Israel scolds ICC prosecutor over warning of war crimes in Bedouin village

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<https://www.timesofisrael.com/israel-scolds-icc-prosecutor-over-warning-of-war-crimes-in-bedouin-village/>

Israel on Thursday harshly criticized the International Criminal Court’s chief prosecutor for issuing a statement the day before in which she warned Israel that its planned demolition of a Bedouin village in the West Bank may constitute a war crime.

Speaking on condition of anonymity, a senior Israel official lamented that the prosecutor, Fatou Bensouda, in her statement said that she is closely watching violence perpetrated by actors on both sides of Gaza border but failed to mention [a rocket that hit and severely damaged a house in Beersheba](https://www.timesofisrael.com/rocket-sirens-blare-in-beersheba-southern-israel/), in which a woman and her children stayed.

“It is alarming that the Office of the Prosecutor repeatedly proclaims its commitment to independence and impartiality, but ignores missile fire directed at Israeli civilians, that nearly killed a mother and her three young children, only hours before the publication of its statement,” the senior official told The Times of Israel.

“Unfortunately, these and other actions by the Office of the Prosecutor raise serious questions whether ‘independence and impartiality’ are merely slogans to which lip service is paid, rather than principles to which the prosecutor is genuinely committed.”

Deputy Minister Michael Oren on Thursday also voiced disapproval of the court.

“The ICC considers accusations of war crimes not against Iran for aiding the massacre of 500,000 in Syria but for the relocation, 4 times approved by independent courts, away from a dangerous highway of 180 illegal squatters by Israel,” he wrote on his Twitter account.

“The victims of all real war crimes cry out,” he added.

In her statement Thursday, Bensouda [addressed two seemingly unrelated topics](https://www.timesofisrael.com/hague-prosecutor-issues-war-crime-warning-on-bedouin-village-demolition/).

First, she said that she has been “following with concern the planned eviction” of residents of Khan al-Ahmar, a Palestinian Bedouin village east of Jerusalem, which has been slated for destruction following a lengthy legal battle in court.

“Evacuation by force now appears imminent, and with it the prospects for further escalation and violence,” [the prosecutor’s statement](https://www.icc-cpi.int/Pages/item.aspx?name=181017-otp-stat-palestine) read.

“It bears recalling, as a general matter, that extensive destruction of property without military necessity and population transfers in an occupied territory constitute war crimes under the Rome Statute.”

Much of the international community has urged Israel to refrain from evicting the 180 residents of Khan al-Ahmar, arguing that the forced transfer of populations in occupied territory violates international law.

Israel argues that the village was built illegally and that its demolition has been approved by the country’s independent courts.

Bensouda went on to state that she is “similarly alarmed by the continued violence, perpetrated by actors on both sides, at the Gaza border with Israel.”

She noted that her office is currently involved in a preliminary examination into the situation in Palestine, warning both sides of the conflict that she is watching current events closely.

“I continue to keep a close eye on the developments on the ground and will not hesitate to take any appropriate action, within the confines of the independent and impartial exercise of my mandate under the Rome Statute, with full respect for the principle of complementarity,” she said.

Complementarity means that the ICC can only investigate crimes if the country where they are allegedly committed fails to properly investigate itself.

In April, after dozens of Palestinians were killed and hundreds wounded in the wake of the so-called “March of Return,” Bensouda had also issued a [statement regarding violence at the Israel-Gaza border](https://www.timesofisrael.com/at-gaza-border-idf-and-hamas-may-both-be-violating-international-law-icc-says/), indicating that both Israel and Hamas may be committing war crimes.

“Violence against civilians — in a situation such as the one prevailing in Gaza — could constitute crimes under the Rome Statute of the International Criminal Court (‘ICC’ or ‘the Court’), as could the use of civilian presence for the purpose of shielding military activities,” her statement read.

At the time, Israeli officials did not respond to her statement.

The statement Bensouda issued Wednesday appeared to single out Israel in warning of possible war crimes over the expected eviction of Khan al-Ahmar.

Article 8(iv) of the [Rome Statute](http://legal.un.org/icc/statute/99_corr/cstatute.htm) cites as crimes the “extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.”

Article 8(viii) says the “deportation or transfer of … the population of the occupied territory within or outside this territory” is a war crime.

At the same time, the Rome Statute clearly outlaws indiscriminate attacks on civilians. Article 8(v) defines as a war crime “Attacking or bombarding, by whatever means, towns, villages, dwellings or buildings which are undefended and which are not military objectives.”

At around 3:45 a.m. on Wednesday morning, Palestinian terrorists in Gaza fired a rocket at Beersheba that landed on a private house, causing serious damage. No one was injured by but five people were treated for anxiety.

Another rocket launched from the Strip landed off the coast of a major city in the Tel Aviv area.

It is not clear who fired the rockets. Hamas and the Islamic Jihad terror groups have denied responsibility.