

Congress of the United States

Washington, DC 20515

March 12, 2021

Dear Secretary Blinken,

We are writing in response to your March 3rd statement opposing the International Criminal Court's decision to move forward with its investigation into the Palestinian Situation. We understand that there are legitimate jurisdictional concerns with both the Palestine investigation and the Afghanistan investigation, but we believe strongly that in order to fulfill your stated commitment to centering human rights in our foreign policy, you must urgently and completely lift your predecessor's sanctions on ICC staff, including Prosecutor Fatou Bensouda.

When the sanctions were announced, we joined many of our colleagues, dozens of ICC member states, many of our closest allies, and major human rights NGOs and civil society organizations in condemning them as an unacceptable assault on the Court's independence and as a betrayal of our country's long history of championing international justice starting with the Nuremberg Trials.

We are heartened that this Administration has indicated it intends to engage more productively with the ICC, as was evidenced by Department Spokesperson Ned Price's February 4th statement welcoming the verdict in the Dominic Ongwen case. We are also glad that your March 3rd statement reaffirms that "The United States remains deeply committed to ensuring justice and accountability for international atrocity crimes." But that engagement and commitment are simply not possible with these sanctions still in place.

There are urgent matters before the ICC, including the potential transfer of Omar al-Bashir to face trial for his role in the Darfur genocide and the ongoing investigations in Venezuela and related to Al Qaeda in the Islamic Maghreb. The ICC also stands as a potential avenue for the long-delayed justice owed to the Rohingya for their genocide at the hands of the Burmese government. It is straightforwardly a betrayal of our values and stated commitments to justice and accountability to allow our sanctions to impede these processes.

On the issue of the Palestinian case before the ICC, Mr. Price has been asked twice where the State Department proposes Palestinian victims of alleged war crimes should seek justice if the ICC is an inappropriate venue. This is an important question that deserves a serious answer. We would hasten to add that the ICC investigation also claims jurisdiction over alleged war crimes committed against Israeli civilians by Hamas, who likewise have no clear venue for redress. Like all people, Israelis and Palestinians have a right to seek justice for harms perpetrated against them. Since the State Department opposes the ICC's jurisdiction, it is critical that you quickly and convincingly enumerate the Administration's position on such claims.

Likewise with regard to Afghanistan, the ICC's investigation proposes possible avenues for redress for victims of war crimes and crimes against humanity committed by the Afghan national government, the Taliban, and other armed actors. Particularly during the delicate ongoing peace negotiations in Afghanistan, it is crucial that you articulate clear positions about how we will ensure justice for victims of atrocities there.

Moreover, while we have confidence that our justice system can adequately prosecute Americans accused of war crimes, the previous president's repeated pardons of accused war criminals have badly undercut our credibility on these issues. We know that we share the conviction that we must hold ourselves to the highest standards of conduct and respect for human rights when our military is engaged overseas. While we push for justice for victims of war crimes and other atrocities committed by our adversaries in Afghanistan, we must also take clear and deliberate steps to ensure that we are, in President Biden's words, leading by the power of our example.

We look forward to continuing our work together to advance American interests abroad and to lead with our values. We know that we share these values in common, and it is in that spirit that we urge you to lift the sanctions on ICC staff, and clearly outline your and the President's vision for justice for Israeli, Palestinian, and Afghan victims alike.

Sincerely,

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Ilhan Omar
Member of Congress
Vice Chair, Subcommittee on Africa, Global Health, and Global Human Rights

A handwritten signature in blue ink, appearing to read 'James P. McGovern', with a long horizontal flourish extending to the right.

James P. McGovern
Member of Congress
Co-Chair, Tom Lantos Human Rights Commission

A handwritten signature in black ink, appearing to read 'Joaquin Castro', with a long horizontal flourish extending to the right.

Joaquin Castro
Member of Congress
Chair, Subcommittee on International Development, International Organizations, and Global Corporate Social Impact