

افغانستان آزاد – آزاد افغانستان

AA-AA

چو کشور نباشد تن من مباد
بدین بوم و بر زنده یک تن مباد
همه سر به سر تن به کشتن دهیم
از آن به که کشور به دشمن دهیم

www.afgazad.com

afgazad@gmail.com

European Languages

زبانهای اروپایی

Roberto Montoya

21.03.2022

Double standards International judgment of Putin and Maduro but not Bush, Netanyahu or Uribe



The Spanish Council of Ministers has decided on Tuesday 15 to join 38 other countries that have called on the prosecutor of the International Criminal Court (ICC) to investigate and try Vladimir Putin for war crimes, crimes against humanity or genocide against the Ukrainian people.



Blair, Bush and Aznar, at the airport on the island of Terceira, in the Azores, before the summit where the invasion of Iraq was decided, on March 16, 2003. /REUTERS/HARRY PAGE

"This war cannot come for free for Putin," Foreign Minister José Manuel Albares declared on television, and in an interview with *El País* on March 6 he even said: "This is the war of one person, the war of Vladimir Putin."

Both Albares and the minister spokeswoman, Isabel Rodríguez, Pedro Sánchez himself and other ministers and positions of the PSOE consider that this is "Putin's war", a phrase that has been repeated for days also again and again in unison by all the media of the Spanish media oligopios.

All of them seem to want to convey to public opinion that if Putin were arrested, overthrown or killed, the war would end and that with it Russia would rectify its expansionist and imperialist policy.

The brutality of the Russian invasion, with the trail of dead it leaves in its wake, with millions of civilians fleeing with the clothes of their devastated country, logically incites the shock and solidarity of our citizens with them.

This emotional climate, of solidarity with the Ukrainians, and that anger that is personalized in Putin makes it seem normal to demand his arrest and trial by an international tribunal.

It is no coincidence either that these days Joe Biden called Putin for the first time a "criminal" of war.

It is in the same sense that almost 40 countries, including Spain, decided to ask the International Criminal Court (ICC) – the only existing tribunal worldwide since the Nuremberg Trials with jurisdiction to judge genocides, war crimes and crimes against humanity – to initiate the procedures to investigate and prosecute Putin for the crimes committed since the beginning of the invasion on February 24.

Although neither the Russian Federation nor Ukraine are member states of the Court, the ICC's chief prosecutor, Karim Khan, has launched investigations with unusual haste on the basis of Article 14 of the Rome Statute governing that high court, which provides for any State party to denounce another country for crimes within its jurisdiction.

The fact that 39 member countries requested it has allowed the prosecutor to open the investigation without having to ask permission from the Icc Pre-Trial Chamber, something unusual and that allows the case to be greatly expedited.

The claim would certainly be fair given the gravity of the crimes already committed by the Russian regime... if it were not for the fact that it is a gross display of cynicism on the part of the Court and the *international community*.

No one paid for the crimes of the *War on Terror*

What is the explanation of the Government of Pedro Sánchez and all the other signatory countries of that demand to the ICC to now request the prosecution of Vladimir Putin when neither the governments of the PSOE nor those of those dozens of countries ever asked to try George W. Bush for the repeated and massive war crimes committed with his *War on Terror* for eight years, in complicity with Tony Blair and the support of José María Aznar?

Why did they never ask to investigate and prosecute Israeli Prime Minister Benjamin Netanyahu for the massacres in the West Bank, Gaza and East Jerusalem, for his years-long daily criminal policy against the Palestinian population in the territories illegally occupied by Israel, despite repeated resolutions against Tel Aviv passed at the United Nations?

La guerra unilateral y sin autorización de la ONU contra Irak patrocinada por el tristemente célebre *Trío de las Azores* hace 19 años, justificada por la búsqueda de unas inexistentes armas de destrucción masiva, provocó cientos de miles de víctimas y la devastación de un país.

Al igual que sucedió en Afganistán las tropas estadounidenses y las decenas de miles de mercenarios de las compañías militares privadas subcontratadas por el Pentágono aplicaron sistemáticamente la tortura a los prisioneros con total impunidad y humillaron y reprimieron indiscriminadamente a la población civil.

Una gran masa de documentos de las fuerzas armadas y los servicios de inteligencia estadounidenses y británicos desclasificados o filtrados por *Wikileaks* demostraron la magnitud de esos crímenes y la trama que se urdió desde la propia Casa Blanca, el Pentágono, el Departamento de Estado y el Departamento de Justicia estadounidenses para darles cobertura legal e impunidad.

No one has paid either politically or criminally for all these crimes. Their Spanish accomplice, José María Aznar and members of his government, have never even apologized for their responsibility in involving Spain in a war that devastated a country, fueled jihadism and made the world even more violent, insecure and unstable.

Although both Bush and Blair apologized for their *mistake* with a small mouth, Aznar never did.

Barack Obama, upon coming to power, promised to investigate and firmly punish those crimes of the Bush era but did not even achieve consensus to do so in the Democratic Party and in his own government.

Britain did order an investigation into its involvement in the Iraq war that concluded in the 2015 [*Chilcot Report*](#), after seven years of investigation. "In 2003 for the first time since World War II the UK participated in the invasion of a sovereign country," the report said.

It harshly criticized the fact that no other avenues had been exhausted before resorting to military action. "The consequences were underestimated and the goals were failed to be achieved."

Despite this, there were nothing but political reprimands without legal consequences of any kind.

Blair was thus able to maintain the position he held since leaving Downing Street in 2007, that of special envoy for the Middle East by the Quartet for Peace (UN, EU, US and Russia).

The former prime minister and leader of the Labor Party maintained that position of special envoy without being considered incompatible with being at the same time an

advisor to the royal family of Kuwait, of the South Korean company *UI Energy* with oil interests in Iraqi Kurdistan, or that he worked for *Mubadala*, a powerful investment fund of the United Arab Emirates.

Blair currently chairs the European Council for Tolerance and Reconciliation.

No country, no conservative or social democratic government at that time also did not ask that Bush, Rumsfeld, Rice, Powell, Tenett, Bolton and other senior US officials be tried by the Court, even though it had already entered into force on July 1, 2002, four years after the Treaty of Rome was approved in 1998. [its founding charter](#). already ratified by 123 of the 183 signatory countries.

Nor have any of those countries called for Benjamin Netanyahu to be tried.

Neither the US nor Israel accept the jurisdiction of the International Criminal Court

Article 25 of the Treaty of Rome clarifies that only individual persons, not governments or institutions, can be investigated and prosecuted. Anyone who commits the crime, or has ordered, proposed, facilitated or instigated it, can be tried.

The United States never ratified the Treaty of Rome governing the ICC. Neither Bill Clinton, nor George W. Bush, Barack Obama nor even Joe Biden has done it.

The US voted against it in 1998, as did Israel, China, Iraq, Yemen, Saudi Arabia, Turkey or Libya. Neither Iran nor Syria, India, Turkey, Saudi Arabia or Russia have ratified it either. Russia withdrew its signature of the Treaty of Rome in 2016 over fears of being indicted following the Maidan events in Ukraine and the annexation of Crimea.

In the case of the United States, it has not only rejected the jurisdiction of that high court to try war crimes, genocide or crimes against humanity committed by U.S. citizens, whether they were military, intelligence agents, public officials or civilians, but has even threatened and punished senior officials of the Court.

The ultra-conservative Republican Jesse Helms, who held the position of chairman of the US Senate Foreign Relations Committee in the '90s, went so far as to say: "The ICC is indeed a monster, and we have a responsibility to dismember it before it grows and ends up devouring us."

On the basis of the principle of universal justice, the Court has jurisdiction to try crimes committed by citizens of a non-member country in the territory of a country that is a

member. The Court can only act in cases where the accused are unable or unwilling to be tried by their country of origin.

That was the legal argument used in 2017 by the ICC's chief prosecutor, Gambian Fatou Bensouda, to ask the Judges of the Court for authorization to investigate war crimes committed in Afghanistan – which has been a member since May 1, 2003, unlike Iraq – by troops, intelligence agents, mercenaries and other U.S. officials.

Bensouda also included among the crimes committed by US forces the illegal detentions and torture of prisoners by CIA agents in its secret prisons located in the Middle East, Asia and also in Poland, Romania and Lithuania, the latter three members of the Court.

The ICC initially decided to reject the prosecutor's request in 2019 but after being appealed to its Appeals Chamber in 2020 she was authorized to start the process.

Trump Sanctioned Court for Investigating U.S. Crimes in Afghanistan

The Trump administration responded immediately with an Executive Order ordering all ICC officials, as well as any of their relatives, to block entry into the U.S., while freezing property, assets and bank accounts they may have in the U.S.

Joe Biden annulled those measures in April 2021 and two months later the term of the chief prosecutor Fatou Bensouda ended and after a close vote she was replaced by the British criminalist Karim Khan.

The latter, arguing that he has *limited resources* to investigate, added to the problems arising from COVID-19 and the arrival to power of Afghanistan of the Taliban, announced to the judges of the Court the need to *reorient* the ongoing investigation. "I have decided to focus my office's investigations in Afghanistan on the crimes that would have been committed by the Taliban and the Islamic State of Khorasan province, to the detriment of other aspects of the investigation."

The investigation carried out by the previous prosecutor's office also included crimes committed by the Taliban, the Haqqani network and also by Afghan government soldiers, but the new prosecutor decided to *reorient* the case and leave US forces out of the investigations.

The previous prosecutor, Fatou Bensouda, had also requested during her term of office authorization from the judges of the Court to investigate Israel for the massacres and crimes committed in Gaza, the West Bank and East Jerusalem, and also for

its *apartheid* policy towards the Palestinian population. It also included in its investigations crimes that may have been committed by Palestinian armed groups such as Hamas.

Benjamin Netanyahu's government accused the ICC of "anti-Semitism" and refused to cooperate in any investigation. The US quickly came to its defence and was soon followed by Britain, whose prime minister, Boris Johnson said: "It gives the impression of being a biased and prejudiced attack on a friend and ally of the UK."

This criticism of the Court's decision was also joined by Australia, Canada, Germany and Hungary.

The Palestinian National Authority, which *participates* in the United Nations General Assembly *as an* observer and in 2015 signed the Treaty of Rome, did accept the investigation, but the obstacles placed by Israel to investigate in the Palestinian territories it occupies have made the work progress in slow motion.

This cause has not attracted support from the *international community* despite the fact that many countries around the world are aware of the crimes committed by Israel, and despite the fact that they have voted for numerous resolutions at the United Nations condemning that country for its illegal policy of occupation and the expansion of Jewish settler settlements on Palestinian lands.

Maduro, the only Latin American president investigated by the ICC

The manifest double standards of the ICC and the *international community* also makes it normal that the Court has shown great agility in accepting in 2018 the claim of five Latin American countries all of them governed at the time by the right, Argentina, Peru, Chile, Paraguay and Colombia, to which Canada has joined, to investigate Nicolás Maduro for *crimes against humanity*.

The Court opened a preliminary examination in that case and in 2021 ICC Prosecutor Karim Khan announced that he was already starting the second stage, that of a formal investigation. Khan visited Venezuela last October – which is a member state of the Court and recognizes its jurisdiction – met with different actors and with the accused president himself, Nicolás Maduro, with whom he even shared a press conference later.

If the repressive acts that may have been committed by the Venezuelan security forces, however serious, were considered liable to be considered *crimes against humanity*, it is

worth asking: will this qualification also extend to the crimes committed by the forces of Jair Bolsonaro in Brazil, or those of Prince Mohamed bin Salman in Yemen, of Recep Tayyip Erdogan against the Kurdish population in Turkey and Iraq, those of Mohamed VI against the Saharawi population or the proven crimes of so many other leaders?

In Colombia, despite the gravity and massiveness of the proven crimes committed by government security forces and far-right paramilitaries allied during the mandates of Álvaro Uribe, Juan Manuel Santos and current President Iván Duque, in 2021 Prosecutor Khan decided to definitively close the case opened 18 years earlier.

¿Qué credibilidad tiene entonces la Corte Penal Internacional? El fiscal Carlos Castresana, que compitió con Khan y otros candidatos al cargo de fiscal principal de la CPI recordaba en 2021 en una entrevista en *El País* que » El 62% del personal [sobre un total de 300 fiscales] pertenece a Europa occidental, Canadá, Australia y Nueva Zelanda, frente, por ejemplo, a un 17% de africanos».

Gambia, Sudáfrica, Burundi y otros países africanos abandonaron la CPI al considerar discriminatoria la decisión de la Corte de investigar mayoritariamente crímenes cometidos en África.

Neither Russia nor Ukraine are states parties to the ICC but that high court is acting quickly to find the legal formula that will still allow it to accept the demand for investigation made by 39 countries, including Spain.

According to some jurists, the fact that the Zelensky government has summoned the civilian population to arm themselves and manufacture homemade explosives for use against Russian soldiers, as logical as that resistance may seem, could turn these *civilians into legitimate targets* of attack under International Humanitarian Law, legally complicating a case against Putin.

Spain, with legislation that even in 2022 prevents the prosecution of the crimes of Francoism and that in 2014 drastically cut the principle of universal jurisdiction in its legal system, is now agile to seek legal loopholes that allow it to declare itself competent for a preliminary investigation for the crimes ordered by Putin in Ukraine.

On March 8, the Attorney General's Office opened preliminary proceedings in this regard.

Roberto Montoya,

Source: [Público](#)/ [Viento Sur](#), March 19, 2022

Edited by [María Piedad Ossaba](#)

La Pluma. Net 20.03.2022