



הארגון הבינלאומי של עורכי-דין ומשפטנים יהודים (ע"ר)
THE INTERNATIONAL ASSOCIATION OF JEWISH LAWYERS AND JURISTS (R.A.)

January 8, 2015

The Honorable Fatou Bensouda, Chief Prosecutor

The Honorable Herman von Hebel, Registrar,

The International Criminal Court

The Palestinian Attempt to Grant the Court Jurisdiction

I write to you on behalf of the International Association of Jewish Lawyers and Jurists, a Category II NGO at the UN, whose members are lawyers, judges, judicial officers and academic jurists in over 30 countries. As an organization devoted to defending the interests of the Jewish People, the State of Israel and international justice, we wish to share our grave concerns regarding the possibility that the entity widely known as "Palestine" may be allowed to grant the Court jurisdiction.

We wholeheartedly support the values and goals which formed the basis for the establishment of the Court. We would like to see the ICC fulfill its promise to end impunity for those grave crimes which shock the conscience of humanity.

We do not doubt your independence and integrity, and your adherence to the Rome Statute. However, it is manifestly clear that the Palestinian attempt to accept the Court's jurisdiction is a political maneuver intended to avoid honest good-faith peace negotiations, which are the only way to resolve this conflict. Unfortunately, we fear that the integrity and reputation of the ICC will be irreparably sullied if it allows itself to be drawn into the service of a narrow political agenda, especially when that agenda entails derailing the peace process and prolonging the conflict between the parties. It is a sad day for a venerable and important institution such as the ICC that it is being turned into an arena for crass political one-upmanship.

The fact of the matter is that the Gaza Strip, which forms a large part of the territory purporting to belong to the Palestinian entity, is ruled by an internationally designated terrorist organization, namely Hamas. As evidenced by its Charter and in its words and deeds, Hamas is an extremist, violently anti-Semitic group which is dedicated to the destruction of a UN member state – Israel, and balks at nothing to advance its aims. At the time of writing, the said Hamas terrorist organization is a partner in the government of the entity which seeks to join the ICC. To allow a terrorist organization into the ranks of the States Parties to the Rome Statute would be unconscionable.

While it is true that "Palestine" has been called a "State" at the UN General Assembly, as well as by various governments and other international bodies, this has done nothing to change the fact that the entity in question does not meet the criteria for a "State" in international law. Mere political recognition cannot serve as a substitute for fulfillment of the criteria for statehood. As noted by the UN Secretary General in the past, any depositary notification circulated in the context



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of the Palestinian request is technical in nature, and is part of an administrative function performed by the Secretariat in the context of the Secretary-General's responsibility as depositary. Thus, it cannot substitute thorough and extensive legal analysis of the complex legal issues at hand, or prejudge the conclusions of this analysis. As has been our practice in the past, we intend to present an expert opinion on this issue.

We urge you to preserve the integrity and impartiality of the Court, to save its reputation and legitimacy, and to reject this cynical attempt to abuse this honorable and valuable institution.

Yours sincerely,

Irit Kohn
President