

U.S. pressure could derail ICC arrest warrants for Israeli leaders

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Court faces pressure after chief prosecutor announces he is seeking to arrest Israeli leaders for actions in Gaza.

The Hague, May 25 (RHC)-- After months of gathering evidence, the chief prosecutor of the International Criminal Court (ICC), Karim Khan, announced that he was seeking arrest warrants for Israeli Prime

Minister Benjamin Netanyahu and Defense Minister Yoav Gallant.

Netanyahu and Gallant are accused of using “starvation of civilians as a method of warfare,” “extermination,” “willfully causing great suffering” and deliberately “directing attacks against civilians.”

Khan’s announcement marks the first time an ICC chief prosecutor has sought to prosecute senior officials from a close ally of the United States, marking a significant moment in the body’s history.

Weeks before Khan’s announcement, senior Republican lawmakers in the U.S. submitted a letter to his office that threatened to bar him and his family from the country if he applied for warrants against Israeli leaders.

In an interview with CNN’s Christiane Amanpour, Khan said a senior U.S. elected official even told him that the ICC “was built for Africa” and for “thugs like [Russian President Vladimir] Putin” but not Western or Western-backed leaders.

“We don’t view it like that,” Khan said. “This court is the legacy of Nuremberg, and this court is a sad indictment of humanity, and this court should be the triumph of law over power and brute force.”

U.S. President Joe Biden criticized Khan’s decision by calling the application for indictments against Israeli leaders “outrageous.”

Biden, U.S. Secretary of State Antony Blinken and several U.S. lawmakers said Khan had drawn a false moral equivalence between Hamas “terrorists” and democratically elected Israeli leaders. Netanyahu, British Prime Minister Rishi Sunak and Canadian Prime Minister Justin Trudeau have all made similar statements.

But Adil Haque, a legal scholar at Rutgers University in New Jersey, said those arguments have no legal weight. Israel’s allies are using a “rhetorical device” to undermine Khan’s equal application of international law, he explained.

“Basically, the prosecutor is saying that officials in the Israeli government have violated international law and that Hamas leaders have violated international law and that those violations are serious,” Haque told Al Jazeera.

“People can discuss if charges on Hamas leaders are better or worse [than the ones brought against Israeli leaders], but that’s not the prosecutor’s concern.”

Three judges from the ICC’s pre-trial chamber are now deliberating over whether to issue the arrest warrants. In a statement, New York-based Human Rights Watch urged all members of the ICC to guard the court’s independence against “hostile pressure that is likely to increase while the ICC judges consider Khan’s request.”

The United States – which is not a member of the Rome Statute, the treaty that underpins the ICC – is reportedly considering sanctions against court officials.

Three years ago, the Biden administration lifted sanctions former President Donald Trump imposed on former ICC Chief Prosecutor Fatou Bensouda and other officials. Trump was angry that Bensouda had opened up investigations into Israeli abuses in the occupied Palestinian territory and abuses committed by U.S. forces in Afghanistan.

Mark Kursten, a legal scholar at the University of Fraser Valley in Vancouver, believes the U.S. may also try putting direct pressure on Palestinian officials. “I think [a possible goal of the US] would be to get the PA [Palestinian Authority] to stop cooperating with the ICC [by getting it] to stop sending evidence,” said Mark Kursten, a legal scholar at the University of Fraser Valley in Vancouver.

Heidi Matthews, a legal scholar at York University in Toronto, added that the US also has a history of pressuring its Western allies into betraying their commitments to the Rome Statute.

“From a foreign policy perspective, [Khan’s decision] will put longtime supporters of the court who are also allies of Israel ... in a position where they have to choose between continued support for the project of international criminal law and justice or to diplomatically shield Israel,” she told Al Jazeera.

Local human rights groups welcomed Khan’s move as a first step in pursuing justice for Palestinians in Gaza, including those who were killed long before October 7th.

A source from the Gaza-based Al Mezan Center for Human Rights, who requested anonymity for fear of reprisals from Israel, referenced Israel’s killing of 1,462 Palestinian civilians in 51 days in its 2014 war on Gaza. An independent UN inquiry found “credible allegations of war crimes committed by Israel and Palestinian armed groups” in that war.

Four years later, Israeli troops also shot and killed unarmed Palestinian protesters in Gaza who assembled along the fence with Israel as part of the Great March of Return protests. “We believe that [ICC] arrest warrants can have a deterrent effect,” the source from Al Mezan Center told Al Jazeera.

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