

A Comparative Analysis of the ICC's Institutional Maturity with Emphasis on Palestine Situation

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Abstract

The ICC is the only permanent Court in the World to investigate international crimes and is an important part of achieving international criminal justice. However, the ICC has a controversial judicial policy concerning which arrest warrants it issues and enforces based on political and legal factors. This research examined the historical development of the ICC's judicial policy through the comparative analysis of Five situations. It utilized a comparative-analytical method of court documents, reports of the prosecutor and Pre-Trial Chamber decisions in conjunction with a theoretical framework of transitional justice, legal institutionalism, universal jurisdiction, and responsibility to protect. The principal research question is "How have the ICC's judicial policies regarding issuing and enforcing arrest warrants changed." The research indicates the ICC has gone through three distinct phases of evolution: initial conservatism, transition to operational independence, and institutional maturity. The issuance of arrest warrants in November 2024, for Hamas and Israel leaders, in one simultaneous announcement demonstrates a great degree of independence from the influence of politics and developed judicial institutions. Future success will depend on a number of factors, including balancing ideals of international criminal justice with political realities, strengthening enforcement mechanisms for the future, and finding the balance of peace and justice.

Keywords: arrest warrant; head of state immunity; International Criminal Court; international criminal justice; judicial policy; Palestine; Ukraine.

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