**Six actions Biden should take to hold the ICC and Palestinian leaders accountable**

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Jewish News Syndicate

February 7, 2021

<https://www.jns.org/opinion/six-actions-biden-should-take-to-hold-the-icc-and-palestinian-leaders-accountable/>

The International Criminal Court (ICC) in the Hague issued an illegitimate and politicized decision on Friday, falsely claiming that it has jurisdiction to open an investigation focused on false allegations of Israeli “war crimes.”

The Feb. 5 ruling is the latest development in the Palestinian Authority’s diplomatic lawfare campaign against Israel. The P.A. is also engaging in economic warfare in the form of boycotts, divestment and sanctions, and supporting terrorism through incitement, glorification of violence and payments to terrorists and their families.

In a video statement released by his office, Israeli Prime Minister Benjamin Netanyahu blasted the decision. “The ICC has again proved that it is a political body—not a judicial institution,” he said. “The ICC ignores the real war crimes and instead pursues the State of Israel, a state with a strong democratic government that sanctifies the rule of law, and is not a member of the ICC.”

He went on: “In this decision, the ICC violated the right of democracies to defend themselves against terrorism and played into the hands of those who undermine efforts to expand the circle of peace. We will continue to protect our citizens and soldiers in every way from legal persecution … When the ICC investigates Israel for fake war crimes, this is pure anti-Semitism.”

He concluded: “The court, established to prevent atrocities—like the Nazi Holocaust against the Jewish people—is now targeting the one state of the Jewish people. First, it outrageously claims that when Jews live in our homeland, this is a war crime. Secondly, it claims that when democratic Israel defends itself against terrorists who murder our children [and] launch rocket on our cities, we’re committing another war crime. Yet the ICC refuses to investigate brutal dictatorships like Iran and Syria, which commit horrific atrocities, almost daily.”

Though the Biden administration also condemned the ICC decision, there are indications that it wants to reverse the strong policies against the ICC adopted by its predecessor, the administration of former U.S. President Donald Trump.

Instead, however, Washington should take the following actions to impose consequences on the ICC and the Palestinian leadership:

First, it should implement Trump’s Executive Order 13928 to impose additional sanctions, such as the blocking of property and revoking of visas of “ICC officials, employees, and agents, as well as their immediate family members” who are part of this decision against Israel.

Trump firmly asserted that “any attempt by the ICC to investigate, arrest, detain or prosecute any United States personnel without the consent of the United States, or of personnel of countries that are United States allies and who are not parties to the Rome Statute or have not otherwise consented to ICC jurisdiction, constitutes an unusual and extraordinary threat to the national security and foreign policy of the United States, and I hereby declare a national emergency to deal with that threat.”

His administration then imposed sanctions on ICC Prosecutor Fatou Bensouda and her aide, Phakiso Mochochoko, for launching an illegitimate investigation into alleged “war crimes” by U.S. forces in Afghanistan. Israel expressed support for the U.S. sanctions. But the European Union, along with more than 70 countries, announced opposition to them.

Unfortunately, the Biden administration is now reviewing those sanctions, and may acquiesce to the pressure campaign to lift them as part of a softer approach to the ICC. This would be a big mistake.

Second, the Biden administration should use Trump’s E.O. 13938 to impose sanctions on individual P.A. leaders who have been materially assisting or providing support for this charade against Israel. After acceding to the 2015 Rome Statute, P.A. leader Mahmoud Abbas appointed a 45-member “higher national supervising committee,” chaired by the late PLO Executive Committee Secretary General Saeb Erekat, to pursue legal action against Israel in the ICC.

Erekat told Palestine TV that the committee was made up of the “the complete spectrum of Palestinian political factions,” including Hamas, the PFLP and DFLP—and that P.A. Foreign Minister Riyadh al-Maliki served as its official liaison to the ICC.

In other words, the P.A. has been collaborating with members of State Department-designated foreign terrorist organizations that seek the destruction of Israel to provide material against it to the ICC. This is in addition to public statements by Abbas, al-Maliki, P.A. Prime Minister Mohammad Shtayyeh and Hamas encouraging and lauding ICC actions against Israel.

Third, the Biden administration should make it clear that will not re-engage with the Palestinian leadership, and withhold financial assistance to the Palestinians, until Ramallah ends its lawfare campaign against Israel and officially withdraws from the ICC—as both Burundi and the Philippines have done in recent years.

Fourth, the Biden administration should reverse its intention to reopen diplomatic missions that were closed by the Trump administration. One such mission is the PLO office in Washington, which was closed in compliance with the law that prohibits a PLO office unless the president can certify that the Palestinian leadership is not supporting ICC actions against Israel. In the case of the PLO mission, he was unable to do so.

Unfortunately, the Biden administration is trying to reopen the PLO office, by working to amend a law signed by Trump stating that the PLO office would provide jurisdiction for U.S. courts to hold the PLO and P.A. accountable in cases where they have already been found liable for supporting terrorism against U.S. citizens. Congress should ensure there are no changes to U.S. law, stand with American victims of Palestinian terrorism and keep the PLO office closed in response to its hostility towards Israel.

Fifth, the Biden administration should not keep its campaign promise to reopen the U.S. Consulate in Jerusalem to serve Palestinians—and if it does, Congress should block any funding for it. The Trump administration made the right move by closing it down and merging it with the new U.S. embassy complex in Jerusalem.

The Palestinians should not be treated to a separate American diplomatic mission in any part of Israel, especially Jerusalem, which the U.S. recognized as Israel’s eternal capital—in compliance with the Jerusalem Embassy Act of 1995. Furthermore, the U.S. Senate voted late Thursday night to keep the U.S. embassy in Jerusalem and not return it to Tel Aviv.

Sixth, the Biden administration and Congress should encourage U.S. allies that are top financial backers of the ICC—such as Brazil, Japan, France, Germany, Canada, United Kingdom and Italy—to withhold funding, along with the countries that filed amicus briefs arguing against ICC jurisdiction.

The ICC, which is going after Israel unjustly while it wouldn’t even investigate China for the mass detention and persecution of Muslim Uyghurs and other religious minorities, is a broken, corrupt political institution. The Biden administration needs to take all the above measures against it and the Palestinian leadership—for the protection of U.S. national security interests and allies, including Israel.