**The International Criminal Court’s dangerous decision: Israel is under threat from the world body**

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Last Friday, The International Criminal Court (ICC) in The Hague had asserted that it has jurisdiction in relation to issues in the Israeli-Palestinian conflict. While it is only a pre-trial decision it is deeply flawed, troublesome and confirms Israel’s long-standing concerns that the court is susceptible to politicization.

The ICC was established following the horrors of the Holocaust, to deal with the worst cases of mass atrocities that shock the conscience of humanity, and with cases that could not be addressed within any other framework. It only has authority over cases where states choose to delegate their own criminal jurisdiction to the court.

Simply put, the ICC does not possess universal jurisdiction. In fact, the court wholly lacks jurisdiction over the so-called “situation in Palestine.” The Rome Statute clearly stipulates that the court only has jurisdiction in cases brought before it by sovereign states; a sovereign Palestinian State does not exist, and never has.

Yet despite these facts, the ICC’s Pre-Trial Chamber ruled that The Hague has the jurisdiction to investigate Israel.

Unfortunately, two judges came to this decision on the basis of political considerations rather than judicial ones. In fact, it was for these very reasons that the presiding judge himself, Judge Péter Kovács’, opposed the majority opinion of the Pre-Trial Chamber. In his highly critical dissenting opinion, he stated that the majority’s approach has “no legal basis in the Rome Statute, and even less so in international law,” as well as that “acrobatics with provisions of the Statute cannot mask legal reality.” It is worth noting that the dissenting opinion reflects the official positions of seven leading state parties of the court, Germany, Austria, Australia, Brazil, the Czech Republic, Hungary and Uganda, as well as world-renowned international law experts.

Jurisdiction goes to the heart of the integrity of the judicial process. It is not a mere formality, nor technicality. It plays a critical role in preventing abuses. Jurisdiction is the factor that distinguishes a non-partisan judicial body from a political one.

By turning to the ICC, the Palestinians are attempting to turn the court into a political tool and force resolution of issues that should be resolved through direct negotiations, and not by criminal proceedings. They’ve perverted the concept of jurisdiction for the sake of advancing their own political interests, corrupting the court’s integrity and ability to stick to its core mandate in the process.

By adopting this damaging decision — and by continuing to chase democracies with independent and effective legal systems that are fighting terrorism in such places as Iraq, Afghanistan and Gaza — the ICC’s Pre-Trial Chamber has overstepped its core mandate.

Israel has valid legal claims over the same territory that the Palestinians have sought to submit to the ICC’s jurisdiction. The agreement between Israel and the Palestinians to resolve their dispute over the future status of this territory through negotiations has long widely accepted by most countries including the US when it comes to this matter. The recent normalization agreements between Israel and the UAE, Bahrain, Sudan and Morocco are further proof that the only way to achieve genuine peace is through direct negotiations.

The involvement of the ICC in this bilateral conflict will only have a detrimental effect on the capacity for genuine dialogue and negotiations between Israel and the Palestinians. Attempting to criminalize aspects of the longstanding dispute between Israel and the Palestinians produces further polarization, exacerbates the conflict and distances the ultimate goal of peace.

It is still not too late to shift course to the right path. The responsibility for doing so rests on the shoulders of the prosecutor, who enjoys full discretion on this matter.

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