A Dark Cloud over The Hague

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A serious and objective institution, or a political body that is a tool for diplomatic disputes between countries? Since its establishment in 2002, many questions have been raised around the International Criminal Court in The Hague (ICC).

The Court’s goal is to prosecute leaders responsible for one of four serious crimes: genocide, crimes against humanity, war crimes and crimes of aggression.

US Secretary of State Mike Pompeo announced last week that the US is revoking the visas of all members of the Criminal Court in The Hague involved in investigating the actions of American soldiers in Afghanistan or other countries. This action is a step up in the war of world public opinion. John R. Bolton, US National Security Adviser to President Donald Trump, challenged the legitimacy of the ICC by stating that the US government will not sit idly by, but will respond with great severity to any investigation of US citizens or US allies such as Israel.

Israel’s concern is that following pressure from Arab countries and with the support of some European countries that officially and openly support Palestinian independence and view the IDF as a militant and immoral occupation army, the ICC will succumb to the political propaganda. The ICC is trying to drag Israel into the mire of litigation in an international legal arena. The ICC is investigating the conduct of IDF soldiers in Gaza and Judea and Samaria, particularly during the “Protective Edge” operation, completely ignoring the basic human rights violations perpetrated by the Palestinian leaders against their own people.

The UN secretary-general has been notified over the years by the USA, Israel, Sudan and Russia, of their determination to not ratify the Rome Statute that they had previously signed. The Rome Statute is the legal document that is foundational to the establishment of the International Criminal Court in The Hague.

In addition, in 2016, several African countries, including Gambia, the country of origin of Fatou Bensouda, chief prosecutor of the ICC, announced that they were withdrawing from the court in response to the ongoing policy of racial discrimination of African countries. Gambian Information Minister Sheriff Bojanng, speaking on state television, said the ICC was “an International Caucasian Court for the persecution and humiliation of people of color, especially Africans.”

In addition to the dark cloud hovering over the ICC in the context of its policy and political declarations, it is also subject to criticism from European countries, (main donors to the tribunal), which demand that the ICC present receipts for their expenses. This issue sharpens the need of the International Criminal Court to raise its public profile and increase its scope of activity.

As an independent legal and research organization, we have placed two requests for investigation in the past few weeks on the desk of the prosecutor’s office. One relates to the crimes of Palestinian Authority Chairman Mahmoud Abbas against the Palestinian civilian population in Judea and Samaria, including inter alia, arbitrary arrests, torture and even murder. The second concerns the war crimes for which Hamas Political Bureau’s leader Ismail Haniyeh is accused of recruiting children under the age of 15 in order to participate in hostilities against Israel.

These requests seek to balance the European political discourse on the State of Israel and include testimonies that are not easy to digest by witnesses from the Gaza Strip and Judea and Samaria. We provide well-founded legal arguments against these two men who carry out brutal terror practices against Palestinian civilians. Despite the Court’s decision to examine the conduct of the American military in Afghanistan and the unprecedented call by the Justices of the ICC to the Palestinians to report alleged crimes for which the State of Israel is responsible, we have been explicitly assured that our requests will be examined honestly, seriously and impartially.

The decision of the International Criminal Court in The Hague to open a criminal investigation against Mahmoud Abbas and Ismail Haniyeh will help give it objectivity, professionalism and an impartial image. There is no doubt that the burden lies on its shoulders.