

British government promises Israel it will end war crimes arrest warrants

Paul Mitchell
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The British government is attempting to curb arrest warrants for war crimes. It is seeking to curtail the petitioning of courts to issue “universal jurisdiction” arrest warrants for suspected war crimes committed anywhere in the world.

New legislation effectively giving the attorney general—the UK’s highest law official—the power to veto particular arrest warrants, such as those against foreign politicians, now seems likely.

Prime Minister Gordon Brown first pledged to curtail warrants issued under universal jurisdiction in December, after Palestinians were granted an arrest warrant by Westminster Magistrates Court against Israeli opposition leader Tzipi Livni for her role as a member of the war cabinet during the Israeli offensive against Gaza between December 27, 2008, and January 18, 2009.

The latest promise was made by the current attorney general, Baroness Patricia Scotland, during a lecture on January 5 hosted by the Faculty of Law at the Hebrew University in Jerusalem. Scotland said that the British government was “looking urgently at ways in which the UK system might be changed to avoid this situation arising again, and is determined that Israel’s leaders should always be able to travel freely to the UK.”

Scotland had been berated earlier by Israeli Deputy Foreign Minister Danny Ayalon for a number of applications for arrest warrants in the UK against Israeli politicians and military officers. Ayalon called the current situation “insufferable” and warned that “should we not get the appropriate securities, and if the British law remains unchanged, Israeli officers and officials will not be able to travel to Britain, which would undermine the good relations between the two countries, who share common values and interests.”

Scotland sought to justify the change, saying that

universal jurisdiction provisions were passed when “there was a lot of concern about Nazis, warlords and other criminals.”

“It was said that without universal jurisdiction, such people would be able to go from state to state with impunity,” she continued. “There was an absolute unity of purpose, saying we do not wish any country to be a haven, and that was the premise upon which universal jurisdiction was based.”

Scotland said more than she intended. If the passage of universal jurisdiction legislation expressed a “unity of purpose” in the fight against the type of war crimes indelibly associated with fascism, the curbing of such legislation can only signify that such a unity of purpose no longer exists.

It is not simply a matter of seeking to appease Israel, a key Western ally in the Middle East and an influential voice in Washington. Above all, the British bourgeoisie is determined to avoid setting a dangerous precedent that could lead to prosecutions of their own war crimes in Iraq, Afghanistan and Pakistan.

What is involved is a conspiracy between fellow war criminals who cannot allow universal jurisdiction considerations to thwart the illegal policy of preemptive war, which has become a vital tool in the neo-colonial redivision of the world by the imperialist powers.

This was also the main focus of President Barack Obama in his acceptance speech for the Nobel Peace Prize. He argued explicitly for war as an instrument of US foreign policy and defended military action whose purpose “extends beyond self-defence or the defence of one nation against an aggressor.” Obama insisted that such imperialist wars—of the kind already conducted in Iraq and Afghanistan and now being threatened in Yemen and Iran—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.

The concept of universal jurisdiction is rooted in the 1949 Geneva Conventions, which require signatory nations, such as the UK and the US, to pass the necessary laws and “provide effective penal sanctions” for persons “committing, or ordering to be committed...grave breaches” of the Conventions. Article 129 adds 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.”

Universal jurisdiction underlies the creation of a range of institutions such as the International Criminal Court (ICC), the International Criminal Tribunal for the former Yugoslavia, and the International Court of Justice (ICJ). The US and other major powers have pushed for regimes they have targeted as hostile to their interests to be prosecuted, but, like Israel, the US opposes universal jurisdiction over itself and therefore endorses neither the ICC nor the ICJ.

The Geneva Conventions were also at the centre of the September 2009 report of the UN Fact Finding Mission on the Gaza conflict headed by South African Judge Richard Goldstone. He condemned Israel’s actions, saying they were “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.”

Goldstone called for the UN Security Council to refer Israel to the ICC if it did not carry out an independent investigation. Failing that, he said that all the countries that had signed the Geneva Conventions had a duty to search for and prosecute those responsible, using their universal jurisdiction to prosecute war criminals.

Goldstone’s report was a catalyst to the pursuit of warrants for the arrest of the current Israeli minister of defence, Ehud Barak, who politically planned and directed the assault on Gaza in December 2008, as well as Livni. At the beginning of this month, a trip to Britain by an Israel Defence Forces delegation was cancelled after a tip-off that they too might be arrested.

The Israeli government denounced Goldstone’s report as biased and refused to comply with its

recommendations. A furious counter-offensive was mounted in which Israeli spokesmen warned the leaders of the major powers—including George Bush and Tony Blair over Iraq and Gordon Brown and Barack Obama over Afghanistan—that they could be prosecuted under universal jurisdiction provisions. Both Spain and Belgium have pulled back from prosecuting Israeli leaders in relation to other war crimes, under pressure from Israel and the US.

The US administration duly attacked the Goldstone report as unbalanced and led a block of six nations that voted against acceptance of the report, while Britain and France abstained.

Tony Blair’s recent admission that he waged pre-emptive war against Saddam Hussein in order to secure regime change is grounds for his prosecution on charges of war crimes. His admission, moreover, opens the entire Labour leadership, as well as a significant layer of the British political and military establishment, to similar prosecution. To avoid such a scenario, Brown, Foreign Secretary Miliband and now Baroness Scotland have repeatedly made clear that they intend to curb the independence of the courts and defy existing international law.



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