness to investigate Hamas war crimes, of which there were many easily documented instances, in order to maintain a pretense of objectivity convinced no one that she was interested in justice.

But Bensouda hasn’t just used her post just to snipe at Israel, and to threaten its officials and soldiers with prosecutions on false charges. She has also sought to use the considerable resources placed at her disposal to attack the United States by threatening to prosecute Americans for crimes allegedly committed in the war still being fought against Taliban terrorists in Afghanistan.

The ICC’s defenders say these legal fishing expeditions are justified in the name of the post-Nuremberg consensus that declared that the international community would not tolerate crimes committed by nations that, like the German Nazis, could claim that they were merely following their own unjust laws. That principle is a sound one, but it only works when it is employed against nations that don’t have independent judiciaries and accountability under the rule of law. The ICC has, at least in theory, a role to play in holding someone to task, such as tyrants that commit genocide, as was the case in the Balkans and in Central Africa in the 1990s.

But when it selectively prosecutes what it alleges are war crimes committed by democracies defending the rule of law and against terrorism, it turns the entire concept of international law into a joke.

When institutions like the ICC behave in this manner, it creates a problem for the true believers in multilateral institutions. They know that the United Nations and its many branches is a cesspool of corruption, hypocrisy and anti-Semitism. But for people like former President Barack Obama and those who served in his administration, support for these bodies is a matter of political faith in the world coming together to govern itself. What it generally does is wind up empowering bad actors and undermining the values of liberty that the post-World War II order created by the United States was intended to preserve.

When Obama and his foreign-policy advisers looked at the United Nations and the ICC, they saw an idealistic future in which international institutions could solve problems individual sovereign governments couldn’t fix.

Trump and his foreign-policy team are unencumbered by that sort of gooey faith in world government that sounds better when it is mouthed by characters in sci-fi shows like “Star Trek,” which are set in future centuries when humanity has supposedly fixed all of its internal problems and is ready to expand its sway to the stars. All Trump and Pompeo see when they look at arrogant figures like Bensouda and Mochochoko are puffed up functionaries of failed states that have been empowered by global bureaucracies to attack democracies.

 They’re right, and it’s high time that the United States acted to warn the ICC that unless it sticks to prosecuting genuine war criminals as opposed to democratic countries fighting against war criminals, they would face the wrath of the world’s lone superpower. The sanctions against the two prosecutors won’t stop them from carrying on with this legal charade in their Dutch enclave. It will, however, put them on notice that there will be consequences for further such travesties.

Rather than bash Trump for defending the interests of the United States, as well as of allies like Israel, establishment critics should agree that sanctions on the ICC are exactly what the American people expect of its government.