**Refusing to play the Palestinians’ ICC game**

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On November 13, 1974, Yasser Arafat – the very symbol of international terrorism targeting Israel and Western states – was scandalously allowed to travel to New York and address the United Nation’s General Assembly. The PLO leader’s invitation was a disgraceful international low point, even for a discredited body like the UN.

The unshaven terrorist chief, to his credit, did not waste the opportunity, nor did he disappoint this forum of nations. From the UN’s podium, Arafat threatened Israel, Europe and the United States that, were the PLO’s demands not “peacefully” met; were a Palestinian state not created for him; was Jerusalem not surrendered; and were the “refugees” not allowed to return, his terror group would unleash even more carnage and destruction worldwide.

Dramatically, at the end of his speech, Arafat revealed that he had brought a weapon with him into the General Assembly – that he was packing a pistol in a holster beneath his jacket. With a dramatic flourish he bellowed to the assembled diplomats: “Today I have come bearing an olive branch and a freedom fighter’s gun. Do not let the olive branch fall from my hand.”

Arafat’s theatrical threat was very clear: Do what I demand or face the consequences. Thus, began the Palestinians’ very effective strategy of the olive branch and the gun.

With the Oslo Accords in 1993, signed between the government of Yitzhak Rabin and Arafat – which legitimized the PLO internationally and brought the armed guerrilla gangs from Tunis to the West Bank and Gaza – the Palestinians have continued to operate with this dual branch-and-gun strategy. While publicly insisting they are willing to compromise and negotiate peace in good faith with Israel on all the issues at the center of the conflict, they have also always tactically held other cards, often violent ones, with which they menacingly threaten us.

There has never been a time since the infamous UN speech or the White House lawn handshake that Israelis were not being told that if we don’t cede large territories of land, free terrorist prisoners and surrender Jerusalem, then the Palestinians would seek to fiercely punish us. Frustrated that they couldn’t achieve their extremist goals at the diplomatic table, they have always threatened us with all measures of violence and vengeance. Since 1974, there has always been that hidden pistol sticking out of their trousers.

WHEN THE Oslo talks failed after Camp David, Arafat infamously unleashed the Second Intifada against us, ushering in the years of suicide bombings, drive-by shootings and slaughter on our streets. When that violence was eventually brought to a hold, our “peace partners” initiated the era of the rocket attacks on our southern towns. In 2015, the Palestinians decided that they would supplement the diplomatic process with a new type of violence – kitchen knife stabbings and car ramming attacks, which still occur.

Since September 2012, when the Palestinians’ status was upgraded in the United Nations to an observer state, their intent has been clear. Repeatedly, they have warned that if Israel does not submit to their demands in the so-called final status negotiations, they will turn to the International Criminal Court in The Hague and formally submit war crimes complaints.

Plainly, the ICC and the threat of war crimes investigations is merely the PLO’s latest version of Arafat’s branch-and-pistol diplomacy.

In January 2015, the Palestinians signed the Rome Statute; that April, they applied to join the ICC so that they could file complaints against Israel for committing war crimes. Israel immediately scrambled and embarked upon an intensive backstage campaign, trying in every way to persuade ICC Chief Prosecutor Fatou Bensouda that the tribunal has no authority to discuss the Israeli-Palestinian conflict, since Israel is not a signatory to the treaty – and the Palestinians, despite it being questionable whether they are permitted to sign the treaty, are not a state.

Israel correctly argued that she has an independent, strong and active judiciary, is investigating every incident small and large, and does not hesitate to prosecute and frequently convict whenever there is even the shadow of a violation of law. As such, the ICC has no authority to act as a super-review court for the Israeli justice system and has no need to duplicate Israel’s own jurisdiction.

Israel further noted that in every IDF tank and helicopter sits an on-call legal advisor, who is relied upon to instruct the units whether to shoot a shell or fire a missile when there is even the slightest question concerning collateral damage to civilians. And, moreover, that the territories are not “occupied,” as defined by international law – so there is, accordingly, no legal impediment to building Jewish communities in them and allowing the Israeli population to live there.

BUT ALL of these defensive arguments seem to have fallen on deaf ears. The chief prosecutor announced this past week that she has found a basis to investigate alleged war crimes in the West Bank and Gaza. These include the IDF utilizing disproportionate force against the Palestinian civilian population in response to terrorist attacks and building Jewish communities in the “occupied territories,” in violation of Article 49 of the Geneva Convention. Bensouda has stated that her office intends to launch an investigation against the perpetrators of such crimes.

As far back as 2014, our organization Shurat HaDin well understood that it was only a matter of time before the Palestinians once again made good on their threat to harm Israel with a concealed weapon. We knew that Bensouda was tired of pursuing African dictators and brutal tribal leaders, and wanted to show that the ICC was a court with a truly international reach. In the face of criticism of the court’s focus and diminishing standing, she had to set her targets on a larger sight. As such, there is nothing sexier for Bensouda than the Israeli-Palestinian conflict. On several occasions in the past, she did not hesitate to express this opinion publicly, whether in opinion papers or in the annual reports she issued.

This is why we rushed and took action: to counter the allegations of war crimes by IDF soldiers, we filed communications against Fatah and Hamas leaders for their terror attacks and crimes against humanity.

After all, the court’s authority is two-sided, and if the Palestinians can allege war crimes, they can also stand accused in that tribunal. To counter the claims of illegally building communities and “transferring populations” in an occupied territory, we have filed communications against other parties in other territories that are indeed occupied around the world, such as Northern Cyprus.

There, we claimed that Turkey commits the same war crimes under Article 49 that the Palestinians accuse Israel of – building hospitals and universities in Northern Cyprus, granting tax benefits and offering housing grants to ethnic Turks to settle in this contested territory.

SO FAR, Bensouda has purposely ignored these claims. But now she has no real choice. While her office will, undoubtedly, want to launch an investigation against Hamas leaders, she will not dare to investigate the leadership of Fatah or Prime Minister Mahmoud Abbas himself for his involvement in crimes against humanity. Investigating Fatah and Abbas would undermine the entire goal of targeting Israel and the IDF.

Therefore, the strategy to be employed is to continue to insist that the ICC has no jurisdiction over Israel or the territories, while pressing counter war-crime allegations against Abbas, Fatah and Hamas. In parallel, the ICC must be pressured to give serious consideration to previously filed communications involving Turkish crimes in Northern Cyprus and the situation in other occupied territories worldwide.

Israel must also take a page from the United States, which recently beat back an attempt by the ICC to investigate American military operations in Afghanistan.

The US made it clear, in no uncertain terms, that the prosecutors and judges of the ICC would be targeted personally if they investigated American officers or servicemen. While Israel, obviously, does not have the same diplomatic clout or political might as Washington, it must marshal all of its supporters and political ties worldwide to pressure the court to abandon any thought of targeting the IDF or Israeli officials.

As for the Palestinians, Israel must not allow this new threat to continue with business being conducted as usual. The Jewish state must institute its own sanctions against the PLO and Hamas for daring to accuse us in the ICC. Economic measures should be implemented, VIP passes should be canceled and all travel, work and medical permits should be suspended. Israel needs to finally send a clear message to the Palestinians and their supporters in the UN and EU – we will no longer play their branch-and-pistol game.

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