The legal threat posed by The Hague is real

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The threat Israel is currently facing over the [potential investigation by the International Criminal Court](https://www.israelhayom.com/2020/01/12/cabinet-concerned-about-secret-icc-arrest-warrants-against-israeli-officials/) into its military operations in the Gaza Strip and its settlement enterprise in Judea and Samaria is real.

The ICC has 90 days to launch the investigation and if it does, more than a few Israeli officials may find that they are unable to visit some of the world’s most important nations, for fear they might be arrested and extradited to The Hague.

But what can be done? In the recent Diplomatic-Security Cabinet meeting on the matter, legal advisers offered legal recourse and diplomats mused about diplomatic solutions, but what was not discussed was the fact that until now, both avenues have failed to deal with the situation.

What needs to be said is that Attorney General Avichai Mendelblit is, in fact, an expert on the matter – his doctoral thesis focuses on the threat posed to Israel by international law.

Moreover, it was during Mendelblit’s stint as the military advocate general in the early 2000s that the IDF underwent a judicial process by which every operation, big or small, undergoes rigorous legal scrutiny with the explicit purpose of preventing any interference by the ICC.

But at the end of the day, none of that helped.

The same goes for the diplomatic efforts: For years, Israeli officials have tried to convince ICC Chief Prosecutor Fatou Bensouda that the Jewish state is in the right, but to no avail. Bensouda has ignored their arguments, just as The Hague is likely to do.

As with any other international forum, and especially with respect to those dealing with human rights, Israel is in the minority.

According to international law, it is not just the leaders of the settlement movements who are war criminals but also former Jerusalem Mayor Nir Barkat, his successor Moshe Lion, and anyone else who ever approved the construction of new neighborhoods in Jerusalem – including Prime Minister Benjamin Netanyahu.

In this state of affairs, when the diplomatic or legal system is unable to respond, it may be time to use different tools – forceful ones.

The American experience with repelling a potential ICC probe into possible war crimes committed by US forces in Afghanistan shows that the ICC’s bullying attempts can be stopped.

When it comes to Israel’s dealings with the ICC, perhaps it is time Jerusalem took a page out of Washington’s book.