

U.S Judge Dismisses Suit Against Israeli General

Nathan Guttman | Tue. Dec 19, 2006

Washington — The U.S. District Court for the District of Columbia dealt a blow last week to ongoing attempts to sue Israeli officials in America over alleged war crimes.

In a December 14 decision, Judge Paul Friedman ordered the dismissal of the civil lawsuit against former Israeli army chief of staff, Moshe Ya'alon. Friedman argued that the retired Israeli general is immune from any legal measures in the United States since his actions were carried out as part of his official capacity in the Israeli military.

Ya'alon was sued by a group of Lebanese citizens who either lost family members or were injured in the April 1996 shelling of the United Nations compound in the Southern Lebanese town of Qana. In the incident, an errant Israeli artillery shell killed 100 civilians and United Nations workers who were in the compound. Israel later apologized.

Last December, while Ya'alon was spending a year as a fellow at the Washington Institute for Near East Policy in Washington, he was served with papers charging him with war crimes for his role, as head of military intelligence, in the Qana shelling. "If General Ya'alon's actions were taken in an official capacity, he therefore was acting as an agency or instrumentality of the foreign state, and is immune from suit," Friedman wrote in his opinion, citing the Foreign Sovereign Immunity Act, which prevents lawsuits against individuals who were acting as part of their official duty.

The decision was criticized by Maria LaHood, an attorney for the Center for Constitutional Rights, the New York-based organization that brought the case to court. "The decision," LaHood said, "implies that you can be responsible for war crimes and then be granted immunity only because your government says you acted on your official duty."

The Center for Constitutional Rights, which has been a fierce critic of the Bush administration's post-9/11 detention policies, was honored last week by Rabbis for Human Rights-North America at a conference the group had organized in New York. The award — which drew fire from critics in the Jewish community who pointed to the center's suit against Ya'alon — was accepted by the center's president, Michael Ratner, who was a featured speaker at the conference.

Ratner told the Forward that he is disappointed with the reluctance of the Jewish community to discuss human rights violations by Israel.

"As a Jew, I would like to be prouder of Israel," Ratner said. "I'd like to see room for criticizing Israel without being called anti-Israeli."

Although the North American branch of Rabbis for Human Rights does not take a stand on the issue of suing Israelis in American courts, Rabbi Gerry Serotta, a co-chair of the organization, says that such legal maneuvers are legitimate. He did, however, emphasize that his group honored the Center for Constitutional Rights for its work regarding American abuses — not for issues relating to Israel.

LaHood argued that Friedman's ruling is not necessarily the last word on suing Israeli officials, pointing to a similar case still being heard in a New York court against another Israeli official, Avi Dichter, the former head of Israel's General Security Service and currently its minister for internal security. The suit against Dichter relates to a botched July 2002 attempt by the Israeli air force to assassinate a senior Hamas leader in Gaza City. The attack resulted in the deaths of 15 Palestinians, including eight children. Dichter, who was served with papers while he was a visiting fellow at the Brookings Institution's Saban Center for Middle East Policy in Washington, is accused of taking part in the planning and approval of the attack.

The U.S. State Department has filed a statement with the New York court in which it argues that Dichter is immune from any legal action in America relating to this event. "One of our strategies," LaHood said, "is to make people think twice about their actions and to know they will be held liable for what they do."

The civil suits against Ya'alon and Dichter drew media attention and required costly legal procedures, but they are little more than a nuisance to Israeli officials. More alarming, they say, is that several European countries allow permit legal actions to be brought against foreign officials accused of war crimes.

Ya'alon himself was recently threatened with prosecution while visiting New Zealand, and a year ago retired general Doron Almog was forced to return to Israel after being notified, before landing in London, that he might face charges upon entering Britain. Senior Israeli military officers are reportedly reluctant to visit Europe or study there, fearing legal actions by pro-Palestinian groups.

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