**Israel’s dilemma: To work with ICC war crimes probe or not?**

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Israel faces a dilemma: should it argue its case to International Criminal Court investigators looking into alleged war crimes in the West Bank, Gaza and East Jerusalem, or refuse to cooperate?

Prime Minister Benjamin Netanyahu, a vocal critic of the ICC, declared Israel was “under attack” after prosecutor Fatou Bensouda announced Wednesday she was opening a probe into the actions of all sides in the 2014 Gaza conflict.

“We will speak the truth in every forum, in every country, on every stage until this outrageous decision is reversed and becomes null and void,” he said.

The ICC is the world’s only permanent war crimes tribunal and was set up in 2002 to try the planet’s worst crimes where local courts are unwilling or unable to step in.

It does not try states, but top leaders or warlords alleged to have given the orders. Even presidents have been hauled before the court in The Hague.

So in theory it might be possible that Netanyahu or Defense Minister Benny Gantz, who led the Israel Defense Forces during the 2014 conflict facing Gaza’s Hamas terrorist rulers, could be targeted in the ICC investigation.

Some countries have bridled at moves to investigate top national leaders allegedly behind war crimes.

Under former president Donald Trump, the United States imposed sanctions on Bensouda after she separately decided to investigate alleged US war crimes in Afghanistan.

Netanyahu’s office said Friday that in a call with US Vice President Kamala Harris she had “expressed the American administration’s complete opposition to the decision of the prosecutor” to probe the Gaza war.

Netanyahu has not made clear whether Israel would fight back through diplomacy and public opinion — or by engaging directly with the ICC, to which Israel is not a party.

There is also a middle path, said Pnina Sharvit Baruch, former head of the international law unit of the Israeli Military Advocate General: to provide less than full cooperation, but not a total boycott.

“What Israel can do and probably will do is provide the prosecutor with the relevant materials” for its defense, but without formal cooperation because the Jewish state “does not trust this court,” she told AFP.

The ICC probe will focus on the 2014 conflict between Israel and the Gaza-based Hamas terror group, as well as on Israeli settlements and violence at the Israel-Gaza border from 2018, Bensouda has indicated.

The probe’s jurisdiction begins on June 13, 2014, shortly before the conflict began.

Israeli observers noted the significance of the timing of the investigation’s span: On June 12, 2014, Hamas terrorists kidnapped and murdered three Israeli teenagers in the Gush Etzion area of the West Bank. Bensouda’s investigation — based on the request submitted by the so-called State of Palestine — is set to begin from the following day.

The brutal terror attack, which horrified Israelis and drew international condemnation, was a pivotal moment in the lead-up to the fighting in Gaza later that summer. With the investigation set to consider events beginning on June 13, 2014, the crime could be excluded from the court’s investigation.

ICC judges paved the way for a war crimes probe when they ruled a month ago that the tribunal has jurisdiction over the situation due to Palestine’s membership of the court.

Bensouda, who is due to be replaced by Karim Khan in June, said Wednesday there was a “reasonable basis” to believe crimes were committed by members of the IDF, Israeli authorities, Hamas and other Palestinian terrorist groups.

While Palestinian leaders welcomed the probe, Israel rejected it.

“The ICC lacks any jurisdiction on this matter,” Attorney General Avichai Mandelblit said in a statement on Thursday.

Mandelblit reiterated that Israel and several other nations have argued that the ICC does not have jurisdiction over the case as Israel is not a member and Palestine is not a state. Hungary joined Israel and the US on Thursday in its opposition to the probe, saying it disputes the court’s jurisdiction in Palestinian areas.

Mandelblit also argued that Israel itself “has in place a robust system for examining alleged violations of international law.”

“There is absolutely no place for the ICC’s intervention in matters that are under the jurisdiction of the State of Israel,” Mandelblit said. ““The choice by the chief prosecutor to open an investigation against the State of Israel, a democratic, law-abiding nation, harms the legitimacy of the court’s work.”

The probe will take several years to complete, and any charges or arrest warrants would likely be kept under seal.

But the ICC’s move has raised fears that Israeli ex-soldiers and politicians could become subject to international arrest warrants.

Sharvit Baruch said she had spoken to soldiers about the potential threat.

“They are really concerned, they are afraid of being arrested tomorrow,” she said. “I tell them not to worry, that they were just low-level soldiers… but the fear is there.”

Over a decade ago, Israel boycotted a UN committee that looked into the 2008-09 Operation Cast Lead, a 22-day conflict in Gaza.

Published in late 2009, the Goldstone Report accused both Israel and Hamas of war crimes and “possibly crimes against humanity.”

The report alleged that Israel deliberately targeted civilians — an accusation its author, Richard Goldstone, publicly withdrew after the report was published after, he said, he’d learned the full story. Jewish groups and most of the US Congress rejected the report as a one-sided attack on Israel.

Now, as then, there are supporters of taking a more pro-active line with investigators and lawyers.

“It seems that Israel will have excellent arguments to disprove the allegations of war crimes, provided those arguments are actually presented,” commentator Ben-Dror Yemini wrote in Yediot Aharonot. “Israel erred in the past by failing to present its arguments to the Goldstone Committee. We need to hope that Israel will find the way not to repeat that mistake.”