

Threat of war crimes charges levelled against Gaddafi and son

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The threat of war crimes charges against Colonel Muammar Gaddafi, his son and other officials is a weapon fashioned and wielded by the major powers now waging war on Libya.

Luis Moreno-Ocampo, the chief prosecutor for the International Criminal Court, told the United Nations Security Council on May 5 that he is seeking three arrest warrants for crimes against humanity in Libya. The warrants are widely assumed to include Gaddafi and his son, Saif al-Islam. The unspecified charges are predicted to include murder, unlawful detention, the use of cluster bombs and employing rape as a weapon of war.

The ICC move was made under the instigation of Britain and France, who, with the support of the United States, demanded an investigation at the UN Security Council in late February. Since then a case has been constructed by London, Paris and Washington, in alliance with the anti-Gaddafi opposition.

Amnesty International declared its own support for the ICC investigation on the weekend, stating that government forces had unlawfully killed civilians in “relentless, indiscriminate attacks.”

Moreno-Ocampo claims that his investigators have established “credible” estimates that at least 500 to 700 civilians have been killed by government forces. The persecution of protesters and oppositionists “appears to be also systematic and implemented in different cities,” he said, adding, “War crimes are apparently committed as a matter of policy.”

He listed security forces firing on unarmed protesters and the use of rape and “systemic arrests, torture, killings, deportations, enforced disappearances and destruction of mosques” as alleged tools of government policy.

The hypocrisy of the proposed investigation is glaring. It comes amid the more than 5,500 sorties, including 2,204 strike sorties, by the NATO powers on Tripoli and other locations with civilian populations. These operations include the deliberate targeting last week of Gaddafi for assassination, which failed to eliminate the Libyan ruler but killed one of Gaddafi’s sons and three of his grandchildren. While supporting legal trials for war crimes against the regime they are seeking to oust, Washington, London and Paris are carrying out massive war crimes of their own.

The announcement by the ICC was timed to coincide with a meeting in Rome of the Contact Group on Libya, at which US Secretary of State Hillary Clinton announced that Washington would make money available to the opposition by tapping “some portion” of the \$30 billion in Libyan assets it has confiscated. The war is still being waged under UN Security Council Resolution

1973, based upon the derisory claim that NATO is seeking to “protect civilians.”

This pretext now covers not only sending money, but also arms to one side in an ongoing civil war that has been stoked up by the imperialist powers. On Saturday, the Italian government was forced to issue an official denial that it had agreed to supply the Benghazi-based opposition Transitional National Council (TNC) with arms, after a spokesman in Benghazi, Abdel-Hafidh Ghoga, said Rome had promised them whatever weapons they needed. But the foreign ministry spokesman’s denial was no real rebuttal, since he merely said Italy would offer the rebels only “equipment for self defence.”

The double-dealing of the forces backing the ICC is underscored by the fact that several members of the UN Security Council, including the US, Russia and China, voted in favour of referring Libya to a court they do not recognise themselves.

Washington endorsed the ICC investigation only after it secured an exemption demanded by the Obama administration, designed to protect US armed forces and politicians. The exemption requires that any citizen of a country that hasn’t joined the ICC be investigated or prosecuted in his or her home country, not by the ICC, for alleged actions stemming from operations in Libya authorised by the Security Council.

French UN Ambassador Gerard Araud told reporters that the US viewed the exemption, which was accepted unanimously, as a “red line” and “deal breaker.”

The double standard is blatant. Libya is also not a party to the ICC, but its own jurisdiction was rejected after it promised to launch an investigation. Khalid Kaim, the Libyan deputy foreign minister, has even offered full cooperation with “another fact-finding mission from the [UN] Security Council.”

The ICC is again fulfilling its function as a pliant tool of the major imperialist powers. Prior to the ICC’s formation, the US conducted a campaign to undermine it. In an open letter, former secretaries of state Henry Kissinger and George Shultz, former CIA director Richard Helms and former national security advisor Zbigniew Brzezinski called for putting “our nation’s military personnel safely beyond the reach of an unaccountable international prosecutor operating under procedures inconsistent with our Constitution.”

The US envoy on war crimes issues, Ambassador Pierre-Richard Prosper, told the UN regarding the ICC that “we do not want to have anything to do with it,” while Congress passed a resolution

authorizing the US government and military to utilize “every possible means” to liberate American citizens from its custody.

Since then, the ICC has amply demonstrated its value and loyalty to Washington. Having come into being on the very eve of the Iraq war, it has to date opened investigations into six situations, all of them in Africa.

The first aim of those demanding the ICC investigation is to use the threat of criminal action against Gaddafi to close off any possibility of a negotiated settlement. Prior to the ICC’s move, NATO refused an offer by the African Union to negotiate a ceasefire between the regime and the opposition TNC, as well as dismissing several similar proposals by Gaddafi himself.

The second aim is to encourage defections from within the ruling apparatus that would open the door to regime change and the installation of the opposition Transitional National Council as a pro-Western proxy. On March 28, after raising the issue of a war crimes prosecution, UK Prime Minister David Cameron and French President Nicolas Sarkozy issued a joint letter, saying: “We call on all [Gaddafi’s] followers to leave him before it is too late.”

The ICC investigation began based only on allegations of a “pre-determined plan” to attack protesters. But the list of supposed offences committed has grown on the basis of disputed claims by his political enemies and often without any corroborative evidence.

The allegations of using rape as a weapon came to prominence after one woman, Eman al-Obeidy, entered the Rixos Hotel in Tripoli March 26 to tell international journalists she had been held for two days while being beaten and raped by 15 men. She has now left Libya with the help of a defecting military officer.

What other evidence exists of rape as an “official policy” hinges on opposition fighters reputedly having found Viagra pills in tanks and cars captured from Gaddafi’s forces. Susan Rice, the US ambassador to the UN, took up this claim, first made in an April 28 report in *Al Jazeera*. That media outlet is funded by Qatar, the leading Arab participant in the war against Libya. Rice told fellow ambassadors that Gaddafi’s forces were “issuing Viagra to soldiers so that they go out and rape.”

Other ambassadors were said to be sceptical of the claim by one of the leading advocates of military intervention. Not so the ICC.

The reported violations by government forces during attacks on Misrata are equally questionable. Human Rights Watch and the *New York Times* are cited in order to verify opposition claims that cluster bombs have been dropped.

A single cluster bomb was “discovered” by a *New York Times* reporter and then inspected and photographed by HRW researchers. It was identified as an MAT 120mm mortar projectile, which opens mid-air and releases 21 “bomblets” over a wide area. HRW also states that one of its photographers saw three mortar-launched projectiles explode over the el-Shawahda residential area.

HRW has stated that the intact cluster bomb was manufactured in Spain in 2007 and would “appear to have landed about 300 metres from Misrata hospital.” Why this only *appeared* to be the case is not explained.

Just as the US has refused to join or accept the jurisdiction of the ICC, it has refused to sign an international treaty banning cluster

bombs that was sponsored by the UN and adopted by 111 countries in May of 2008.

The cluster bomb claim comes amid other dubious reports by the TNC. Bombs were supposedly dropped on four large oil storage tanks at the weekend, using small, pesticide-spraying planes. This is despite NATO being in total command of the sky and having been informed in advance of the attack by the TNC. In other reports, the destruction of the oil tanks is attributed to Grad rockets fired from a launcher.

The TNC and an unnamed aid worker allege variously that a helicopter or helicopters bearing either the Red Cross or Red Crescent emblem were used to drop mines Thursday and Friday on Misrata’s harbour. Chinese anti-vehicle mines were also dropped, according to HRW and the *Times*. The only alleged casualty, cited by a port supervisor, occurred when one device exploded under a truck, wounding two people.

NATO has pointedly not backed these claims.

A Libyan government spokesman, Moussa Ibrahim, rejected claims that cluster bombs had been used in Misrata. He told reporters, “I challenge them to prove it,” arguing that it was against Libya’s interests to do so.

“To use these bombs, the evidence would remain for days and weeks, and we know the international community is coming en masse to our country soon. So we can’t do this, we can’t do anything that would incriminate us even if we were criminals,” he said.

Spain has made no statement on the alleged cluster bomb’s origins.

The death toll cited by the ICC is disputed, with the government claiming total casualties in the low hundreds and the TNC estimating that up to 10,000 have died.



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