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Some of What the Livni Arrest Threat Really Means

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The issues surrounding the recent arrest threats – Almog, Barak, Livni – derive in part from an attempt to impose some kind of “Rule of Law”, akin to the promise made to Congress by George H.W. Bush (the senior), that the world would come under such a fresh discipline as would amount to a “New World Order”.

It has to be faced that there are cries for the nation state to become diminished in its scope: its legal position and territorial inviolability. Internal affairs of states are no longer considered matters for themselves alone. Partly this is a product of the crocodile tears shed by the West over Rwanda, Cambodia and other tribal and genocidal actions. Of these, there have been many, such as the Lord’s Resistance Army in Uganda and the *jihadic* assaults in Sudan and Indonesia, for examples. It is also partly because of the unleashing of the NATO forces against Serbia, following the terrorism of the Muslim Kosovans and the porous border with Albania. In the latter instance, NATO, whose brief had always been to defend against Communist attack, changed its *raison d’être* and became a strike arm against Serbia which had attacked no NATO member and posed no threat to one.

The cumulative effect of intervention has been to assault the position of different people in legalised (so-called) ways – Milosevic was successfully charged and hauled up before the International Criminal Court; Serbia is still being blackmailed to produce Mladic. In arbitrary fashion, when it comes to unevenness of application, various murderous thugs are being pursued in Africa. It is now possible for this to happen because legal powers, and the existence of a court manifesting them, are in place to pursue as never before since the end of World War II.

Already the signs were apparent when Spain’s anti torture laws resulted in an extradition request for former Chilean President Pinochet, already amnestied by his country’s parliament, to be removed from his medical treatment in Britain and taken away for prosecution. Almost needless to say, no one seemingly holds France accountable for the medical treatment of George Habash or cries out for Saudi Arabia to yield up Idi Amin.

One of the major figures in Britain advocating a vast network of legal devices to govern the behaviour of states throughout the world, in many aspects of their international context, is the author of *Lawless World*, Professor Philippe Sands QC, of University College, London. Of Sands’ book, the sometime editor of *Marxism Today*, Martin Jacques, commented in the left of centre *Guardian* newspaper

He discusses the Pinochet judgment, which placed human rights abuses by a president above the sanctity of the sovereign nation-state. In the same context, he gives a positive appraisal of the formation of the International Criminal Court....¹

There is another aspect, of utmost importance, and also brought out by a reviewer: "International law has also opened up to allow non-governmental actors – such as individuals and NGOs – to challenge state action in ways that had not previously been possible."² It is now, therefore, as never before, perfectly feasible for groups to put to the test, before the courts, any member of any foreign government or military. Already the wretched Goldstone Report showed what could be demanded of states going to war, in their own defence – and thereby Israel stands indicted before the world. It does so for Jenin (where it was impeccable), Lebanon, where it was tricked and trapped and for Gaza where a moral equivalence between the assault on citizens by 8,000 Palestinian rockets was equated with surgical strikes preceded by warnings, and Israel has come out with opprobrium.

It can be little wonder, in this broader context, that Israeli figures are now under attack by their enemies, who rightly see that a legal process is available to them. It is this by which they can terrorise through the law, democratically elected officials and properly appointed and trained soldiers and intelligence experts, not to mention anyone they do not like or whose policies conflict with their own interests. Now that terrorist groups like Fatah are recognized and supported by international governments and their diplomats, they may flourish through sympathetic and even establishment figures and bring cases through legally effective channels against the Israeli personnel and so isolate them from the international community. In parallel with the academic and "West Bank" boycotts, Israel may now be delegitimized by new and potent "legal" methods.

Even though Israel objected strenuously, the problem has not been resolved, as suggested by Yuri Edelstein it might be, by legislation. Instead, an Israeli official was quoted in the right of centre *Daily Telegraph* as saying

We don't have similar problems with other European countries. There is no doubt that extremist groups with very partisan agendas have successfully manipulated the British legal system. Every week in London, you have people visiting from countries undemocratic in the extreme and with atrocious human rights records, yet this happens to the leader of the Israeli opposition? That is a perversion of the British sense of fair play.³

The accompanying phenomenon smacks of advocating a kind of commercial apartheid. The paper reports:

The latest row comes just days after Israel protested about a government advisory to UK supermarkets suggesting that they differentiate between West Bank imports according to whether they were produced by Jewish settlers or by Palestinians.

The idea is that Israeli Jews can be punished in the shops and in the courts until they are no longer safe to participate in the intellectual, commercial and military spheres of international exchange. Logically, this must hold true until the Arabs have taken over sovereignty not only in Judea and Samaria, but in Jerusalem and, no doubt, everywhere else: the pieces are in place

¹ At <<http://www.guardian.co.uk/books/2005/mar/26/highereducation.news>>.

² At <<http://www.complete-review.com/reviews/legal/sandsp.htm>>.

³ At <<http://www.telegraph.co.uk/news/worldnews/middleeast/israel/6819275/Tzipi-Livni-arrest-warrant-provokes-Britain-Israel-diplomatic-row.html>>.

to make Jewish sovereignty not merely despised but isolating and unacceptable throughout much of the Western world, (if not in the USA). Unless other countries repudiate Britain's position (and maybe that of the EU, too), a trend may be setting in.

Lest this be thought fanciful exaggeration, this paragraph from a letter to the British Foreign Secretary makes the point that British international standing might be adversely affected if Israelis were not to be indicted for war crimes.

Secretary of State, we hope you will agree that our role in the Quartet negotiating for peace in the Middle East should not be undermined by a selective, partial view on upholding justice. Such a view will only be compounded if we move to revoke the liability of former Israeli officials from facing possible charges of crimes against humanity in British courts.⁴

The group exists to encourage media awareness and political participation for British Muslims.

A former Conservative education minister has drawn attention to the disgraceful absurdities surrounding the case and has also broadened its significance. George Walden, writing in *The Times*, has pointed out:

Yet it would be a mistake to take too narrow a view of the business. Something in our culture and mind-set exposes us to asinine legal anomalies of this kind, and not just where Israel is concerned. While Ms Livni is absent from London, known Islamist terrorists are free to walk the streets, or to sit cosily at home filling in claims for benefits, because the law has made it impossible to convict them without endangering our sources of information.⁵

He is absolutely right.

Referring to the UN Human Rights Council, Walden sarcastically comments:

The fun lies in the membership of this august body, and guardian of all our rights. Currently those empowered to sit in judgment on the Israeli democracy include Cuba, China, Russia, Kirghizstan, Djibouti and Qatar. In a non-democracy, of course, Ms Livni would have had no bother; with no elections to dislodge her she would still be a minister and so exempt from arrest. There must be a lesson there.

The present writer has no doubt that there is – and several more besides. But it may well be doubted whether many in Europe and Britain can see past the fog of bile and political correctness to see any of them.

⁴ From a letter to be found at <<http://www.iengage.org.uk/images/stories/davidmiliband211209.pdf>>.

⁵ The article is at

<http://www.timesonline.co.uk/tol/comment/columnists/guest_contributors/article6959522.ece>.