**Will new ICC prosecutor pull back on Israeli war crimes probe? - analysis**

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Jerusalem Post

February 13, 2021

<https://www.jpost.com/israel-news/will-new-icc-prosecutor-pull-back-on-israeli-war-crimes-probe-658877>

Britain’s Karim Khan was on Friday chosen to become the new International Criminal Court Prosecutor for a nine-year term starting on June 16 and will replace Fatou Bensouda.

Last week, the ICC said it has jurisdiction to investigate war crimes relating to the Palestinians, which could lead to an inquiry strongly opposed by non-ICC members Israel and the United States.

One of the first decisions that Khan may choose to make could be whether to press ahead with a full investigation into the Israel-Palestinian situation, where Bensouda said there is a reasonable basis to conclude war crimes may have been committed by both Israeli forces and Palestinian armed groups.

Many observers believe the US and Israel were both rooting for Khan, although Prime Minister Benjamin Netanyahu had no public comment and Israeli officials have been skittish about sharing their preference but there are at least three positives from the US and Israel perspective.

First, Khan is from the UK, a country more closely allied with both the US and Israel than either Argentina or Gambia, where the past two prosecutors came from.

Second, he has spent much of his career, including before the ICC, as a defense lawyer, and this could lead to a more sympathetic view in general toward defendants.

Finally, he has criticized the ICC prosecutor’s office for sometimes relying on shaky or weaker evidence.

Combined, these issues could form a basis to prompt Khan to close the criminal probes into the US relating to the post 9/11 era in Afghanistan, and into Israel, relating to the 2014 Gaza war, the settlement enterprise and the 2018 Gaza border conflict.

Israel has support from several ICC members, including key court donor Germany. But many, possibly most ICC members may support the probes against the US and Israel, or parts of the probes, which means there is a chance that Khan may yet proceed against both.

Orde Kittrie, a senior fellow at the Foundation for Defense of Democracies, responded to the election saying that, “Karim Khan’s come-from-behind triumph in the race to serve as the next ICC prosecutor reflects a growing understanding, on the part of many ICC member states, that the ICC is in serious need of reform, including a refocusing on its core judicial mission.”

“The newly elected ICC prosecutor has his work cut out for him. The ICC is currently in bad shape, having strayed far from its worthy founding objectives. The recently-published final report of an Independent Expert Review of the ICC… was blisteringly critical of the ICC’s lack of focus and inefficiency, and also asserted that it is plagued by bullying and sexual harassment.”

He added: “The current ICC prosecutor, Fatou Bensouda, has chosen to pursue politicized investigations of the US and Israel, two non-members of the ICC, for alleged war crimes which are outside the ICC’s mandate.”

Khan is best known for heading the United Nations’ special investigative team looking into Islamic State crimes in Iraq, as well as representing top Kenyan officials in successfully getting ICC cases against them dismissed.

He also worked on major cases relating to Libya and Sudan.

In a microcosm of the byzantine nature of ICC politics, Khan was initially kicked off the finalist list in mid-2019 but was restored to it later that year and became a leading candidate earlier this week. He was almost knocked out again because of late objections by Spain and Mauritius over a little-followed island dispute with the UK, and he won his appointment only after a second-round secret ballot.

Human Rights Watch responded to Khan’s selection saying: “The election process was marred by reports of governments lobbying for candidates and the absence of a professional vetting process to assess candidates’ ‘high moral character,’ one of the requirements for the office set out in the Rome Statute, the court’s founding document.

“The recently completed independent expert review of the court pointed to the need for significant improvement to remedy a culture of fear and distrust at the court, including to address accounts of bullying and harassment.”

It noted it supported Khan and hoped he would succeed.

Former US President Donald Trump’s administration imposed sanctions last year on court staff, including Bensouda, over investigations by her office into possible US war crimes committed in Afghanistan, including by American troops.

New US President Joe Biden’s administration will “thoroughly review” the sanctions on ICC officials, a State Department spokesman said last month, but the sanctions have not yet been removed.

“Karim’s extensive experience in international law will be pivotal in ensuring we hold those responsible for the most heinous crimes to account and gain justice for their victims,” Britain’s Foreign Secretary, Dominic Raab, posted on Twitter.

The first ICC prosecutor, Luis Moreno-Ocampo was a major figure and prosecutor in Argentina, but was also selected as being both acceptable to countries like the US, while not a citizen of those dominant world powers.

His successor and the current prosecutor, Bensouda, was specifically selected from Gambia to build the court’s credibility in Africa by sending a message that the ICC was not part of a Western plot to just prosecute Africans.

Going forward, ICC members wanted a prosecutor who would get more convictions, as the ICC has only nine convictions, four acquittals and many unresolved cases in its 18 years of operation, despite billions of dollars spent and there is a sense that new blood is needed to shake-up the system and the approach.

Throughout the process to select the next prosecutor, a large cloud hanging over the process was who would be able to cope with the US and the Trump administration, which had sanctioned the ICC’s top officials.

In other words, who could both help gain trust from world powers like the US, while also standing up to them.

At first, the dozens of candidates were narrowed to 14, who were then narrowed to four. Yet, during this vetting process some of the candidates seen as the strongest were eliminated due to perceived potential ethics issues or concerns that they might be perceived as overly-political (as opposed to concrete definitive ethics issues.)

Many of the ICC’s members were underwhelmed by the four finalists’ interviews in July. They were squeaky clean, but were not seen as having sufficient international stature, so additional candidates were brought back into the process, including some who had been ruled out earlier.

Other finalist candidates came from Ireland, Spain and Italy.