Karim Khan, new ICC chief prosecutor, to decide Israel’s fate

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<https://www.jpost.com/israel-news/icc-prosecutor-to-step-down-tomorrow-new-chief-to-decide-israels-fate-671116>

In a ceremony on Wednesday, British-Muslim international lawyer Karim Khan replaced Fatou Bensouda, after the latter’s nine-year term as the chief prosecutor at the International Criminal Court in The Hague.

In Bensouda’s place, Khan will be left to determine Israel’s fate in the criminal probe that Bensouda opened in March.

Bensouda’s decision to open a full war crimes investigation against Israelis relating to the 2014 Gaza war, [the settlement enterprise](https://www.jpost.com/international/icc-prosecutor-went-after-israeli-settlements-but-not-cyprus-671165?_ga=2.173050404.682624614.1622894195-449294072.1564573179) and the 2018 Gaza border conflict came after a legal battle dating back to January 2015.

The outgoing chief prosecutor also threatened Israel and Hamas with new allegations of war crimes during the May 10-21 [Guardian of the Walls conflict with Gaza.](https://www.jpost.com/arab-israeli-conflict/gaza-war-increased-hamass-popularity-poll-shows-671122)

Still, Bensouda had strongly hinted at the possibility of her office eventually closing the probe against the IDF on the grounds that the Israeli military performs its own investigations, however imperfect, of alleged war crimes.

Views are mixed about what to expect from Khan.

He has past associations with Muslim human rights groups and Pakistani officials, but has also said the ICC is overextended and should be fighting only battles that it can win and for which it has the resources to fight. He has both defended alleged war criminals from Kenya and represented victims of ISIS.

All of the ICC’s judges were present for the dramatic ceremony, which occurs only once every nine years, either in person or virtually by Zoom due to covid health considerations.

ICC President Judge Piotr Hofmanski and Assembly of State Parties Vice President Katerina Sequensová extolled Khan’s wide-ranging accomplishments and qualifications.

In his acceptance speech, Khan bemoaned the fact that while humanity has the wherewithal to travel to Mars, it still commits genocide and other crimes against humanity.

Transitioning to a more hopeful message, he said, “Tomorrow need not be as bleak, as sorrowful, as yesterday” and expressed optimism that humanity can improve.

Khan said he is less concerned that the ICC itself try war criminals than that war criminals be tried somewhere, even if in their home countries where they perpetrated their crimes.

The incoming prosecutor said he would correct gender imbalances in the office favoring men and confront sexual harassment allegations.

Regarding ongoing cases, Khan said, “Requesting preliminary investigations is a start. But the proof of the pudding is in the eating.... We cannot invest so much [in trials], raise expectations so high,” while achieving so little, so often, in terms of convictions.

A recent decision Bensouda issued regarding the Philippines may provide some hope for Israel. Although Bensouda has moved to open a full criminal probe against the Philippines, she also issued her most pragmatic statement to date about possible limits on the probe in light of the ICC’s limited diplomatic support and resources.

Looking into the future, she wrote earlier, “Any authorized investigation in the Philippines will fall to my able successor, Mr. Karim Khan, to take forward.... It is clear... the office, under his leadership, will... take into account the operational challenges arising from the continuing pandemic, the severe limitations on the ICC’s available resources, and the office’s current heavy work commitments,” she said.

“There is a serious mismatch between situations where the Rome Statute demands action by the prosecutor and the resources made available to the office,” she said.

Bensouda’s term was characterized by slow-moving cases, only around 10 convictions, and criticism from all sides.