

The Situation in Afghanistan as a Step Forward in Putting an End to Impunity

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Abstract : On 5 March 2020, the International Criminal Court has decided to authorize the investigation into the crimes allegedly committed on the territory of Afghanistan after 1 May 2003. The said determination has raised several controversies, including the recently imposed sanctions by the United States, furthering the United States' long-standing rejection of the authority of the International Criminal Court. The purpose of this research is to address the said investigation in light of its importance for the prevention of impunity in the cases where the perpetrators are nationals of Non-Party States to the Rome Statute. Difficulties that the International Criminal Court has been facing, concerning the establishment of its jurisdiction in those instances where an involved state is not a Party to the Rome Statute, have become the most significant stumbling block undermining the importance, integrity, and influence of the Court. The Situation in Afghanistan raises even further concern, bearing in mind that the Prosecutor's Request for authorization of an investigation pursuant to article 15 from 20 November 2017 has initially been rejected with the 'interests of justice' as an applied rationale. The first method used for the present research is the description of the actual events regarding the aforementioned decisions and the following reactions in the international community, while with the second method – the method of conceptual analysis, the research will address the decisions pertaining to the International Criminal Court's jurisdiction and will attempt to address the mentioned Decision of 5 March 2020 as an example of good practice and a precedent that should be followed in all similar situations. The research will attempt parsing the reasons used by the International Criminal Court, giving rather greater attention to the latter decision that has authorized the investigation and the points raised by the officials of the United States. It is a find of this research that the International Criminal Court, together with other similar judicial instances (Nuremberg and Tokyo Tribunals, The International Criminal Tribunal for the former Yugoslavia, The International Criminal Tribunal for Rwanda), has presented the world with the possibility of non-impunity, attempting to prosecute those responsible for the gravest of crimes known to the humanity and has shown that such persons should not enjoy the benefits of their immunities, with its focus primarily on the victims of such crimes. Whilst it is an issue that will most certainly be addressed further in the future, with the situations that will be brought before the International Criminal Court, the present research will make an attempt at pointing to the significance of the situation in Afghanistan, the International Criminal Court as such and the international criminal justice as a whole, for the purpose of putting an end to impunity.

Keywords : Afghanistan, impunity, international criminal court, sanctions, United States

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