

The International Criminal Court and Gaddafi

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The request by chief prosecutor Luis Moreno-Ocampo that arrest warrants for war crimes be issued against Colonel Muammar Gaddafi, his son Saif al-Islam, and the head of Libya's intelligence service, Abdullah al-Senussi, only confirms the role of the International Criminal Court as a tool of the imperialist powers.

The warrants are, in effect, being issued on behalf of the United States, Britain and France—the chief architects of the ongoing bombardment of Libya. Moreno-Ocampo has gathered his evidence against the three accused with the aim of preventing any possibility of a negotiated end to the war, and to further isolate Gaddafi and pave the way for regime-change.

On the part of Washington, London and Paris, there is now barely any effort to obscure this goal by referring to United Nations Security Council Resolution 1973, which cynically claims that the intervention is based on a responsibility to protect civilian life. Notwithstanding the legal fig leaf of a UN resolution, the Libyan war has quickly reached new heights of lawlessness and criminality.

The Nuremburg Tribunal established that the planning and launching of a war of aggression is the primary and seminal war crime, from which other crimes against humanity inexorably arise. By that standard, President Barack Obama, Prime Minister David Cameron and President Nicolas Sarkozy are guilty of crimes greater than any Gaddafi may have committed.

The conduct of this neo-colonial exercise has, moreover, confirmed the Nuremburg thesis, with the US and NATO unabashedly carrying out a policy of assassination against Gaddafi, his family members and his top aides. This is combined with escalating attacks on civilian targets in Tripoli. The ICC prosecutor's charge that Gaddafi has "personally ordered attacks on unarmed Libyan civilians" could be made just as surely against Obama, Cameron and Sarkozy.

Moreno-Ocampo's investigation was announced March 3, citing UN Security Council Resolution 1970, passed February 15, giving the ICC jurisdiction over the situation in Libya.

On May 5, Moreno-Ocampo first announced he was seeking three arrest warrants for crimes against humanity in Libya, without naming the intended targets. This was aimed at rendering void attempts by the African Union to negotiate a ceasefire, while encouraging defections from within the Libyan regime that would facilitate the installation of the opposition Transitional National Council (TNC) as a proxy government, including ex-Gaddafi officials.

Timed to coincide with a meeting in Rome of the Contact Group on Libya, at which it was agreed to funnel vast sums of money to the Benghazi-based TNC, the May 5 ICC announcement followed a NATO air strike on a Gaddafi family residence. Intended to eliminate Gaddafi, it killed one of his sons and three of his grandchildren.

Moreno-Ocampo's latest announcement was made under similar circumstances. The day before it was made, Libyan Prime Minister al-Baghdadi Ali al-Mahmoudi told the UN's special envoy, Abdul Ilah al-Khatib, that Tripoli wanted "an immediate ceasefire to coincide with a halt to the NATO bombardment."

On the day of the announcement, Foreign Minister Franco Frattini said that Italy was negotiating the formation of a possible "government of national reconciliation" and Gaddafi's exit from Libya.

Once again, such initiatives have been effectively rendered null and void. Rather than allow Gaddafi to sue for peace, NATO has stepped up air strikes on Tripoli. This has been accompanied by strident demands from Britain for a yet more murderous bombing campaign, including open calls for Gaddafi to be eliminated.

General Sir David Richards, chief of the defence staff, said he wanted "more intense military action." He called

for changes in the rules of engagement to increase “the range of targets we can hit” so as to include static infrastructure and thereby “demonstrate to Gaddafi that the game is up and he must go.”

“We are not targeting Gaddafi directly, but if it happened that he was in a command and control centre that was hit by NATO and he was killed, then that is within the rules,” he said. He added that Prime Minister David Cameron was “on the same page.”

British Foreign Secretary William Hague on Sunday pointedly refused to rule out using remote-controlled American drones to assassinate Gaddafi. “Who and what is a legitimate target depends on their behavior,” he said.

The political purpose of seeking arrest warrants against Gaddafi as well as Richards’ ultimatum is so apparent that Britain’s *Guardian* felt obliged to write in an editorial:

“To insist that Gaddafi must go in a new democratic order is one thing. But to insist he must go as a precondition for any negotiation is to render a ceasefire all but impossible. To insist he leaves the country and stands trial in the ICC is to ensure he will go down fighting. That leaves only a military option, and with it the prospect many, many more civilian casualties.”

The *Guardian* claims that this is evidence that NATO’s strategy is “confused.” It is nothing of the sort. The same modus operandi of levelling war crimes charges to legitimise an imperialist war was employed during NATO’s air war against Yugoslavia in 1999, when Serbian President Slobodan Milosevic was charged with crimes against humanity by another UN-sponsored tribunal, the International Criminal Tribunal for the Former Yugoslavia (ICTY).

The trial of Milosevic began in 2001, one year after he had been deposed. In the five years it lasted, Milosevic’s self-defence proved acutely embarrassing to the Western powers. The proceedings were cut short by his death due to a heart attack.

The statements of Richards and company and the actions already taken by NATO indicate that no similar show trial is actually planned for Gaddafi. The arrest warrant being sought has the character of a death sentence to be meted out in the theatre of war.

The ICC’s role in the Libyan war is consistent with its previous record of service to imperialism. When it was established in July 2002, it was held up as the most significant reform of international law since World War II, creating an international body to prosecute individuals accused of genocide, crimes against humanity, war crimes

and crimes of aggression. It has since amply demonstrated that its operations are subordinated to the interests of the imperialist powers that dominate the UN.

The US has refused to recognise the authority of ICC, as have—either formally or in practice-- Russia, China, Israel and dozens of other countries. Washington rejects any accountability to international bodies when it comes to the aggressive and violent pursuit of its global interests. Yet, as with the investigation of Gaddafi, Washington can, thanks to its position on the UN Security Council, refer alleged crimes to a court it does not recognise.

All six situations in which investigations have actually been launched are in Africa. In the case of the Sudan-Darfur conflict and Libya, it was the UN Security Council that instigated cases that dovetailed with the foreign policy imperatives of the US and European powers. As a whole, the investigations undertaken by the court have coincided with a renewed drive by the US and the European powers for control over African markets, raw materials and geo-military advantage.

It is not possible to detail all of the monstrous crimes of the imperialist powers perpetrated since the ICC was established. The worst of these crimes, however, was the 2003 invasion of Iraq. In 2006, Moreno-Ocampo published a letter acknowledging that he had received 240 communications regarding the invasion of Iraq.

The man now urging Gaddafi’s prosecution asserted in response that ruling on the legality of the invasion and any possible crimes of aggression could not fall under the court’s authority until a provision had been adopted by the states endorsing the ICC defining the crime and establishing whether it had jurisdiction. On crimes against civilians, Moreno-Ocampo claimed that the available information “did not indicate intentional attacks on a civilian population” or “excessive attack.”

This was at a time when credible sources were estimating over 650,000 Iraqi deaths as a result of the war and US-led occupation, and well after such naked war crimes as Abu Ghraib and the destruction of Fallujah.

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