Is ICC being equal with Israeli settlements, Turkish occupation? - analysis

February 10, 2020

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The Jerusalem Post

<https://www.jpost.com/Israel-News/Turkish-occupation-of-Cyprus-ignored-amid-ICC-Israeli-settlements-storm-617031>

Amid the all-important International Criminal Court debate about whether Israeli settlements are a war crime, almost completely ignored has been the question of Turkey’s occupation of Northern Cyprus.

The Palestinians officially asked for ICC intervention in January 2015, and ICC Prosecutor Fatou Bensouda essentially declared Israeli settlements war crimes on December 20.

In contrast, the first complaint by a Cypriot official, represented by Shurat Hadin, against Turkey’s settlements in Northern Cyprus was filed in July 2014 – half a year earlier than the claims against Israel.

Seven weeks after Bensouda decided against Israel, all that has been said about the Turkish occupation of Cyprus is that a decision is anticipated at some undefined point later in 2020.

How did the Turkish case fall to the back burner as compared to the case against Israel?

Does this unequal situation prove anti-Israel bias by the ICC, as some claim?

Bensouda has some reasons why the Cyprus case is moving slower.

First, the government of Cyprus has never officially referred the case. Rather, Shurat Hadin filed a complaint on behalf of a specific member of the EU parliament from Cyprus, Costas Mavrides.

From a technical perspective, this means that if Bensouda does move forward, it would be based on her rarely used power to self-initiate a case.

An ICC prosecutor does not do this lightly, and when they do, they need permission from the ICC judges.

But these arguments miss the point.

Unlike the Israeli case, where the main country being probed, Israel, is not even a member of the Rome Statute and is against referring the case, Cyprus is a proud signatory to the Rome Statute.

If it does not refer the case to the ICC, it is likely out of fear of Turkey. In fact, the entire world views Turkey as illegally occupying Northern Cyprus since its 1974 invasion.

The Cypriot-Shurat Hadin complaint alleged: “The Turkish occupation is one of the most brazen settlement enterprises in modern times.”

In addition, from a total of around 50,000 Turkish citizens living in the area in 1996, the complaint said Turkey’s aggressive policies included forced “displacement” of Cypriots from their homes and had gone as far as “murder or disappearances of thousands of Greek Cypriots.” The bottom line from the complaint is official and coordinated Turkish government policies have led to more than 100,000 Turkish settlers in the area who now constitute around half of the population.

The communication describes the Turkish government’s systematic policy to bolster its control over Northern Cyprus, encouraging ethnic Turkish immigration while acting aggressively to transfer native Cypriots out of the territory.

Some experts have told The Jerusalem Post Turkey’s invasion, occupation and active altering the landscape in Northern Cyprus is the true paradigm of population transfer being a war crime.

They say it is incredible that the ICC did not immediately conclude there was a basis for a criminal investigation years ago and that – having nothing to do with Israel – it would be stunning if the ICC does not ultimately go after Turkey.

The experts say Turkey has expelled large numbers of Greeks without any process or pretensions of concerns about their rights, has taken the possessions of expelled Greek communities and has not followed any of the laws of belligerent occupation for protecting Greek rights.

No neutral legal experts really debate most of these points, and there is no UN resolution that could be interpreted to give Turkey any rights in Cyprus.

In contrast, UN Resolution 242 says Israel and the Palestinians must resolve their borders through negotiations. To the extent that a majority of countries view the Israeli settlements as illegal (and notably the US currently views them as legal), it is not because they think all of the West Bank must go back to the Palestinians as much as they disprove of the timing.

They do not want Israel changing facts on the ground until the dispute is settled. But if there were peace, they would not oppose the continuation of certain Israeli settlements – as proposed under the Camp David II Clinton parameters.

So unlike Turkey, Israel has rights in the areas it is occupying, even if those rights are contingent on a peace settlement.

Israel is occasionally accused of illegally demolishing Palestinian homes. It usually does present a legal argument for doing so (a lack of a permit or deterrence against a terrorist’s home), and there is always an opportunity to appeal the demolition in court, with some demolition orders getting overturned.

But whether those Israeli actions are illegal or not (most countries view them as illegal), there is no wholesale elimination of large Palestinian communities in the West Bank to unabashedly replace them with Jews. Israeli West Bank courts handling Palestinians’ suspected crimes have also been criticized for a lack of fairness.

Yet there clearly is an attempt to apply the law of belligerent occupation, and the IDF courts, however infrequently, do issue some acquittals to Palestinians.

If these above points are true, then why was the Cyprus case ignored until Shurat Hadin raised it? And why is the ICC case against Turkey undecided when the ICC case against Israel is already moving forward?

How the ICC answers these questions and how much longer it takes to address these issues (given that the ICC prosecution went after Israel already in December) will say a lot about whether the ICC will give Israel a fair and neutral hearing in The Hague.