Hamas hails ICC for readying probe of alleged war crimes by Israel — and itself

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A spokesman for the Gaza Strip’s Hamas rulers praised the announcement by the International Criminal Court’s top prosecutor that there was a “basis” to move forward with investigating alleged war crimes in the Palestinian territories, including by the Islamist terror group.

“The Hamas movement welcomes the decision of the prosecutor of the International Criminal Court to open an investigation into war crimes committed by the occupation against Palestinian people,” Hazem Qassem told AFP on Saturday.

“The importance of this decision lies in the actual beginning of the procedures of this decision and the start of the penalization of the occupation for all the crimes it committed against Palestinian people,” he added.

Fatou Bensouda, the ICC’s chief prosecutor, said Friday that in addition to there being grounds to probe Israel, there was also a “reasonable basis” that Hamas and other Palestinian terror groups committed war crimes by targeting civilians and torturing individuals.

The ICC announcement has been widely praised by Palestinian leaders, with Palestinian Authority President Mahmoud Abbas calling it a “great” and “historic” day.

“We have achieved what we want, and from this day on, the ICC machine will start accepting the cases that we have previously presented,” he was quoted saying by the official Wafa news agency at an event for his Fatah party in Ramallah.

Israeli officials on the other hand denounced the ICC move, with Prime Minister Benjamin Netanyahu calling it “a dark day for truth and justice.”

It was also condemned by US Secretary of State Mike Pompeo, who said the inquiry “unfairly targets” the Jewish state.

Concerning Israel, Bensouda said she would look into its West Bank settlement policies, as well as alleged crimes committed during the 2014 Gaza war and in the Israeli response to violent border protests that began last year along the border with the Strip.

Netanyahu said the decision made the Hague-based court, which Israel has refused to sign up to since its creation in 2002, a “political tool” against the Jewish state. He claimed Bensouda “entirely ignored serious judicial arguments we presented.”

Netanyahu argued that the ICC “has no authority to adjudicate the matter. It has jurisdiction only in lawsuits presented by sovereign states, but there has never been a Palestinian state. We will not accept or acquiesce to this injustice. We will continue to fight it with all the tools at our disposal.”

He also expressed astonishment that Bensouda “says it is a crime, a war crime, for Jews to live in their homeland, the land of the Bible, the land of our forefathers.” Bensouda had said Israel’s policy of settling its civilians in the West Bank could constitute a crime.

Anticipating Bensouda’s announcement, Israeli officials had earlier made public a legal opinion by Attorney General Avichai Mandelblit arguing that the court has no jurisdiction for an investigation. He claimed that by turning to the ICC, the Palestinians were seeking “to push the Court to determine political issues that should be resolved by negotiations, and not by criminal proceedings.”

According to the Foreign Ministry’s legal adviser, Tal Becker, “There is a Palestinian effort to criminalize the conflict, where only the Israelis have legal obligations and only the Palestinians have rights. But as history has shown, that will only drive the two sides further apart.”

The preliminary examination by the ICC was launched in 2015 after the Palestinian Authority signed the Rome Statute and formally accepted the court’s jurisdiction over its territory. It probes Israeli construction beyond the Green Line, the 2014 Gaza War and the so-called March of Return Gaza border protests that began in March 2018.

Bensouda has in the past indicated that the question of whether the court has jurisdiction was a complicated one, which is why the attorney general last year decided to issue a paper explaining Israel’s point of view, said Roy Schöndorf, the deputy attorney general for international law at the Justice Ministry.

The attorney general’s report only deals with the ICC’s supposed lack of jurisdiction. Mandelblit did not address other matters the prosecutor has to take into account as she weighs whether to open an investigation, such as whether the alleged crimes are grave enough to merit the court’s involvement, or whether local courts can be relied on to investigate these alleged crimes.

Earlier this month the ICC’s Report on Preliminary Examination Activities had made headlines in Israel for stating that Bensouda “followed with concern proposals advanced during the recent electoral process, to be tabled to the Knesset, for Israel to annex the Jordan Valley in the West Bank.”

Netanyahu has repeatedly promised to quickly apply Israeli sovereignty over the Jordan Valley — a quarter of the West Bank — if he is able to put together a new government amid the ongoing political gridlock. His Likud party has even claimed that the premier is only interested in staying in office for an additional six months — a unity coalition negotiation demand — in order to see the promise through.

The Palestinians, too, were unhappy about this year’s report, as it highlighted the Palestinian Authority police’s alleged torture of civilian detainees and the PA’s financial compensation of those involved in carrying out terror attacks against Israelis.