**ICC investigation into Israeli 'war crimes' an immoral decision - editorial**

By: Editorial Board

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The International Criminal Court at The Hague made a terrible decision on Friday in announcing that it had legal justification to open a war crimes investigation against Israel.

In a majority ruling published on Friday, following a six-year review by the chief prosecutor, the ICC judges said that, “The Court’s territorial jurisdiction in the Situation in Palestine... extends to the territories occupied by Israel since 1967, namely Gaza and the West Bank, including East Jerusalem.”

Granting itself jurisdiction over the territories paves the way for the court – set up under the Rome Statute of 2002, which Israel and the US did not ratify – to investigate Israel and, if it wants, the Palestinians, for alleged war crimes. These could include past Israeli military operations like Protective Edge in 2014 against terrorist groups in the Gaza Strip as well as settlement construction in the West Bank.

As expected, Israel and the United States responded harshly to the court decision.

“Today, the International Criminal Court has proven once more that it is a political body and not a judicial institution,” Prime Minister Benjamin Netanyahu said on Friday.

“This is refined antisemitism,” Netanyahu said. “This court was created to prevent horrors like the Nazi Holocaust against the Jewish nation, and now it is attacking the only country of the Jewish nation.”

He added that the court “casts these delusional accusations against the only democracy in the Middle East” while refusing to “investigate the real war crimes committed by brutal dictatorships like Iran and Syria on a daily basis.”

In the US, State Department Spokesman Ned Price said the Biden administration is committed to Israel’s security, and objects to the court’s decision.

“As we made clear when the Palestinians purported to join the Rome Statute in 2015, we do not believe the Palestinians qualify as a sovereign state, and therefore are not qualified to obtain membership as a state, or participate as a state in international organizations, entities, or conferences, including the ICC,” Price said.

“The United States has always taken the position that the court’s jurisdiction should be reserved for countries that consent to it, or that are referred by the UN Security Council,” he added.

What makes the court’s decision ridiculous is that it puts Israel on equal footing with terrorist groups like Hamas and Islamic Jihad. These groups intentionally target civilians with rockets.

Israel acts to defend itself. Do civilians get killed in war – especially when terrorists store weapons and launch rockets from homes and schoolyards? Unfortunately, they do. But when done the way Israel does it – by warning repeatedly before attacking – that is not a war crime.

The restraint Israel has shown over the years in the face of these rocket attacks – restraint that very few other countries would have shown – should be applauded. Not undermined with an immoral war crimes charge.

And regarding settlements, one could argue the political wisdom of living in the West Bank. But building homes in Shiloh or Beit El – the cradle of the Jewish people – is not a war crime. There was never a Palestinian state over which the court could say it has jurisdiction.

As we once wrote in a previous editorial on the ICC: Adolf Eichmann was a war criminal.

Saddam Hussein was a war criminal. Those responsible for the Cambodian, Rwandan and Darfur genocides, those are war criminals. But Supreme Court judge David Mintz, who lives in Dolev in Samaria, is a war criminal? Get serious.

Israel will need to fight this decision and take steps to protect its soldiers, officers and members of government who could be associated with the settlement enterprise. It will need to work closely with the United States and allies in Europe to alienate the court and show that its ridiculous ruling will not prevail.

Israel will need to make legal arguments – about jurisdiction and the definition of war crimes – but countries around the world need to know that what starts with Israel usually doesn’t stop here. It will continue.