

The international league of war criminals

Chris Marsden
17 December 2009

The issuing of a British arrest warrant for former Israeli Foreign Minister and current leader of the opposition Tzipi Livni is only the latest event confirming an international body of legal opinion that Israel should be tried for war crimes over its treatment of the Palestinians.

Livni was a member of the war cabinet during Operation Cast Lead, the offensive against Gaza between December 27, 2008 and January 18 this year. Some 1,400 Palestinians—the majority of them civilians, including 400 women and children—were killed, at least 5,000 people were injured, and 21,000 homes and other vital infrastructure were destroyed.

In October, the United Nations Human Rights Council endorsed a report by South African Judge Richard Goldstone stating that the war was “a deliberately disproportionate attack designed to punish, humiliate and terrorise a civilian population, radically diminish its local economic capacity both to work and to provide for itself, and to force upon it an ever-increasing sense of dependency and vulnerability.”

The warrant against Livni was issued by Westminster Magistrates' Court at the request of lawyers acting on behalf of 16 Palestinian plaintiffs. Livni was due to address the Jewish National Fund conference on December 13. It is being claimed she had cancelled her appearance some time ago due to a “scheduling conflict.” However, the *New York Times* reported Thursday that Livni was tipped off about the warrant and the threat of arrest.

This is far from the first time that an Israeli political or military figure has faced the threat of prosecution. In 2001, a warrant was issued in Belgium for the arrest of former Prime Minister Ariel Sharon, former Army Chief-of-Staff Raphael Eitan and former head of the Israel Defence Forces (IDF) Northern Command, Amos Yaron, for their roles in the Sabra and Shatila massacres in 1982.

In September 2005, former head of IDF Southern Command Doron Almog faced arrest in the UK for ordering the demolition of 59 civilian Palestinian homes. The arrest warrant was supposedly issued secretly under

UK law, but Israeli diplomats were tipped off and Almog refused to leave his plane for two hours until it took off again for Israel.

An arrest warrant was also issued by Spain for seven Israelis involved in the July 2002 bombing of an apartment building in Gaza City that killed Hamas military leader Salah Shehadeh and 14 civilians, including his wife and several children. Moshe Ya'alon, the Israeli deputy prime minister and strategic affairs minister, and the former defence minister, Benjamin Ben-Eliezer, were amongst the accused.

In September, the Westminster Court was asked to issue an arrest warrant for Ehud Barak, Israel's defence minister, under the 1988 Criminal Justice Act, for his involvement in the Gaza War. The court accepted the assertion by the Foreign Office that he was a serving minister who would be meeting his British counterparts and therefore enjoyed immunity under the State Immunity Act of 1978.

Ex-ministers, not on official business, such as Livni, enjoy no such immunity. For this reason both Ya'alon and Avi Dichter, the public security minister and head of the Shin Bet security agency, have turned down invitations to events in Britain.

The government of Israeli Prime Minister Binyamin Netanyahu has mounted a campaign to end all possibility of future arrests under universal jurisdiction provisions of the Geneva Conventions and other international laws. As far as Israel's allies are concerned, however, Tel Aviv is kicking against an open door.

Whenever there has been a prosecution threatened against an Israeli official, Washington has brought pressure to bear to prevent it. This led to the dropping of Belgium's charges against Sharon, et al and changes to Belgian law to lessen the possibility of similar prosecutions in the future. In June this year, a Spanish court shelved its investigation into the Gaza City bombings. In addition, the US led a block of six nations that voted against acceptance of the Goldstone report, while Britain and France abstained.

Britain's response to Israel's official protests against the warrant issued for Livni was more than merely fawning. It led to promises by Foreign Secretary David Miliband and Prime Minister Gordon Brown to change the law allowing non-citizens to be brought before British courts.

In the naked language of imperialist *realpolitik*, Miliband declared, "Israel is a strategic partner and a close friend of the United Kingdom. We are determined to protect and develop those ties." So much for Western claims to uphold international law and democratic rights!

As with the position taken by the US, much more is involved in the UK's response than mere loyalty to an ally. There is a basic issue of self-preservation.

Time and again Israeli spokesmen have warned that the leaders of the major powers—including George Bush and Tony Blair over Iraq and Brown and President Barack Obama over Afghanistan—are threatened with prosecutions under universal jurisdiction provisions. Netanyahu himself warned, regarding Goldstone's report, "It's not just our problem... If they accused IDF officers, IDF commanders, IDF soldiers, IDF pilots and even leaders, they will accuse you too. What, NATO isn't fighting in various places? What, Russia isn't fighting in various places?"

The concept of universal jurisdiction allows prosecution by international or national courts when the case is deemed to be a crime against humanity and not likely to be tried in the allegedly guilty party's own state. It underlies the creation of a range of institutions such as the International Criminal Court (ICC), established in 2002, the International Criminal Tribunal for the former Yugoslavia, and the International Court of Justice (ICJ). The US and other major powers have been happy to see these bodies utilized against those regimes they have targeted as hostile to their interests, such as Serbia. But like Israel, the US opposes universal jurisdiction over itself and therefore endorses neither the ICC nor the ICJ.

When Obama gave his acceptance speech for the Nobel Peace Prize last week, he argued explicitly for war as an instrument of US foreign policy, defending military action whose purpose "extends beyond self-defense or the defense of one nation against an aggressor." He insisted that such pre-emptive imperialist wars—of the kind already conducted in Iraq and Afghanistan—were essential to the US maintaining its position at the centre of the "architecture to keep the peace" set up in the aftermath of World War II.

This supposedly included abiding by "certain rules of

conduct" and the US acting as "a standard bearer in the conduct of war." To this end, he made great play of having personally reaffirmed "America's commitment to abide by the Geneva Conventions" and "other international laws of war."

This is one lie amongst many. Some newspapers have claimed that Spain and Britain pioneered the concept of universal jurisdiction, with the 1998 extradition warrant by Spanish judge Baltasar Garzon for former Chilean dictator Augusto Pinochet. In point of fact, the concept is rooted in the Geneva Conventions, adopted on August 12, 1949.

Regarding war crimes, the Conventions require signatory nations, such as Britain and the US, to pass the necessary laws and "provide effective penal sanctions" for persons "committing, or ordering to be committed" any "grave breaches" of the Conventions. Article 129 goes on to state that each signatory "shall be under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts."

That is why the Goldstone report made an explicit call to countries that are signatories to the Conventions to use their "universal jurisdiction" to search for and prosecute those Israelis, as well as leaders of Hamas, it accused of war crimes.

In reality, the imperialist powers and their allies operate as a *de facto* international league of war criminals—dedicated to their mutual defence and self-preservation. That is why the US rejects universal jurisdiction when it comes to its friends, as well as its own politicians and military personnel.

Now Brown and Miliband have made clear that they too will abrogate the independence of the courts in order to prevent any prosecution for war crimes that runs contrary to the strategic interests of British imperialism. In doing so, they may hope to save themselves from the possibility of being brought to justice. But they should know that some crimes are too great for prosecution to be avoided forever.

Chris Marsden



To contact the WSWS and the
Socialist Equality Party visit:

wsws.org/contact