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The ICC is Doing Its Job



Photograph by Nathaniel St. Clair

Sen. Bernie Sanders on Tuesday night spoke on the floor of the U.S. Senate about the decision of the International Criminal Court (ICC) prosecutor to seek arrest warrants for Hamas and Israeli leaders amidst the ongoing humanitarian disaster in Gaza. Sanders' remarks, as prepared for delivery, are below and can be watched [here](#).

There has been a lot of attention and controversy attached to a recent action by the international criminal court, the ICC.

The core purpose of the ICC is to prosecute the most serious international crimes: genocide, crimes against humanity, war crimes and the crime of aggression. I believe it is very

important that all of us support accountability for these crimes and the important mission of the ICC.

Last year the ICC declared that President Vladimir Putin of Russia was in violation of international law and that he was a war criminal.

The ICC issued arrest warrants for Putin and one of his senior officials saying there are reasonable grounds to believe that they had committed the war crime of unlawful deportation and transfer of population for their systematic kidnapping of thousands and thousands of Ukrainian children.

I supported the ICC decision, and, in fact, that is the tip of the iceberg of what Putin has done in Ukraine. Putin started the mostly destructive war in Europe since World War II. He has bombed civilians and devastated civilian infrastructure, killing at least 30,000 civilians and displacing millions more. Hundreds of thousands of Ukrainian and Russian soldiers have been killed or wounded as a result of Putin's horrific invasion of Ukraine.

On that occasion, when the ICC declared Putin a war criminal, the United States government welcomed the ICC decision. A White House spokesperson said "there is no doubt that Russia is committing war crimes and atrocities in Ukraine, and we have been clear that those responsible must be held accountable. The ICC prosecutor is an independent actor and makes his own prosecutorial decisions based on the evidence before him. We support accountability for perpetrators of war crimes." That is what a U.S. government spokesperson said in March 2023, and I agree. In my view, Mr. Putin is in fact a war criminal.

We live in a world of increasing division, tension, and hostility. Around the globe, countries are dramatically increasing their military budgets. More countries are attempting to gain nuclear weapons and other dangerous weapons systems. It is in times like these that we most need international law. Without it, we will have an even more violent world where might makes right and where war criminals can act with impunity.

In recent years, the ICC has attempted to hold governments and political leaders accountable for crimes against humanity. That is what they do, and that is what they are supposed to do. All wars are terrible, and very often civilian casualties are unavoidable. But after the horrors of the second World War, countries throughout the world came together to try to establish rules to govern the conduct of war and to limit civilian casualties. The ICC's role is to enforce these limits.

On Tuesday, the ICC prosecutor announced that he was requesting arrest warrants for three top Hamas leaders, including Yahya Sinwar, the group's leader in Gaza.

To my mind, Sinwar and his Hamas accomplices are clearly war criminals. The horrific October 7th terrorist attack on Israel began this war and included the mass murder of 1,200 innocent men, women, and children, the taking of hundreds of hostages, and sexual violence against captives. These war crimes are well documented, and very few people would dispute the merits of those charges.

The ICC prosecutor also asked for arrest warrants for Israeli Prime Minister Netanyahu and Defense Minister Gallant. The ICC charges focus on the use of starvation of civilians as a method of war as well as intentional attacks against the civilian population. Those are the charges. The use of starvation of civilians as a method of war – clearly a war crime – as well as intentional attacks against the civilian population.

Specifically, the prosecutor says that Netanyahu is responsible for “depriving [civilians] of objects indispensable to their survival, including willfully impeding relief supplies as provided for under the Geneva Conventions.”

Now, many people here in the Beltway, in Washington, have responded negatively to this decision from the ICC prosecutor. It seems that some folks here were comfortable with what the ICC did in terms of Putin and in terms of Sinwar, but not with Netanyahu. Some have argued that it is unfair to compare the democratically elected head of the Israeli government to Putin, who runs an authoritarian system, or Sinwar, the head of a terrorist organization.

But that is not what the ICC has done. In fact, the ICC prosecutor has looked at what each of these leaders has done – looked at their actions – and then compared those actions to established standards of international law. In other words, the ICC is not making some claim of equivalence, as some have charged, but is in fact holding both sides in this current war to the same standard.

Yes, democratically elected officials can commit war crimes. Let me repeat: democratically elected officials can commit war crimes.

The ICC is doing its job. It’s doing what it is supposed to do. We cannot only apply international law when it is convenient. And the independent panel of international legal experts the ICC appointed to help with this case unanimously – unanimously – agreed with the charges.

People may be uncomfortable to see the Prime Minister of Israel charged with war crimes, but let us take a hard look at what he has actually done. And we must determine whether his actions meet the standards of being a war crime.

In seven and a half months, more than 35,000 Palestinians have been killed and almost 80,000 injured. Thousands more are still under the rubble, but their bodies have not been

fully identified. Some 60% of the victims are women, children, or the elderly. More than 250 aid workers have been killed, including 193 U.N. staff, more than any previous conflict.

There are 2.2 million people living in Gaza, and more than 1.7 million of them have been forced from their homes – 75% of the population. I'm trying to think of my own state, what it would be like if three-quarters of the people were driven out of their homes. These are by and large poor people. In the last few weeks, more than 900,000 have been displaced – many of them chased out of one place, chased to another place, gone to another place. Many of these people are children, Gaza has a young population. Many of them are elderly. Many of them are sick. These are people who have been forced out of their homes and moved, and moved again, often without adequate food, without adequate water supplies, and certainly without adequate health care.

When we talk about war crimes, talk about attacks on civilians, let's understand: Gaza's housing stock has been demolished. Again, I try to think of my own state, what it would mean if 60% of the housing was destroyed. Now, if these people who have been chased their homes, displaced from their homes, are ever able to return to their communities, where are they going to live? Over 60% of the housing units in Gaza have been damaged or destroyed, including 221,000 housing units that have been completely destroyed, leaving more than a million people homeless. Entire neighborhoods have been wiped out both by bombing and planned detonations of explosive charges.

Looking at the war, we understand that Hamas is a difficult enemy that often uses civilians to protect their own people. But what we're talking about over 60% of the housing units in Gaza have been destroyed. It's hard to believe that there was a terrorist in every one of those buildings.

Israel has destroyed the civilian infrastructure of Gaza. You know, wiped out their ability to have electricity. Virtually no electricity in Gaza right now, virtually no clean water, and raw sewage is running through the streets, spreading disease. Now, if that's not an attack on civilians, I don't know what is.

The healthcare system in Gaza has been systematically annihilated, 21 hospitals have been made inoperable. In fact, of the 36 hospitals in Gaza, only four have not been damaged by bombardment, raided by the Israeli military, or closed. More than 400 healthcare workers have been killed.

Well, what do we say when we have a war in which the healthcare system is annihilated at a time when you have tens and tens of thousands of people who are wounded, many of them seriously?

The education system in Gaza has been virtually destroyed. Every one of Gaza's 12 universities has been bombed. Got that? Every one of the 12 universities in Gaza has been bombed. More than 400 schools have suffered direct hits and 56 schools have been totally destroyed. Today, 625,000 children in Gaza have no access to education at all.

And I'll tell you something else. When you talk about what's going on in Gaza, what is not talked about almost at all – I think I read one article on it – I want you to think about the psychic damage being done to children. The children who see housing being destroyed, their parents or relatives being killed, who see drones flying around them, some of which have guns, being pushed out of their homes, deafening noise, inadequate food, inadequate water, pushed, shoved into any place, everyplace. If there is one child in Gaza that does not suffer psychic damage from this horror, I will be very surprised.

As a result of the destruction and Israeli policies restricting the entry of humanitarian aid into Gaza, more than a million people today face catastrophic levels of hunger and Gaza remains on the brink of famine. Hundreds of thousands of children face starvation. Even now, more than seven months into this war, Israel's invasion of Rafah has severely disrupted the humanitarian relief operation, closing the two main border crossings and making it almost impossible for the U.N. to access warehouses or distribute aid.

Very little aid has gotten in for more than two weeks, bakeries have had to shut down, and hospitals are running low on fuel. Just today, the U.N. announced that it had been forced to halt all food distribution in Rafah after running out of supplies. The World Food Programme said "humanitarian operations in Gaza are near collapse," saying that if food and other supplies don't resume entering Gaza "in massive quantities, famine-like conditions will spread."

Now, Mr. Netanyahu's been on TV today, and elsewhere. He denies it all. Ain't true, says Mr. Netanyahu. He claims that Israel is deeply worried about the civilian population, worried about the children, and that Israel is not blocking humanitarian aid at all. Not at all. Well, it turns out that the United Nations and virtually every other humanitarian group involved in the humanitarian disaster in Gaza strongly disagrees with Mr. Netanyahu.

Now, we can trust the words of a Prime Minister under criminal indictment in Israel, or we can trust the people whose function in life is to provide humanitarian aid.

The U.N. Secretary General says that much more aid is urgently needed to "avert an entirely preventable human-made famine" and that "there is no alternative to the massive use of land routes."

Cindy McCain, the wife of our former Republican colleague John McCain, who is now the head of the World Food Programme, said of Gaza, “there is famine, full-blown famine in the north and it is moving south.”

A month ago, more than 50 humanitarian organizations called on Israel to allow greater humanitarian access and stop unnecessarily restricting aid. That’s 50 humanitarian organizations. Mr. Netanyahu says one thing, but 50 organizations who are desperately trying to get food to hungry people say something else. Let the world decide who is telling the truth. And this group of humanitarian organizations included Catholic Relief Services, CARE, Mercy Corps, Oxfam, Save The Children, Refugees International, and scores of other well-respected humanitarian organizations – they say that Netanyahu and his team have blocked humanitarian aid.

Two of our colleagues, Senator Van Hollen and Senator Merkley, visited Rafah in January, and I heard their presentation to the Democratic caucus. Upset by the unreasonable Israeli restrictions on aid, they talked about trucks being inspected and inspected, sent back, that things that should have been allowed to get through were not allowed to get through. They said afterward that the U.S. must, “demand that the Netanyahu government lift the impediments for delivery of basic goods needed to sustain life in Gaza.” Netanyahu denies it, two of our colleagues who were there say that Israel has blocking aid.

The United States government also disagrees with Netanyahu. USAID Administrator Samantha Power said, “food has not flowed in sufficient quantities to avoid this infinite famine in the south and it is giving rise to child deaths in the north.” In March, Secretary of State Blinken said, “the bottom line is food is getting in, but it is insufficient.” In April he said, “there has been progress, but it is not enough. We still need to get more aid in and around Gaza.” In a formal report this month, the State Department said, “Israel did not fully cooperate with the United States government efforts and the United States government-supported international efforts to maximize humanitarian assistance flow to and distribution within Gaza.”

I got a kick out of hearing Mr. Netanyahu this afternoon. He talked about airlifts. My god, they’re supporting air drops, they’re supporting food coming in from the sea. The reason the United States is spending millions of dollars getting food in from the sea is precisely because Israel is blocking the ability to get trucks in! And the reason that Jordan and the other countries and the United States are doing air drops is once again because trucks cannot get through. Netanyahu is taking credit, and yet the reason we’re having to do those things is precisely because of the policies of his government.

President Biden himself has said, “a the major reason that distributing humanitarian aid in Gaza has been so difficult [is] because Israel has not done enough to protect aid workers trying to deliver desperately needed help to civilians... Israel has also not done enough to protect civilians,” President Joe Biden.

So, it is fair to say that most of the world disagrees with Mr. Netanyahu.

Think about all of that destruction. Think about the tens of thousands of civilians killed, the schools and hospitals blown up. Take a look at the pictures of emaciated children starving to death while food sits miles away.

One of the interesting things to my mind is that we don't see enough of those pictures. And maybe that has something to do with the fact that the Israeli military has killed dozens and dozens and dozens of journalists. I just met with some journalists last week, including a young man who happens to come from my home state of Vermont who had no doubt he was targeted, along with other press people. Big press symbols on their coats, and they were attacked. He was slightly injured, one of his colleagues was killed, and another one was severely injured.

Now, if you add all that stuff up, are these actions war crimes?

Yeah. I believe that they are. I believe that there is substantial evidence that the extreme right-wing Israeli government led by Netanyahu has used starvation as a weapon of war and has clearly targeted civilians and civilian infrastructure.

As I think we all agree, I certainly do, Israel had the right to defend itself against the Hamas terrorist attack of October 7th. But it did not – and this is where we get into the issue of war crimes – yes, you have the right to defend yourselves. Yes, Israel has the right to go after Hamas, very few people doubt that. But Netanyahu and his government do not have the right to wage an all-out war against the children, against the women, against the innocent people of Gaza. And for that, there must be consequences.

What the ICC has done is important for the global community, in the sense that we cannot allow the human race to descend to barbarity. Somebody has got to say: look, war is terrible, and it's a little bit embarrassing as a human being that we've been at war for thousands of years and have not seemed to make much progress at eliminating war. But if there is war, let us learn from what happened in the past and do our best to protect the women, the children, the innocent people. So, Israel had a right to defend itself against a terrible enemy in Hamas, but it does not have the right to wage an all-out war against the people of Gaza.

Now, what the ICC is doing is important for the world. It's [a message] to leaders all over the world – dictators, people in democratic countries – that if you go to war you cannot wage all-

out war against civilians. That's what the ICC is doing, that's important. But it is also important, Mr. President, for those of us in the United States. Our nation claims to be the leader of the free world, and at our best we try to mobilize countries to uphold international war and prevent crimes against humanity. That is what we try to do and have done.

But how can or how will the United States be able to criticize any country in the world, whether it is Russia, China, Saudi Arabia, or anyone else – any other country in the world – if we actually believe what Netanyahu is saying?

If we turn our backs and ignore the crimes against humanity that are being committed in Gaza right now, what credibility will we ever have in criticizing the actions of any country, no matter how terrible those actions may be? Because people will say, oh, really? You're attacking China, Turkey, anybody else, really? You're really deeply concerned? But apparently for Netanyahu, it's allowed. We don't believe you.

And I don't want to see this great country of ours be in that position. I want to see this country respected all over the world as a country that does believe in human rights, that does believe in international law.

The ICC as I see it is trying to uphold international law and minimum standards of decency. Our government should do no less.

Bernie Sanders is a US Senator, and the ranking member of the Senate budget committee. He represents the state of Vermont, and is the longest-serving independent in the history of Congress.

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