



Lawyers for Palestinian Human Rights' briefing on the UK government's response to the alarming moves of the United States government against the International Criminal Court

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About Lawyers for Palestinian Human Rights (LPHR)

LPHR is a lawyer-based charity in the UK that works on projects to protect and promote Palestinian human rights. We distinctly provide a legal and human rights perspective on issues affecting Palestinians. Our trustees include leading human rights lawyers, Sir Geoffrey Bindman QC and Tessa Gregory.

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Introduction

1. The need for the international community to stand up in support of international criminal justice is more heightened than ever before in light of the truly alarming discourse and conduct of the United States administration, which seeks to obstruct the efforts of the International Criminal Court (ICC) to pursue legal accountability for suspected war crimes and crimes against humanity.
2. In September 2018, the U.S. National Security Advisor John Bolton made a high profile [speech](#) denying the legitimacy and jurisdiction of the International Criminal Court in respect of a possible investigation into alleged war crimes by U.S. forces or allies in Afghanistan. Mr. Bolton threatened to take steps to ban judges and prosecutors from entering the United States, sanction their funds and also to prosecute them in their domestic criminal system. This extraordinary threat was made in respect of ICC investigations not only against the U.S., but also against its allies, explicitly naming Israel.
3. In response to this alarming position that is clearly antithetical to promoting international criminal justice, LPHR sent an [urgent action letter](#) to the UK government. We sought a public statement from the UK that would affirm a robust and unwavering commitment to securing justice for victims and survivors of suspected war crimes and crimes against humanity.
4. Alistair Burt MP, who was then the UK Foreign Office Minister of State for the Middle East and North Africa, responded to our urgent action letter by way of a [letter](#) dated 30 September 2018. Within the reply, Minister Burt confirmed that *“the UK respects the independence of the ICC Prosecutor and her role in undertaking a Preliminary Examination into the situation in the Occupied Palestinian Territories.”* Minister Alistair Burt further stated:

“The UK is clear that the ICC can play an important role in ending impunity for the most serious international crimes. It has our full support in pursuing the mandate it was given under the ICC Statute...

....The Foreign Secretary raised the ICC with Secretary Pompeo recently and highlighted the UK’s ongoing support for international justice and accountability”.
5. The UK government also set out its position on this topic in two responses to Parliamentary Questions dated [11 September 2018](#) and [15 October 2018](#). Notably, the UK importantly affirmed that *“a fundamental element of the UK’s foreign policy is support for international criminal justice and accountability”*.



6. LPHR welcomes the position taken by the UK government in recognising the independence of the ICC Office of the Prosecutor, and clearly expressing its support for accountability and international criminal justice. It is imperative, however, that this position is repeatedly expressed to the U.S. administration and made unequivocally clear to the international community generally. Despite the discussions that the UK has had with the U.S. administration, there have been further troubling developments in the U.S. administration's actions.
7. A few weeks ago, [the U.S. Secretary of State, Mike Pompeo](#), announced that the U.S. will enact a policy of placing visa restrictions on ICC investigators who may be investigating alleged war crimes committed by the U.S. and its allies, including specifically Israel. The threat was implemented last Friday 5 April 2019, when it was announced that the U.S. had revoked the visa of Fatou Bensouda, the Prosecutor of the ICC. This is an unprecedented and extremely troubling move. It clearly signals that the current U.S. administration is determined to substantially undermine the efforts of the ICC to pursue its mandate of prosecuting serious international crimes when a country is unable to unwilling to prosecute suspected perpetrators.
8. In response to the decision to revoke Ms. Bensouda's visa, the [EU has importantly expressed full public support](#) for the work of the ICC and emphasised that states are expected to lend the necessary assistance and support in order to guarantee its effectiveness.
9. LPHR is also pleased to note the firm, swift and unreserved support for the ICC expressed in a [public statement by the Canadian government](#) last month, as a direct response to the initial warning of sanctions against ICC investigators made by Mr. Pompeo. Its statement provides:

"Canada firmly supports the rules-based international order and the multilateral institutions that underpin it.

"We are proud to support the International Criminal Court and the important work that it does. The court is essential to investigating and prosecuting the most serious crimes of international concern.

"Personnel of the International Criminal Court should not be targeted for the important work that they do."
10. LPHR welcomes the appropriate and necessary responses by the EU, and the UK and Canadian governments. The Canadian response, in particular, demonstrates the type of clear leadership that is urgently required in the international arena at times where the very fabric of international law and justice is being undermined.



11. We do, however, remain very concerned that the ICC and its personnel will increasingly be subjected to punitive attacks by the U.S. administration. The visa revocation against Ms. Bensouda demonstrate that real efforts are being made to obstruct the effective functioning of the ICC. We further note that Mr. Pompeo warned in his statement last month that the “visa restrictions are not the end of the U.S. efforts”, and that the U.S. is “prepared to take additional steps, including economic sanctions, to make the ICC alter its course”.
12. The UK government, and the wider international community, must therefore stay alert to these very disturbing threats to the proper and necessary work of international criminal justice, and continue to demonstrate its ongoing support for the essential work of the ICC in pursuing legal accountability and justice for serious international crimes.

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