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## Will the International Criminal Court be an obstacle to peace in Middle East?

By David Brown

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“International justice can contribute to long-term peace,” proclaims the website of the International Criminal Court. Disturbingly, the recent decision of the court’s pre-trial chamber asserting that it has jurisdiction on the Israeli-Palestinian conflict suggests that it is more likely to undermine the pursuit of peace in the Middle East than contribute to it.

Nearly three decades since the last peace treaty was signed between Israel and one of its Arab neighbors — Jordan — the past few months have seen an extraordinary period of reconciliation and bridge-building.

Under the Abraham Accords, peace treaties and normalization agreements have been reached between Israel and the United Arab Emirates, Bahrain, Sudan, and Morocco. These have already served as the foundation for a wide range of positive, practical results in such fields as technology, investment, economics, trade cooperation and more. This progress can be a roadmap for future Middle East relations.

Moreover, these agreements, which stress the importance of interfaith dialogue, countering radicalization and promoting mutual understanding, are an uplifting message to a cynical region that, through outreach and engagement, historic prejudices can be overcome and that peace is in fact possible.

Unfortunately, the ICC’s ruling sends a very different message. The Palestinian attempt to bring Israel before the court is an expression of a clear strategic decision to reject direct negotiations and compromise. Instead, the strategy seeks to capitalize on the anti-Israel automatic majority in the political organs of the United Nations to internationalize the conflict and hijack judicial processes in pursuit of a political campaign.

The Palestinian leadership has never hidden this strategy. In a New York Times editorial in 2011, President Abbas admitted that his goal was to achieve “internationalization of the conflict as a legal matter, not only a political one ... which would also pave the way for us to pursue claims against Israel at the United Nations, human rights treaty bodies and the International Court of Justice.”

For the Palestinian leadership such an approach has obvious appeals. It requires no statesmanship, no introspection, and no compromise.

The only thing that it is not likely to advance, as the past decades have shown, is a genuine and sustainable peace in which each side recognizes the aspirations and rights of the other.

In the tragic story of the Palestinian people, this approach is yet another admission by its leadership that it has chosen to pursue illusory political gains in international forums over the practical benefits of genuine peacemaking and state-building.

The decision of the ICC to entertain the Palestinian initiative is a serious setback for moderates on all sides. The decision, which dismisses the relevance of the 1993 Oslo Accords, the painstakingly achieved agreements which enabled Palestinian self-governance, sends a troubling message to peace-advocates of the Israel-Palestinian conflict: There is little utility in pursuing a negotiated peace that entails compromise and seeks a lasting agreement. At the same time, the court's reliance on non-binding, one-sided UN resolutions rather than a genuine impartial legal analysis, broadcasts to the Palestinian leadership that its strategy of rejectionism and reliance on UN politicization is effective.

If there were any doubts who is strengthened and who weakened by the ICC's decision on jurisdiction, the fulsome praise given to the decision by the Hamas terrorist organization, which remains committed to Israel's destruction and which continues to fire missiles against its citizens, leaves little room for doubt.

As a Chicago-based lawyer who believes deeply in our judicial system, it pains me to see international courts politicized for short-term gains.


Recognized legal scholars have universally condemned this ruling, and even the pre-trial chamber's presiding judge strongly dissented to the ruling. The Abraham Accords have shown us all what is possible, if two parties sit down — not litigate — for peace.

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