

## **CHAPTER V**

### **CONCLUSION**

Palestinians has labored long and hard for their self-determination and statehood. Unfortunately, the fight was not easy as Palestinians were beset by Zionism and broader Arab nationalism at the same time since 1948. For the broader conflict of Arab-Israeli wars, Palestinians had little agency for themselves; the Arab states fought Israel for the liberation of Palestine with little regard of the Palestinians national self-determination. Meanwhile, Palestinians has always been the one who suffered from the conflict; from deaths of civilians, being evicted from their homes, being the collateral damage of the war, and the growing of Palestinian diasporas and from being refugees instead of their own will and accord.

Naturally then, Palestinians started to reassert their identity and therefore fight by themselves and for themselves. From diplomatic efforts, the fight started since the creation of Palestinian Liberation Organization (PLO), multiple arms struggle, and lastly state building of their own government of Palestine. This last attempt of Palestinians struggle for their self-determined entailed state building that is hoped to bring about an independent and sovereign Palestinian state.

The struggle for Palestinian statehood started since the creation of PLO. Before returning to the Palestinian territory, PLO acted as the government in exile, operating from Jordan, Lebanon, and then Tunisia before returning to Palestine. When the shift of Palestinian struggle for statehood returned to the territories, it started with the creation of Palestinian Authority (PA) while PLO

still acted as the organization that represent Palestinians in the territories as well as the diasporas. Since 2012 by way of UN General Assembly Resolution 67/19, Palestine has started to be more assertive of their statehood, one way to do so is by acceding to treaties.

International Criminal Court (ICC) is a court that persecute international crimes that was created on 1998 by the Rome Statute. Since its entry into force on 1 July 2002, it has been tasked with persecuting war crimes, crimes against humanity, genocide, and crime of aggression on its member states, as the court of last resort.

Palestine tried twice to invoke ICC's jurisdiction in Palestine; on 2009 and 2014. On 2014, Palestine declaration under Article 12(3) of the Rome Statute was accepted and then followed by accession to the Rome Statute, making Palestine the 123<sup>rd</sup> state party. The background for Palestine accession was violent conflict with Israel especially the 2014 Gaza-Israel War.

The research found that there are two reasons for Palestine Accession to ICC. The first reason is that by acceding to ICC, Palestine gained the ability to persecute international crimes that happened in Palestine. Accession of Palestine ICC invoked the Office of the Prosecutor to launch a preliminary examination, the first step toward the opening of ICC's formal investigation in Palestine. Palestine's accession also invoked responsibilities to ICC, which are to implement the Rome Statute to its national legislature and to assist ICC should the court and its institutions request assistance. The second reason for Palestine accession is that by acceding to the Rome Statute, Palestine can then project its identity as a

legitimate state. Palestine has labored long and hard to be recognized as a state, and accession to treaties including the Rome Statute signaled that Palestine has the capacities as a state in international law. Treaties are made by state and its parties are usually limited to states, so when Palestine declaration to accede to the Rome Statute was accepted on 2015, ICC has accepted that Palestine is a state; at least for the purposes of the Rome Statute.

Currently Office of the Prosecutor's preliminary examination is on phase 2: Subject-matter jurisdiction. The duration for preliminary examination varied, while on Palestine it has already started since 16 January 2015. Should the examination followed through, formal investigations on international crimes in Palestine can be started for crimes committed after 13 June 2014.

Palestine action to accede to the Rome Statute should be lauded, because it signaled that Palestine is willing to end culture of impunity that surrounded international crimes in Palestine. So far, Palestine has cooperated well with the ICC. Other states should follow Palestine to show that international law matters not just because states can agree on some principles, but because it has its purposes toward the enforcement of justice in the world.