The ICC has perverted the very meaning of justice

written by Arsen Ostrovsky | 21.05.2024
Yesterday was a dark day for justice.

The announcement by the International Criminal Court (ICC) Prosecutor Karim Khan that he is pursuing arrest warrants for Benjamin Netanyahu and Yoav Gallant alongside the leaders of Hamas is an egregious and unconscionable perversion of the law, and a gift to the murderers and rapists of October 7 – one which Yahya Sinwar could never have imagined in his wildest dreams.

That Khan would even utter Israel and Hamas in the same breath is simply unfathomable.

There is absolutely no comparison between a genocidal terrorist organisation like Hamas and a democratic state like Israel, seeking to defend its citizens and rescue its hostages, following the largest mass slaughter of Jews since the Holocaust.

To draw such equivalence, which is no different to equating Churchill and Hitler, is abominable and morally repugnant.

The ICC was established in 2002 as a "court of last resort" to end impunity for the perpetrators of the most heinous of crimes, including war crimes, crimes against humanity and genocide – not the Orwellian circumstances of arresting Israeli leaders for responding to the pogrom of October 7.

Notwithstanding the heinous crimes inflicted upon the Jewish state, which continue to this day with the holding of 128 hostages in Gaza and ongoing rocket attacks, the IDF has gone to unprecedented lengths – not seen until now in the history of modern warfare – to abide by the laws of war and avoid harm to Palestinian civilians.

As a court of last resort, the ICC is governed by the principle of "complementarity", meaning it may only assert jurisdiction in circumstances where a national legal system fails to act, or to do so in a bona fide manner.

Khan himself stated during a visit to Israel after the October massacre that “Israel has trained lawyers who advise commanders and a robust system intended to ensure compliance with international humanitarian law.” How quickly has Khan forgotten his own words.

Furthermore, as Rishi Sunak’s spokesperson noted immediately after Khan’s announcement, “As we have said from the outset, we do not think the ICC has jurisdiction in this case. The UK has not yet recognised Palestine as a state, and Israel is not a State Party to the Rome Statute.”

But when it comes to Israel it seems that considerations of law are not even an afterthought to the chief prosecutor of the court of last resort.

In fact, Karim Khan was scheduled to visit Israel next week for high-level discussions with the Israeli government, including on steps it was taking to abide by international humanitarian law and investigate allegations of wrongdoing. Khan’s team were meant to land in Israel yesterday to coordinate the visit, but Israel was reportedly informed that they did not board their flight only at the same time as Khan went on TV to announce the warrants.

This deceitful act by Khan only underscores that there is not even the pretext of adherence to the rule of law here, and that this is no more than a ratings-based show trial.

Khan’s actions represent not only an assault on Israel’s inalienable right to self-defence but a national security threat to the UK and every democracy fighting terror, exposing them to spurious and unfounded charges based on political considerations.

Mere condemnations will not suffice here. This sham of a court, which Khan has turned into a tool of Palestinian lawfare, entirely devaluing its very mission, cannot be allowed to stand by those who hold the Rule of Law as sacrosanct.

The UK, as one of the top 5 donors to the ICC and champions of the international rules-based order, has considerable sway and ought to withdraw its funds immediately, lest it continue to underwrite this ongoing perversion of justice.

It was barely two weeks ago that we observed Yom HaShoah (Holocaust Remembrance Day), yet today Khan has unleashed the worst antisemitic blood

libel of this century, masquerading as a quest for justice.

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