**ICC, ICJ push Joe Biden into Donald Trump’s shoes - analysis**

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<https://www.jpost.com/israel-news/vp-harris-signed-letter-against-dangerous-politicization-of-icc-658110>

In less than a week, the International Criminal Court and International Court of Justice have shockingly put US President Joe Biden into former president Donald Trump’s shoes on the international law scene.

Last week, the ICJ issued a jurisdiction ruling against the US sanctions program on Iran. Then, over the weekend, the ICC issued a jurisdiction ruling against Israel in the six-year running war crimes controversy.

US reactions from the State Department to both rulings were highly critical.

To the layperson, the criticism might have sounded the same for the ICJ and the ICC as what would have come from the Trump administration.

Israel would be happy if the US does not get too chummy with the ICC and the ICJ, since Jerusalem also supports US sanctions on Iran.

That is not all.

True, the Biden administration has reaped global praise for signing a range of executive orders re-joining the Paris climate treaty, erasing Trump-era prohibitions on immigration and travel from certain Muslim countries and a more positive tone toward the UN and the EU.

But 17 days into his administration, Biden has neither rescinded Trump-era financial and visa sanctions against the ICC nor has he rescinded the executive order that could allow him to use such sanctions further in the future.

In a little-noticed news item at the end of January, a US State Department spokesman did say that the sanctions on the ICC were being thoroughly reviewed.

Expectations are that at some point the US will remove or reduce the sanctions on the ICC.

But might the latest ICC ruling against Israel delay that process?

In fact, Israel is not even the most important area where Washington and The Hague disagree.

The ICC has an ongoing criminal investigation against Americans for the alleged war crime of torture in Afghanistan of terror detainees in the early post-9/11 years.

Unlike the George W. Bush and Trump administrations, which were in open war with the ICC and ICJ, Biden has been expected to return to some form of “positive engagement” with these international law bodies.

Whereas Bush and Trump were skeptical about international law and any limits it put on US actions, Biden, like Obama, was a firm supporter of international law and of these institutions, at least in theory.

The problem comes down to practice.

Bush and Trump might have been happier if the ICC and ICJ did not exist.

Obama, and now Biden, view these institutions as critical to humanity moving forward in a more moral and less-warlike direction.

As a US senator, Biden fought hard against Bush’s isolation of the ICC.

Biden has also loaded his top State Department, director of National Intelligence and CIA director with officials who are on record as being very supportive of international law as binding and a positive force for change and encouraging peace.

But how does Biden weave these views in with the ICC and ICJ attacks on critical components of US policy and on Israel?

In the past weeks, some scholars have suggested the Biden administration at least drop the existing sanctions and cancel the anti-ICC executive order to send a message that it will not penalize the ICC in areas where there is disagreement.

Either dropping current sanctions or maybe even eliminating the executive order could be in the works or could be part of a negotiations behind-the-scenes with the ICC.

Suggestions by some international law scholars to give in to the ICC probe of American actions in Afghanistan or to let Israel go under the bus are likely to fall on deaf ears in the Biden administration. That’s because agreeing to the ICC Afghanistan probe would mean exposing US military, CIA and maybe even Justice Department lawyers to war crimes.

The Obama administration policy on the Afghanistan torture issue was to criticize and sum up everything bad that it thought the Bush administration had allowed, but to also move on.

Biden is a big supporter of the US military and giving in on this issue would give the Republican Party a major and lasting point of attack on the Democrats “turning on the US military” and others.

This makes it highly unlikely.

The same is true about Israel.

No matter how much the Obama and Biden administrations may have disapproved or may disapprove of aspects of the IDF’s use of force in conflict with the Palestinians, especially Hamas, or with the settlement enterprise, Biden is fundamentally pro-Israel.

Pro-Israel means supporting Israel’s right to self-defense against terrorists’ rocket attacks on its civilians and being at least neutral on diplomatic disputes with the Palestinians, such as the settlements (they will be careful to at most criticize settlement activity as “illegitimate,” and not illegal.)

The Biden administration may escape a continued fight with the ICJ over Iran if it reaches a new deal on sanctions and the nuclear standoff, but even here top Biden officials have said a deal is “a long way off.”

So, we may see the US eventually remove formal anti-ICC measures, say positive things about ICC actions in other parts of the world, and its criticism of the ICC and ICJ may sound more legalese and less looking to strike a body blow.

However, when it comes to actual policy, the international law-minded Biden administration may find itself defending many of the same positions against the ICC and ICJ as the Trump administration.”